

Queensland

Corrective Services Act 2006

Current as at 20 September 2025

Amendments not yet in force
There are amendments for this title that have been enacted but have not yet commenced. The following amendments that have not commenced are not incorporated in this reprint but are annotated on the website for information—2024 Act No. 47, 2025 Act No. 8, 2025 Act No. 18.

These annotations were incorporated on 20 September 2025. See the List of legislation in the Legislative history for uncommenced amendments enacted after this date.

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Corrective Services Act 2006

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Corrective Services Act 2006

An Act to provide for corrective services, and for other purposes

Chapter 1 Preliminary

1 Short title

This Act may be cited as the *Corrective Services Act 2006*.

2 Commencement

(1) Chapter 7, part 8 commences on the date of 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—

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(i) an offender's age, sex or cultural background; and

(ii) any disability an offender has.

4 Definitions

The dictionary in schedule 4 defines particular words used in this Act.

5 References to prisoner and corrective services facility

In a provision of this Act about a prisoner, a reference to a corrective services facility is a reference to the corrective services facility in which the prisoner is detained.

5A Relationship with Human Rights Act 2019

(1) This section applies to the chief executive's or a corrective services officer's consideration of—

(a) the *Human Rights Act 2019*, section 30(2) in relation to a prisoner admitted to a corrective services facility for detention on remand or a prisoner detained without charge; or

(b) the *Human Rights Act 2019*, section 30 in relation to managing a prisoner in a corrective services facility where it is not practicable for the prisoner to be provided with the prisoner's own room under section 18.

(2) To remove any doubt, it is declared that the chief executive or officer does not contravene the *Human Rights Act 2019*, section 58(1) only because the chief executive's or officer's consideration takes into account—

(a) the security and good management of corrective services facilities; or

(b) the safe custody and welfare of all prisoners.

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Chapter 2 Prisoners

Part 1 Custody and admission of prisoners

6 Where a person is to be detained

(1) A person sentenced to a period of imprisonment, or required by law to be detained for a period, 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 *Youth Justice Act 1992*; and

(d) the *Mental Health Act 2016*; and

(e) the *Parliament of Queensland Act 2001*, section 40(4)(a).

Note—

The *Parliament of Queensland Act 2001*, section 40 deals with proceedings for punishment by the Legislative Assembly for contempt.

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7 When a person is taken to be in the chief executive's custody

(1) If a person sentenced to a period of imprisonment or required by law to be detained 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 a corrective services facility.

Example of when a person is lawfully in another person's custody—

while the person is in the custody of a police or prison officer as mentioned in the *Mutual Assistance in Criminal Matters Act 1987* (Cwlth), section 26

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

- while the person is released on parole
- while the person is being transferred between corrective services facilities or is attending court
- while the person is on health leave

(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 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.

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8 When a person is taken to be in the commissioner's custody

(1) If a person sentenced to a period of imprisonment or required by law to be detained 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 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, record or order committing the person into someone else's custody.

9 Authority for admission to corrective services facility

(1) A person (the ***detainee***) must not be admitted to and detained in a corrective services facility unless the person responsible for admitting prisoners at the facility is given—

(a) a warrant for the detainee's detention; or

(b) a verdict and judgment record under the *Criminal Practice Rules 1999* containing the name of the detainee and particulars of the judgment pronounced on the detainee; or

(c) a record, under the *Penalties and Sentences Act 1992*, of the order committing the detainee into custody.

(2) Despite the provisions of a warrant, record or order 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.

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10 Record of prisoner's details

(1) The chief executive must establish a record containing each prisoner's details, including details about the identification of the prisoner.

(2) For the identification of a prisoner, a corrective services officer may collect and store the prisoner's biometric information, including by way of a biometric identification system.

(3) The prisoner's biometric information, and any data about the biometric information stored in a biometric identification system, must be destroyed if—

(a) the prisoner is found not guilty of the offence for which the prisoner is being detained, other than on the ground of unsoundness of mind; or

(b) proceedings for the offence for which the prisoner is being detained are discontinued or dismissed.

(4) However, the prisoner's biometric information, and any data about the biometric information stored in a biometric identification system, 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 chief executive must inform the prisoner about—

(a) the prisoner's entitlements and duties under this Act; and

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(b) the administrative directions and procedures relevant to the prisoner's entitlements and duties.

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

(3) The chief executive—

(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 security classification

(1) When a prisoner is admitted to a corrective services facility for detention, the chief executive must classify the prisoner into a security classification of low or high.

(2) However, when a prisoner is admitted to a corrective services facility for detention on remand for an offence and is not serving a term of imprisonment for another offence, the prisoner must only be classified into a security classification of high.

(3) In addition to classifying a prisoner under subsection (1), the chief executive may also classify the prisoner into 1 or more of the risk sub-categories prescribed by regulation.

(4) When deciding a prisoner's security classification, the chief executive must have regard to each of the following—

(a) the nature of the offence for which the prisoner has been charged or convicted;

(b) the risk of the prisoner escaping, or attempting to escape, from custody;

(c) the risk of the prisoner committing a further offence and the impact the commission of the further offence is likely to have on the community;

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(d) the risk the prisoner poses of self harming, harming other prisoners and staff members and to the security of the corrective services facility;

(e) the length of time remaining to be served by the prisoner under a sentence imposed by a court;

(f) information about the prisoner, if any, received from a law enforcement agency.

(5) Also, the chief executive may have regard to any matter that is relevant to—

(a) the welfare or safe custody of the prisoner or other prisoners; or

(b) the security or good order of the corrective services facility.

(6) If the chief executive classifies a prisoner into a security classification of high, the prisoner must be detained in a secure facility.

(7) If the chief executive classifies a prisoner into a security classification of low, the prisoner may be detained in a low custody facility.

(8) In this section—

low custody facility means—

(a) a prison, other than a secure facility; or

(b) a community corrections centre; or

(c) a work camp.

13 Reviewing prisoner's security classification

(1) The chief executive may review a prisoner's security classification at any time, including the risk sub-category for the prisoner.

Example—

The chief executive may review a prisoner's security classification if the prisoner's behaviour deteriorates or improves.

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(2) The chief executive may limit the review of a prisoner's security classification to reviewing only the risk sub-category for the prisoner.

(3) However, for a prisoner with a security classification of high, the chief executive must review the prisoner's security classification in either of the following circumstances—

(a) the prisoner requests the security classification be reviewed and the prisoner has not requested the classification be reviewed during the previous 12 months;

(b) the security classification—

(i) has been high for the previous 3 years; and

(ii) has not been reviewed in the previous 3 years.

(4) Subsection (3) does not apply for a prisoner if—

(a) the prisoner—

(i) is being detained on remand for an offence; and

(ii) is not serving a term of imprisonment for another offence; or

(b) the prisoner is being held in custody under any of the following orders—

(i) a continuing detention order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*;

(ii) an interim detention order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*;

(iii) a preventative detention order under the *Terrorism (Preventative Detention) Act 2005*;

(iv) a continued preventative detention order under the *Criminal Code Act 1995* (Cwlth), section 100.1;

(v) an initial preventative detention order under the *Criminal Code Act 1995* (Cwlth), section 100.1;

(vi) an interim post-sentence order under the *Criminal Code Act 1995* (Cwlth), section 100.1;

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(vii) a post-sentence order under the *Criminal Code Act 1995* (Cwlth), section 100.1;

(viii) a preventative detention order under the *Criminal Code Act 1995* (Cwlth), section 100.1;

(ix) another court order prescribed by regulation for this subparagraph.

(5) When reviewing a prisoner's security classification, the chief executive must have regard to the matters mentioned in section 12(4).

14 Changing prisoner's security classification

The chief executive may change a prisoner's security classification after reviewing it under section 13.

15 Notice of decision about prisoner's security classification following review

(1) After reviewing a prisoner's security classification, the chief executive must give the prisoner an information notice about the chief executive's decision following the review.

(2) If the chief executive increased the prisoner's security classification, the information notice must include a statement that if the prisoner is dissatisfied with the decision, the prisoner may ask the chief executive to reconsider the decision by notice given to the chief executive within 7 days after the information notice is given to the prisoner.

(3) The *Acts Interpretation Act 1954*, section 27B does not apply to an information notice given under this section.

16 Reconsidering decision to change prisoner's security classification

(1) This section applies if—

(a) the chief executive increases a prisoner's security classification; and

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(b) the prisoner is dissatisfied with the decision.

(2) Within 7 days after the information notice about the decision is given to the prisoner, the prisoner may, by written notice given to the chief executive, ask the chief executive to reconsider the decision.

(3) The chief executive must reconsider the decision and may confirm, amend or cancel the decision.

(4) After reconsidering the decision, the chief executive must give the prisoner an information notice about the reconsidered decision.

17 Application of Judicial Review Act 1991 to decisions about prisoner security classification

(1) The *Judicial Review Act 1991*, parts 3, 4 and 5, other than section 41(1), do not apply to a decision made, or purportedly made, under section 12, 13, 14 or 16 about a prisoner's security classification.

Note—

The *Judicial Review Act 1991*, part 3 deals with statutory orders of review, part 4 deals with reasons for decisions and part 5 deals with prerogative orders and injunctions.

(2) In this section—

decision includes a decision affected by jurisdictional error.

18 Accommodation

Whenever practicable, each prisoner in a corrective services facility must be provided with a room that is not shared with any other prisoner.

Part 1A Prisoners from Norfolk Island

18A Definitions for part

In this part—

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constable means a constable as defined under the *Removal of Prisoners Act 2004* (Norfolk Island), section 3(1), other than a person mentioned in paragraph (b) of that definition.

Norfolk Island court means a court under the *Removal of Prisoners Act 2004* (Norfolk Island).

Norfolk Island magistrate means a Magistrate of the Territory under the *Norfolk Island Act 1979* (Cwlth).

Norfolk Island prisoner see section 18B.

Norfolk Island warrant means a warrant issued under the *Removal of Prisoners Act 2004* (Norfolk Island).

order, in relation to a Norfolk Island court or Norfolk Island magistrate—

(a) means an order under the *Removal of Prisoners Act 2004* (Norfolk Island); and

(b) includes a warrant mentioned in the *Removal of Prisoners Act 2004* (Norfolk Island), section 3(3) issued by the court or magistrate.

18B Meaning of *Norfolk Island prisoner*

(1) A ***Norfolk Island prisoner*** is a person who is liable to undergo imprisonment or other detention in custody in Queensland under a law in force in Norfolk Island.

(2) However, a ***Norfolk Island prisoner*** does not include a person who is the subject of a direction under the *Removal of Prisoners Act 2004* (Norfolk Island), section 9.

18C Custody and detention of Norfolk Island prisoners

(1) A constable who has a Norfolk Island prisoner in custody under a Norfolk Island warrant is authorised to have custody of, and deal with, the Norfolk Island prisoner in Queensland under the warrant.

(2) A corrective services officer may, under a Norfolk Island warrant—

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(a) take control of the Norfolk Island prisoner the subject of the warrant from a constable in Queensland; and

(b) transport the Norfolk Island prisoner to a corrective services facility.

(3) However, a corrective services officer may act under subsection (2) only if the chief executive has been given the Norfolk Island warrant or a copy of the warrant.

(4) A Norfolk Island prisoner may be admitted to and detained in a corrective services facility specified by the chief executive for the period of the Norfolk Island prisoner's imprisonment or other detention.

(5) A Norfolk Island prisoner is taken to be in the chief executive's custody—

(a) while under the control of a corrective services officer under subsection (2); and

(b) while detained in a corrective services facility under subsection (4).

(6) The Norfolk Island prisoner remains in the chief executive's custody until discharged—

(a) except for any time when the Norfolk Island prisoner is lawfully in another person's custody; and

(b) even if the Norfolk Island prisoner is lawfully outside a corrective services facility.

(7) Subsection (4) applies despite anything stated in a Norfolk Island warrant about—

(a) a specified corrective services facility in which the period of imprisonment or other detention is to be served; or

(b) a specified person in charge of a corrective services facility to whom the Norfolk Island prisoner is to be produced.

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18D Application of Act to Norfolk Island prisoners

(1) This Act applies in relation to a Norfolk Island prisoner who is in the chief executive's custody under section 18C—

(a) as if the order or sentence of the Norfolk Island court or Norfolk Island magistrate under which the Norfolk Island prisoner is liable to undergo imprisonment or other detention were made or imposed by a court of the State under a law of the State; and

(b) subject to subsection (2) and a regulation made under subsection (3).

(2) Chapter 5 does not apply in relation to the Norfolk Island prisoner unless a regulation under subsection (3) provides otherwise.

(3) A regulation may provide that a provision of this Act, other than a provision of this part—

(a) does, or does not, apply to the Norfolk Island prisoner; or

(b) applies to the Norfolk Island prisoner as modified by the regulation.

(4) A regulation under subsection (3) must declare it is made under that subsection.

(5) However, the application of this Act to the Norfolk Island prisoner—

(a) applies subject to—

(i) the *Removal of Prisoners Act 2004* (Norfolk Island); and

(ii) the *Sentencing Act 2007* (Norfolk Island); and

(b) stops having effect if the Norfolk Island prisoner is discharged, or delivered into the custody of a constable under a Norfolk Island warrant.

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18E Provision relating to parole for Norfolk Island prisoners

(1) This section applies if, under a regulation made under section 18D(3), all or a part of chapter 5 (with or without modification) applies to a Norfolk Island prisoner who is in the chief executive's custody under section 18C.

(2) The parole board has the functions of a Board under the *Sentencing Act 2007* (Norfolk Island) in relation to the Norfolk Island prisoner.

(3) The parole board is not required to perform a function in relation to a Norfolk Island prisoner who is released on parole in Norfolk Island and is not in the State, unless the parole board is required to perform the function under an arrangement made with the Commonwealth under the *Norfolk Island Act 1979* (Cwlth), section 18C.

18F Producing Norfolk Island prisoners before Norfolk Island court at place in Queensland

(1) The section applies if a Norfolk Island court, by order or a notice given to the chief executive, requires a Norfolk Island prisoner who is detained in a corrective services facility under a Norfolk Island warrant to be produced before a Norfolk Island court at a stated place in Queensland, at a stated time and for a stated purpose.

(2) The chief executive must produce the Norfolk Island prisoner at the place and time, and for the purpose, stated in the order or notice of the Norfolk Island court.

(3) If the order or notice of the Norfolk Island court requires the Norfolk Island prisoner to be transferred to a Norfolk Island court at a place in Queensland, the transfer of the Norfolk Island prisoner to the Norfolk Island court must be authorised by an order of the chief executive.

(4) This section does not limit the application of section 69, as applying under section 18D, in relation to a Norfolk Island prisoner.

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18G Return of Norfolk Island prisoners to Norfolk Island

(1) This section applies if a constable gives the chief executive a Norfolk Island warrant or a copy of a Norfolk Island warrant requiring—

(a) the delivery of a Norfolk Island prisoner who is detained in a corrective services facility under another Norfolk Island warrant into the custody of the constable; and

(b) the constable to convey the Norfolk Island prisoner in custody to Norfolk Island.

(2) The chief executive must deliver the Norfolk Island prisoner into the custody of the constable.

(3) The delivery of the Norfolk Island prisoner into the custody of the constable must be authorised by an order of the chief executive.

18H Early discharge or release not prevented

Nothing in this part prevents the early discharge or release of a Norfolk Island prisoner under a law of the Commonwealth or a law in force in Norfolk Island.

18I Particular Acts do not apply to Norfolk Island prisoners in chief executive's custody

(1) This section applies in relation to a Norfolk Island prisoner who is in the chief executive's custody under section 18C.

(2) The following Acts do not apply to the Norfolk Island prisoner even though the Norfolk Island prisoner is in the chief executive's custody—

(a) the *Dangerous Prisoners (Sexual Offenders) Act 2003*;

(b) another Act prescribed by regulation that would otherwise apply to the Norfolk Island prisoner because the Norfolk Island prisoner is in the chief executive's custody.

(3) A regulation under subsection (2)(b)—

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(a) must declare it is made under that subsection; and

(b) may be made in the same instrument as a regulation made under section 18D(3).

18J Evidentiary aid for Norfolk Island prisoners

(1) In a proceeding under an Act, a document purporting to be a Norfolk Island warrant or a copy of a Norfolk Island warrant and to be signed by an authorised person is evidence of the matters stated in the document.

(2) In this section—

authorised person has the meaning given by the *Removal of Prisoners Act 2004* (Norfolk Island).

Part 2 Management of prisoners

Division 1 Management of prisoners generally

19 Effect of prisoner's security classification

The chief executive may make different arrangements for the management of prisoners with different security classifications, including prisoners with the same security classification but with different risk sub-categories.

20 Directions to prisoner

(1) A corrective services officer may give a prisoner a direction the officer reasonably believes is 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

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

Example of order for paragraph (c)—

an order given under division 3 for the searching of the prisoner

(d) to ensure a prisoner attends a place to enable a DNA sampler to take a DNA sample from a prisoner under the *Police Powers and Responsibilities Act 2000*, chapter 17, part 5; or

(e) to ensure the prisoner or another prisoner does not commit an offence or 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.

21 Medical examination or treatment

(1) If it is reasonably practicable in the circumstances, before a health practitioner carries out a medical examination or treatment of a prisoner, the health practitioner must tell the prisoner the following—

(a) the health practitioner considers the prisoner requires the medical examination or treatment;

(b) the health practitioner's reasons for requiring the examination or treatment;

(c) what the examination or treatment will involve.

(2) A prisoner must submit to an examination by a health practitioner if the chief executive orders the examination to decide—

(a) the prisoner's security classification; or

(b) where to place the prisoner; or

(c) whether to transfer the prisoner to another place; or

(d) the prisoner's suitability to participate in an approved activity, course or program; or

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(e) the prisoner's suitability for leave of absence, early discharge or release.

(3) A prisoner must submit to—

(a) examinations by psychiatrists as required—

(i) under a risk assessment order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*, section 8(2)(a); or

(ii) by the chief executive, if the chief executive must arrange for the examinations under section 29 of that Act; or

Note—

The *Dangerous Prisoners (Sexual Offenders) Act 2003*, section 29 deals with psychiatric reports for reviewing continuing detention orders.

(b) an examination by 2 or more medical practitioners as directed by a judge under the *Criminal Law Amendment Act 1945*, section 18.

Note—

The *Criminal Law Amendment Act 1945*, section 18 deals with the detention of persons incapable of controlling sexual instincts.

(4) For a medical examination or treatment of a prisoner, a health practitioner may—

(a) take a sample of the prisoner's blood or another bodily substance; or

(b) order the prisoner to provide a sample of the prisoner's urine or another bodily substance, including, for example, hair or saliva, and give the prisoner directions about the way in which the sample must be provided.

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

(6) A health practitioner may authorise another person to examine or treat a prisoner in a corrective services facility if—

(a) the health practitioner—

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(i) is authorised or required to carry out the examination or give the treatment under this Act; 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.

(7) In this section—

prisoner does not include a prisoner released on parole.

22 Private medical examination or treatment

(1) Subject to subsection (2), a prisoner in a corrective services facility may apply in writing to the chief executive for approval to be examined or treated by a health practitioner nominated by the prisoner.

(2) A prisoner in a corrective services facility can not—

(a) participate in assisted reproductive technology; or

(b) apply for the chief executive's approval to participate in assisted reproductive technology.

(3) The chief executive may give the approval mentioned in subsection (1) if satisfied—

(a) the application for the approval is not—

(i) frivolous or vexatious; or

(ii) for an examination or treatment for participating in assisted reproductive technology; and

(b) the prisoner is able to pay for the examination or treatment and associated costs; and

(c) the health practitioner nominated by the prisoner is willing and available to carry out the examination or treatment of the prisoner.

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

(5) The chief executive must consider, but is not bound by, any report or recommendation made by the nominated health practitioner.

23 Dangerously ill prisoner

If the chief executive, on the advice of a health practitioner, considers a prisoner in a corrective services facility to be dangerously ill or seriously injured, the chief executive must immediately notify each of the following that the prisoner is either dangerously ill or seriously injured—

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

(b) a religious visitor;

(c) for an Aboriginal or Torres Strait Islander prisoner—

(i) an Aboriginal or Torres Strait Islander legal service representing Aboriginal or Torres Strait Islander persons in 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.

24 Death of prisoner

(1) After a prisoner dies, the chief executive must notify each of the following that the prisoner has died—

(a) if the corrective services facility is a prison—a health practitioner;

(b) the police officer in charge of the police station nearest to the place where the prisoner died;

(c) the person nominated by the prisoner as the prisoner's contact person;

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(d) a religious visitor;

(e) for an Aboriginal or Torres Strait Islander prisoner—

(i) an Aboriginal or Torres Strait Islander legal service representing Aboriginal or Torres Strait Islander persons in the area in which the prisoner died; and

(ii) if practicable, an elder, respected person or indigenous spiritual healer who was relevant to the prisoner.

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

(3) In this section—

prisoner includes a person who, immediately before the person's death, was a prisoner, but does not include a prisoner released on parole.

25 Registration of birth

(1) If, when a child is born, a parent of the child is a prisoner, the birth certificate for the child 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 *Births, Deaths and Marriages Registration Act 2023* 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.

26 Marriage

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

Maximum penalty—20 penalty units.

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(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.

26A Civil partnerships

(1) A person in the chief executive's custody must give the chief executive written notice before—

(a) applying under the *Civil Partnerships Act 2011*, section 7 for registration of a relationship as a civil partnership; or

(b) giving a notice of intention to enter into a civil partnership under the *Civil Partnerships Act 2011*, section 10.

Maximum penalty—20 penalty units.

(2) A prisoner may make a declaration of civil partnership under the *Civil Partnerships Act 2011*, section 11 in a corrective services facility only with the chief executive's approval.

(3) The making of the declaration must be conducted in the way decided by the chief executive.

27 Change of name

(1) A person in the chief executive's custody must obtain the chief executive's written permission before applying to change the person's name under—

(a) the *Births, Deaths and Marriages Registration Act 2023*; or

(b) an equivalent law of another State providing for the registration of a change to the person's name.

Maximum penalty—20 penalty units or 6 months imprisonment.

(2) In deciding whether to give the permission, the chief executive must consider each of the following—

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(a) whether the proposed name change poses a risk to the good order or security of a corrective services facility;

(b) the safety and welfare of the person and other persons;

(c) whether the chief executive reasonably believes the proposed name change could be used to further an unlawful activity or purpose;

(d) whether the proposed change of name could be considered offensive to, or cause physical, mental or emotional harm to, a victim of a crime or an immediate family member of a deceased victim of a crime.

(3) Subsection (4) applies if the chief executive becomes aware that a person in the chief executive's custody has failed to comply with subsection (1)(a) in registering a change of the person's name under the *Births, Deaths and Marriages Registration Act 2023*.

(4) The chief executive may apply to the registrar under the *Births, Deaths and Marriages Registration Act 2023* for the cancellation of the registration.

27AA Alteration of record of sex and recognised details certificate

(1) A person in the chief executive's custody, other than a person released on parole, must obtain the chief executive's written permission before applying—

(a) to alter the record of sex of the person in the relevant child register under the *Births, Deaths and Marriages Registration Act 2023*; or

(b) for a recognised details certificate for the person under the *Births, Deaths and Marriages Registration Act 2023*; or

(c) to alter the record of sex of the person under an equivalent law of another State providing for the alteration of the record of sex of the person; or

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(d) for a recognised details certificate for the person under an equivalent law of another State providing for the issue of a recognised details certificate for the person.

Maximum penalty—20 penalty units or 6 months imprisonment.

(2) In deciding whether to give the permission, the chief executive must consider each of the following—

(a) whether the proposed alteration of record of sex or recognised details certificate poses a risk to the good order or security of a corrective services facility;

(b) the safety and welfare of the person and other persons;

(c) whether the chief executive reasonably believes the proposed alteration of record of sex or recognised details certificate could be used to further an unlawful activity or purpose;

(d) whether the proposed alteration of record of sex or recognised details certificate could be considered offensive to, or cause physical, mental or emotional harm to, a victim of a crime or an immediate family member of a deceased victim of a crime.

(3) Subsection (4) applies if the chief executive becomes aware that a person mentioned in subsection (1) has failed to comply with subsection (1)(a) in altering the record of sex of the person under the *Births, Deaths and Marriages Registration Act 2023*.

(4) The chief executive may apply to the registrar under the *Births, Deaths and Marriages Registration Act 2023* for the cancellation of the alteration of record of sex.

(5) Subsection (6) applies if the chief executive becomes aware that a person mentioned in subsection (1) has failed to comply with subsection (1)(b) in being issued with a recognised details certificate for the person under the *Births, Deaths and Marriages Registration Act 2023*.

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(6) The chief executive may apply to the registrar under the *Births, Deaths and Marriages Registration Act 2023* for the cancellation of the recognised details certificate.

(7) The chief executive may confiscate a cancelled recognised details certificate.

27AB Written permission does not limit chief executive's powers

The fact that the chief executive gives written permission for a person in the chief executive's custody, other than a person released on parole, to make an application mentioned in section 27AA(1) does not limit the powers of the chief executive under this Act or another Act in relation to the custody of the person.

Examples of powers of the chief executive under this Act—

- the power of the chief executive under section 9(2) to require that a person be taken to and detained in a corrective services facility specified by the chief executive
- the power of the chief executive under section 68(1) to order the transfer of a prisoner from a corrective services facility
- the general powers of the chief executive under section 263

Division 1A Carrying on business or dealing in artwork

27A Definitions for div 1A

In this division—

possession, of a prisoner's artwork, means—

(a) custody or control of it; or

(b) the ability or right to obtain custody or control of it.

prisoner's artwork means any visual art, performing art or literature made or produced by a prisoner while the prisoner is in a corrective services facility.

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28 Carrying on a business

(1) Subject to subsections (2) to (4), a prisoner who has been sentenced, whether before or after the commencement of this section, to a period of imprisonment must not carry on, or participate in the carrying on of, a business while the prisoner is in a corrective services facility.

Example—

the painting of artwork to be sold on the internet by the prisoner or by a corporation in whose management the prisoner participates including, for example, as a director

Maximum penalty—100 penalty units.

(2) Subsections (3) and (4) apply to a person who is carrying on, or participating in the carrying on of, a business when the person is sentenced to a period of imprisonment (the ***pre-sentence business***).

(3) The person must, within 21 days after being sentenced—

(a) stop carrying on the pre-sentence business; or

(b) stop participating in the carrying on of the pre-sentence business.

Maximum penalty—100 penalty units.

(4) Subsection (1) does not apply to the person in relation to the pre-sentence business until the end of the 21 days mentioned in subsection (3).

28A Restriction on prisoner dealing with prisoner's artwork

(1) While a prisoner is in a corrective services facility, the prisoner must not sell, give, give possession of, or otherwise dispose of the prisoner's artwork, unless allowed to do so under section 28B, 28C or 28D.

Maximum penalty—40 penalty units.

(2) Subsection (1) does not prevent a prisoner abandoning or destroying the artwork.

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28B Giving prisoner's artwork to a person as a gift

(1) A prisoner may—

(a) with the chief executive's written approval, give a particular item of the prisoner's artwork to a person as a gift; or

(b) donate 1 or more items of the prisoner's artwork to the State.

(2) For deciding whether to give an approval under subsection (1)(a), the chief executive must consider all of the following—

(a) the chief executive's estimated value of the artwork;

(b) the person to whom the artwork is proposed to be given;

(c) the prisoner's stated purpose for making the gift;

(d) the number of previous gifts of artwork made by the prisoner, whether or not to the same person;

(e) any other matter the chief executive considers relevant.

28C Giving prisoner's artwork to a person to hold on the prisoner's behalf

(1) A prisoner may, with the chief executive's written approval, give the prisoner's artwork to a person other than the State to hold on the prisoner's behalf.

(2) Also, a prisoner may, if the chief executive agrees, give the prisoner's artwork to the State to hold on the prisoner's behalf.

28D Giving prisoner's artwork to the State for disposal as agreed

The prisoner may give the prisoner's artwork to the State for the purpose of the State's disposing of the artwork as agreed with the prisoner.

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28E No consideration to be paid for holding prisoner's artwork under s 28C

The prisoner must not ask for, or accept, consideration for—

(a) giving the artwork to a person to hold under section 28C; or

(b) delivering the artwork to a person to hold under section 28C.

Maximum penalty—40 penalty units.

28F Person holding prisoner's artwork for prisoner

(1) A person, other than the State, holding prisoner's artwork on behalf of a prisoner must not sell, give, give possession of, or otherwise dispose of the prisoner's artwork, unless allowed to do so under subsection (2), (3) or (4).

Maximum penalty—40 penalty units.

(2) The person may give the artwork—

(a) to the prisoner, if the prisoner is discharged or released from custody; or

(b) to someone else to hold on the prisoner's behalf, if the prisoner consents.

(3) If the person tells the prisoner that the person no longer wishes to hold the artwork on behalf of the prisoner—

(a) the person may give the artwork—

(i) to another person authorised by the prisoner to hold the artwork on the prisoner's behalf; or

(ii) to a person authorised by the prisoner to collect the artwork for delivery to another person to hold on the prisoner's behalf; or

(b) if—

(i) the prisoner has not been discharged or released from custody; and

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(ii) the person has not received authority from the prisoner to deal with the artwork under paragraph (a) within 1 month after telling the prisoner the person no longer wishes to hold the artwork on behalf of the prisoner;

the person may give the artwork to the chief executive.

(4) The person may dispose of the artwork if all of the following apply—

(a) the prisoner is discharged or released from custody;

(b) the recipient makes reasonable efforts to locate the prisoner and ask the prisoner to collect, or arrange for the collection of, the artwork;

(c) the artwork is not collected by or for the prisoner within 6 months after the prisoner's discharge or release from custody.

(5) The person must not ask for, or accept, consideration for—

(a) giving the artwork to someone else to hold on the prisoner's behalf; or

(b) giving the artwork to a person for delivery to another person to hold on the prisoner's behalf.

Maximum penalty for subsection (5)—40 penalty units.

28G Prisoner and not the State has responsibility for collecting artwork held on behalf of the prisoner

(1) The prisoner, and not the State, is responsible for collecting, or arranging for the collection of, the artwork from a person holding the artwork on the prisoner's behalf if—

(a) the prisoner is discharged or released from custody; or

(b) the person tells the prisoner that the person no longer wishes to hold the artwork on the prisoner's behalf.

(2) If the chief executive incurs expense in dealing with the artwork under section 28F(3)(b), the chief executive may recover the expense from the prisoner.

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28H Limited liability of persons holding artwork on behalf of prisoner

(1) If the prisoner gives the artwork to a person under section 28C, the person is not liable for—

(a) loss of the artwork; or

(b) damage to the artwork, other than deliberate damage to it by the person.

(2) If the prisoner gives the artwork to the State under section 28D, the State is not liable for loss of, or damage to, the artwork while it is in the State's possession.

Division 2 Children accommodated with female prisoners

29 Application for accommodation of child with female prisoner

(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—

(i) of whom the prisoner is the mother; or

(ii) the subject of a court order requiring the child to live with the prisoner, whether or not the prisoner is the child's mother.

(2) On admission to the corrective services facility, the prisoner must be informed that—

(a) the prisoner, or the child protection chief executive, may apply to the chief executive to have the child accommodated with the prisoner; and

(b) if the prisoner, or the child protection chief executive, applies and the application is successful, the prisoner will have primary responsibility for the child's care and safety, including all costs associated with the care.

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(3) The following persons may apply, in the approved form, to the chief executive to have the child accommodated with the prisoner in the corrective services facility—

(a) the prisoner;

(b) the child protection chief executive.

(4) In this section—

costs associated, with the care of a child, includes the cost of nappies and baby goods for the child, but does not include the cost of food and drink for the child.

30 Deciding application

(1) The chief executive may grant an application to have a child accommodated with a prisoner in a corrective services facility if—

(a) the chief executive decides there is suitable accommodation in the facility for the child; and

(b) either—

(i) the child is not eligible to start primary school; or

(ii) each of the following apply—

(A) the child is eligible to start primary school;

(B) the prisoner is in a community corrections centre;

(C) the application is only for periods during school holidays or on weekends; and

(c) the child is immunised in accordance with a national immunisation program or the recommendations of a health practitioner treating the child in the corrective services facility; and

(d) the child is not subject to a court order requiring the child to live with someone else; and

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(e) for a child in care—the child protection chief executive has consented to the child being accommodated with the prisoner; and

(f) the chief executive is satisfied it is in the child's best interests.

(2) In deciding what is in the child's best interests, the chief executive may consider each of the following—

(a) the child's—

(i) age and sex; and

(ii) cultural background; and

(iii) mental and physical health;

(b) the emotional ties between the child and the child's parents;

(c) the child's established living pattern, including, for example, the pattern of the child's home, school, community and religious life;

(d) if the chief executive is satisfied the child is able to express a view, the child's wishes.

31 Removing child from corrective services facility

(1) The chief executive may remove a child being accommodated with a prisoner in a corrective services facility if any of the following apply—

(a) a court orders that the child live with another person;

(b) the chief executive is satisfied it is in the child's best interests;

(c) the prisoner with whom the child is accommodated requests the removal;

(d) the child is not a child mentioned in section 30(1)(b)(ii) and becomes eligible to start primary school;

(e) the prisoner with whom the child is accommodated is transferred to another corrective services facility and the

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chief executive decides the accommodation at the other corrective services facility is not suitable for the child;

(f) the chief executive is satisfied it is in the interests of the good order and management of the facility.

(2) In deciding what is in the child's best interests, the chief executive must consider each of the following—

(a) the child's—

(i) age and sex; and

(ii) mental and physical health;

(b) anything else the chief executive considers relevant.

(3) Separation of a child from a prisoner with whom the child is accommodated must not be used as a form of discipline against the prisoner.

32 Search of accommodated child

(1) The chief executive may require a child accommodated with a female prisoner in a corrective services facility to submit to a general search, scanning search or an imaging search before entering the facility.

(2) The chief executive must not require the child to submit to a personal search or a search requiring the removal of clothing.

Division 3 Search of prisoners

33 Power to search

(1) The chief executive may order a corrective services officer—

(a) to conduct a general search, personal search, scanning search or an imaging search of a prisoner; or

(b) to search a prisoner's room; or

(c) to search prisoner facilities.

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

(a) the security or good order of the corrective services facility; or

(b) the safety of persons in the facility.

(3) A power under this Act to search a prisoner in any way—

(a) includes a power to search anything in the prisoner's possession; and

(b) may be exercised at any time, including, for example, on the day on which the prisoner is discharged or released.

34 Personal search of prisoners leaving particular part of corrective services facility

The chief executive may order the personal searching of prisoners whenever they leave a part of a corrective services facility stated in the order where prisoners have access to concealable prohibited things.

Example of part of a corrective services facility—

a kitchen or workshop

35 Search requiring the removal of clothing of prisoners on chief executive's direction

(1) The chief executive may give a written direction to a corrective services officer for the carrying out of a search requiring the removal of clothing of prisoners as stated in the direction, including, for example, at the times stated in the direction.

(2) The search must be carried out as required under the direction.

(3) However, a direction under subsection (1) does not apply to a particular prisoner if the chief executive reasonably considers it unnecessary for the search to be carried out on the prisoner because of the prisoner's exceptional circumstances.

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Example for subsection (3)—

A direction requires a search requiring the removal of clothing of a prisoner to be carried out when a prisoner enters a corrective services facility. A pregnant prisoner returns to the facility from an escorted antenatal visit and the corrective services officer who escorted the prisoner advises that the prisoner had no likely opportunity to obtain a prohibited thing while on the visit. The chief executive may consider it unnecessary for the search to be carried out on the prisoner.

(4) A search requiring the removal of clothing under this section may be preceded by another less intrusive search.

36 Search requiring the removal of clothing of prisoners on chief executive's order—generally

(1) The chief executive may order a search requiring the removal of clothing of 1 or more prisoners if the chief executive is satisfied the search is necessary for either or both of the following—

(a) the security or good order of the corrective services facility;

(b) the safe custody and welfare of prisoners at the facility.

Example—

A knife is missing from the kitchen of a corrective services facility. The chief executive may be satisfied that a search requiring the removal of clothing of each prisoner who worked in the kitchen that day is necessary for the security or good order of the facility or for the safe custody and welfare of prisoners at the facility.

(2) A search requiring the removal of clothing under this section may be preceded by another less intrusive search.

37 Search requiring the removal of clothing on reasonable suspicion

(1) The chief executive may order a search requiring the removal of clothing of a prisoner if the chief executive reasonably suspects the prisoner has a prohibited thing concealed on the prisoner's person.

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(2) A search requiring the removal of clothing under this section may be preceded by another less intrusive search.

38 Requirements for search requiring the removal of clothing

(1) A search requiring the removal of clothing of a prisoner must be carried out by at least 2 corrective services officers, but by no more officers than are reasonably necessary to carry out the search.

(2) Before carrying out the search, one of the corrective services officers must tell the prisoner—

(a) that the prisoner will be required to remove the prisoner's clothing during the search; and

(b) why it is necessary to remove the clothing.

(3) 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.

(4) A corrective services officer carrying out the search must, if reasonably practicable, give the prisoner the opportunity to remain partly clothed during the search, including, for example, by allowing the prisoner to dress the prisoner's upper body before being required to remove clothing from the lower part of the body.

(5) If a corrective services officer seizes clothing because of the search, the officer must ensure the prisoner is left with, or given, reasonably appropriate clothing.

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39 Body search of particular prisoner

(1) The chief executive may authorise a health practitioner to conduct a body search of a prisoner if the chief executive reasonably believes—

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

(b) the prisoner has a prohibited thing concealed within the prisoner's body that may potentially be used in a way that may pose a risk to the security or good order of the facility; or

(c) the search may reveal evidence of the commission of an offence or breach of discipline by the prisoner.

(2) Two health practitioners must be present during the body search.

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

(4) The health practitioner 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 health practitioner reasonably believes the thing may be evidence of the commission of an offence or breach of discipline by the prisoner.

(5) The health practitioner must give a seized thing to a corrective services officer as soon as practicable after seizing it.

39A Further requirements and procedures for searches

(1) A regulation may prescribe further requirements and procedures relating to the carrying out of a search of a prisoner, including a personal search, body search or search requiring the removal of clothing.

(2) Without limiting subsection (1), further requirements and procedures may be prescribed for—

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(a) the effective carrying out of the search; or

(b) respecting a prisoner's dignity; or

(c) taking into account the special or diverse needs of a prisoner.

40 Register of searches

(1) The chief executive must establish a register, for each corrective services facility, recording the details of each search carried out at the facility requiring the removal of clothing, and each body search, of a prisoner.

(2) The details must include the following—

(a) the reason for the search;

(b) the names of the persons present during the search;

(c) details of anything seized from the prisoner.

(3) The chief executive must make each register available for inspection by an official visitor.

41 Who may be required to give test sample

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

(a) a prisoner;

(b) an offender if—

(i) the giving of the test sample is required by a parole order or court order; or

(ii) for an offender who is released on parole—the chief executive reasonably believes the offender poses a serious and immediate risk of self harm.

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

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42 Giving test sample

(1) The chief executive or a health practitioner may give a prisoner or an offender mentioned in section 41(1)(b) directions about the way the prisoner or offender must give a test sample.

(2) Only a health practitioner may take a sample of blood.

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

(4) A regulation may prescribe—

(a) the number of corrective services officers that must be present when a test sample stated in the regulation is being taken from a prisoner; and

(b) how a test sample stated in the regulation, other than a sample of blood, must be taken.

43 Consequences of positive test sample

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

(a) the test result may be considered when assessing the prisoner's security 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), the chief executive 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 the test sample; or

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(b) fails to supply the test sample within a reasonable time, unless the prisoner has a reasonable excuse; or

Example of a reasonable excuse—

a medical condition preventing the prisoner from supplying the test sample in the time it might reasonably take another prisoner who does not have the medical condition to supply the sample

(c) alters or invalidates, or attempts to alter or invalidate, the results of the test sample; or

(d) tampers, or attempts to tamper, with the test sample.

Division 4 Mail, personal calls and other communications

Subdivision 1 Mail

44 Prisoner's ordinary mail at prisoner's own expense

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

(2) However, if the chief executive 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) If subsection (2) applies to a prisoner, the prisoner may post a letter not more than twice a week, unless otherwise approved by the chief executive.

(4) If a prisoner is participating in an approved activity, course or program that requires the prisoner to send things by mail, the postage costs associated with the prisoner's participation must be paid for by the chief executive.

45 Opening, searching and censoring mail

(1) A corrective services officer authorised by the chief executive may open, search and censor a prisoner's ordinary mail.

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(2) A corrective services officer authorised by the chief executive may, in a prisoner's presence, open and search the prisoner's privileged mail or mail purporting to be privileged mail, if the officer reasonably suspects the mail—

(a) contains—

(i) something that may physically harm the person to whom it is addressed; or

(ii) a prohibited thing; or

(b) is not privileged mail.

(3) However, a corrective services officer mentioned in subsection (2) must not read a prisoner's privileged mail, other than to establish that it is privileged mail, without the prisoner's written consent.

(4) If a corrective services officer reads a prisoner's privileged mail, the officer must not disclose the contents to any person.

Maximum penalty—100 penalty units or 2 years imprisonment.

(5) Subject to sections 46 to 48, after a prisoner's mail has been searched or censored it must be—

(a) for incoming mail—immediately delivered to the prisoner to whom it is addressed; or

(b) for outgoing mail—immediately placed into the external mail system.

46 Seizing and otherwise dealing with mail containing information about the commission of an offence

(1) If a search of a prisoner's mail reveals information about the commission of an offence—

(a) the mail may be seized by—

(i) if it is privileged mail—the chief executive; or

(ii) if it is ordinary mail—a corrective services officer; and

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(b) the chief executive must give the information revealed in the mail to the relevant law enforcement agency.

(2) Subsection (1) does not apply if the prisoner's mail is privileged mail and the information is about the commission of the offence for which the prisoner is being detained.

47 Seizing harmful or prohibited things contained in privileged mail

The chief executive may seize something in a prisoner's privileged mail if the thing—

(a) may physically harm the person to whom it is addressed; or

(b) is a prohibited thing.

48 Seizing ordinary mail and things contained in it

(1) A corrective services officer may seize a prisoner's ordinary mail, or anything in it, to stop—

(a) anything that poses a risk to the security or good order of the corrective services facility entering or leaving the 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

Example of inappropriate correspondence—

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

(d) a prohibited thing entering or leaving the facility; or

(e) the prisoner purchasing goods or services without the chief executive's written approval.

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(2) Subsection (1) does not apply to a document to which legal professional privilege attaches.

49 Register of privileged mail searches

(1) The chief executive must establish a register, for each corrective services facility, recording the following for each search of a prisoner's privileged mail—

(a) the reasons for the search, including the basis for the corrective services officer's reasonable suspicion about the mail;

(b) without disclosing the contents of the mail, the result of the search.

(2) The chief executive must make the register available for inspection by an official visitor.

Subdivision 2 Personal calls

50 Personal calls

(1) A prisoner in a corrective services facility may make personal calls on terms and conditions determined by the chief executive under section 51.

(2) A ***personal call*** is a call made by a prisoner—

(a) to an individual on admission to a corrective services facility; or

(b) to an individual approved by the chief executive for the prisoner; or

(c) to an entity approved by the chief executive for all prisoners or for a class of prisoners.

(3) The chief executive may also allow the prisoner to have a ***personal call*** in other circumstances.

Example—

in the event of a family or other personal emergency

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(4) A call under subdivision 3 is not a ***personal call***.

(5) A personal call is to be made at the expense of the prisoner, except that—

(a) the prisoner must be allowed to call an individual on admission to a corrective services facility free of charge; and

(b) the chief executive may excuse a prisoner from paying for a call on grounds considered sufficient by the chief executive.

51 Terms and conditions for making personal calls

(1) Without limiting the chief executive's power to determine terms and conditions for personal calls by prisoners in corrective services facilities, the terms and conditions may govern the following matters—

(a) when personal calls may be made by prisoners;

(b) how personal calls, which may include calls by audio-visual means, may be made by prisoners;

(c) the length and frequency of personal calls that may be made by prisoners.

(2) The terms and conditions may differentiate between prisoners according to—

(a) the security classification, including risk sub-category, of the prisoners; or

(b) the special needs of prisoners; or

(c) another factor prescribed by regulation for this section.

(3) The terms and conditions are to be set out in administrative procedures under section 265.

(4) More restrictive terms and conditions may be applied to a prisoner if the chief executive reasonably believes the prisoner is likely to use personal calls to engage in prohibited prisoner communication.

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(5) For subsection (4), the chief executive may have regard to the following—

(a) whether a domestic violence order or notice is, or has ever been, in force against the prisoner;

(b) the terms of a domestic violence order or notice or other court order in force against the prisoner;

(c) information from a law enforcement agency;

(d) the record of the prisoner relating to prohibited prisoner communication and the making of personal calls in contravention of applicable terms and conditions;

(e) the nature and seriousness of the prisoner's criminal history or history of breaching domestic violence orders or notices or other court orders;

(f) any other factor the chief executive considers relevant.

(6) The terms and conditions must not limit a prisoner to fewer than 7 personal calls in any 7 day period.

52 Refusing and revoking approval of individual for personal call

(1) The chief executive must not approve an individual for personal calls by a prisoner, and must revoke the approval of an individual, if the individual informs the chief executive that the individual does not consent, or no longer consents, to the prisoner calling the individual.

(2) The chief executive may refuse to approve an individual, and may revoke the approval of an individual, for personal calls by a prisoner if the chief executive reasonably believes—

(a) the individual is a victim or alleged victim of an offence committed or alleged to have been committed by the prisoner; or

(b) the contact details proposed for a personal call to the individual are not correct or are not suitable for a personal call made by a prisoner; or

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(c) a personal call from a prisoner to the individual has been, or is likely to be, used for a prohibited prisoner communication.

(3) The chief executive may suspend the approval of an individual while investigating whether the approval should be revoked under subsection (2).

(4) The suspension of an approval of an individual ceases to have effect 6 months after it was imposed if the chief executive has not before then revoked the approval or withdrawn the suspension.

(5) Nothing in this section derogates from the power of the chief executive to revoke an approval under the *Acts Interpretation Act 1954*, section 24AA.

52A Offence by prisoner relating to diversion of personal call

A prisoner must not—

(a) make a personal call knowing the call will be diverted to allow the prisoner to contact someone other than an individual approved for personal calls by the prisoner; or

(b) intentionally continue with a personal call—

(i) the prisoner knows is diverted; or

(ii) that allows the prisoner to contact someone other than an individual approved for personal calls by the prisoner; or

(c) make a personal call and ask the person called to make a conference call to someone other than an individual approved for personal calls by the prisoner.

Maximum penalty—6 months imprisonment.

52B Recording or monitoring of personal calls

(1) The chief executive may record or monitor a prisoner's personal calls.

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(2) The prisoner and the other party to a prisoner's personal call must be told the communication may be recorded and monitored.

(3) If a prisoner's personal call recorded or monitored under this section reveals information about the commission of an offence, the chief executive must give the information to the relevant law enforcement agency.

52C Power to end personal calls

The chief executive may end a prisoner's personal call if the chief executive reasonably believes—

(a) there has been a contravention of the terms and conditions applicable to the call under section 51; or

(b) the call is being, or has been, used to engage in prohibited prisoner communication.

Subdivision 3 Other communications

52D Communication with lawyer

(1) A prisoner in a corrective services facility is authorised to communicate by phone or other approved means with the prisoner's lawyer, subject to confirmation of the identity and appointment of the lawyer.

(2) Communication with a prisoner under subsection (1)—

(a) takes place in accordance with arrangements approved by the chief executive; and

(b) must not be recorded or monitored by the chief executive.

52E Other authorised prisoner communications

(1) A prisoner in a corrective services facility may communicate with the following—

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(a) an officer of a law enforcement agency;

(b) the parole board;

(c) the ombudsman;

(d) the inspector of detention services.

(2) Communication with a prisoner under subsection (1)—

(a) takes place in accordance with arrangements approved by the chief executive; and

(b) must not be recorded or monitored by the chief executive.

Division 5 Safety orders

53 Safety order

(1) The chief executive may make an order (a ***safety order***) for a prisoner if—

(a) an authorised practitioner advises the chief executive that the authorised practitioner reasonably believes there is a risk of the prisoner self harming or harming someone else; or

(b) the chief executive reasonably believes—

(i) there is a risk of the prisoner harming, or being harmed by, someone else; or

(ii) the safety order is necessary for the security or good order of the corrective services facility.

(2) The safety order must not be for a period longer than 1 month.

(3) The safety order must state the conditions, prescribed by regulation, that apply to the prisoner's treatment.

(4) The chief executive may limit the privileges of a prisoner during the period of the safety order if the chief executive reasonably believes that during the period—

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(a) it will not be practicable for the prisoner to receive privileges to the extent the prisoner would otherwise have received them; or

(b) having regard to the purpose of the safety order, it is not desirable that the prisoner receive privileges to the extent the prisoner would otherwise have received them.

(5) Without limiting subsection (3), the safety order must also state the extent to which, as decided by the chief executive, the prisoner may receive privileges during the period of the safety order.

(6) During the period of the safety order, the prisoner may be accommodated separately from other prisoners, including, for example, in a health centre at the corrective services facility.

(7) If the prisoner is separated from other prisoners during the period of the safety order, the chief executive may provide for the prisoner's reintegration, before the period ends—

(a) into the mainstream prisoner population of the corrective services facility; or

(b) into the routine that applied to the prisoner before the safety order took effect.

(8) In this section—

health centre means a part of a corrective services facility where prisoners are treated and medication is dispensed.

54 Consecutive safety orders

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

(2) However, if the existing safety order was made on the advice of an authorised practitioner, the further safety order may be made only on the advice of another authorised practitioner.

(3) The further safety order must be made not more than 7 days before the end of the existing safety order.

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(4) Also, if the existing safety order is taken to be for a period of more than 1 month under subsection (5), the chief executive must not make the further safety order unless—

(a) not more than 14 days before the end of the existing safety order, the chief executive gives written notice to the prisoner advising the prisoner that—

(i) the chief executive is about to consider whether a further safety order should be made; and

(ii) the prisoner may, within 7 days after receiving the written notice, make submissions to the chief executive about anything relevant to the decision about making the further safety order; and

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

(5) For this section, 2 or more safety orders running consecutively are taken to be 1 safety order.

Example—

Initially, a safety order for a prisoner is made for a period of 2 weeks and a further safety order for the prisoner is made under this section for a period of 3 weeks. For this section, the existing safety order is taken to have been made for a period of 5 weeks.

55 Review of safety order—authorised practitioner

(1) If a safety order was made on the advice of an authorised practitioner (the ***advising practitioner***), the chief executive must refer the order to another authorised practitioner (the ***reviewing practitioner***) for review as required under subsection (2).

(2) The safety order must be reviewed—

(a) if the advising practitioner recommended the order be reviewed at intervals of not more than 7 days—at intervals of not more than 7 days; or

(b) otherwise—as soon as practicable.

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(3) The reviewing practitioner must review the safety order as required under subsection (2).

(4) After completing the review, the reviewing practitioner must recommend to the chief executive whether the safety order should be confirmed, amended in a particular way or cancelled.

(5) The chief executive must consider the recommendation and confirm, amend or cancel the safety order.

(6) To remove any doubt, it is declared that the chief executive is not bound by the reviewing practitioner's recommendation.

56 Review of safety order—official visitor

(1) A prisoner subject to a safety order may apply in writing to the chief executive for referral of the order to an official visitor for review.

(2) After receiving the application, the chief executive must refer the safety order to an official visitor.

(3) The official visitor must review the safety order.

(4) If a safety order for a prisoner is for a period of more than 1 month, an official visitor must review the order—

(a) as near as practicable to the end of the first month; and

(b) subsequently, at intervals of not more than 1 month until the period ends.

(5) When reviewing a safety order, an official visitor may exercise the powers mentioned in section 291.

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

(7) If the official visitor recommends that the safety order be amended by reducing the period of the order, or that the order be cancelled, the official visitor must also recommend to the chief executive what should be done about any privileges

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forfeited by the prisoner while the order applied to the prisoner.

(8) The chief executive must consider the recommendations and either confirm, amend or cancel the safety order.

(9) To remove any doubt, it is declared that the chief executive is not bound by an official visitor's recommendations.

(10) For this section, 2 or more safety orders running consecutively are taken to be 1 safety order.

57 Health examination

If a safety order is made for a prisoner, a health practitioner, who is not an authorised practitioner, must examine the prisoner for any health concerns—

(a) as soon as practicable after the order is made; and

(b) subsequently, at intervals of not more than 7 days (to the greatest practicable extent) for the duration of the order.

58 Temporary safety order

(1) The chief executive may make a temporary order (the ***temporary safety order***) for a prisoner if—

(a) an authorised practitioner is not available to advise the chief executive about the risk of the prisoner self harming or harming someone else; and

(b) a corrective services officer or health practitioner, who is not an authorised practitioner, advises the chief executive that the officer or health practitioner reasonably believes the prisoner may self harm or harm someone else.

(2) The temporary safety order must not be for a period longer than 5 days.

(3) The chief executive must refer the temporary safety order to an authorised practitioner before the period ends.

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(4) The authorised practitioner must review the temporary safety order as soon as practicable before the period ends.

(5) After completing the review, the authorised practitioner must recommend to the chief executive whether—

(a) the chief executive should make a safety order for the prisoner; or

(b) the temporary safety order should be cancelled.

(6) The chief executive must consider the recommendation and—

(a) if the recommendation is that a safety order be made for the prisoner—make a safety order for the prisoner; or

(b) cancel the temporary safety order.

59 Record

(1) The chief executive must record, for each corrective services facility, the details of each prisoner subject to a safety order or temporary safety order.

(2) For a safety order, the details must include each of the following—

(a) the prisoner's name, identification number and age;

(b) whether the prisoner is an Aboriginal or Torres Strait Islander person;

(c) the name of any authorised practitioner on whose advice the order was made;

(d) the date on which the order was made;

(e) the period for which the order was made;

(f) the dates the prisoner was examined under section 57;

(g) if the order was reviewed—

(i) the date when the review was carried out; and

(ii) the name of the authorised practitioner or official visitor who reviewed the order; and

(iii) the decision of the chief executive.

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(3) For a temporary safety order, the details must include each of the following—

(a) the prisoner's name, identification number and age;

(b) whether the prisoner is an Aboriginal or Torres Strait Islander person;

(c) the name of the corrective services officer or health practitioner on whose advice the order was made;

(d) the date on which the order was made;

(e) the period for which the order was made;

(f) the date when the order was reviewed;

(g) the name of the authorised practitioner who reviewed the order;

(h) the decision of the chief executive following the review.

Division 6 Maximum security orders

60 Maximum security order

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

(2) However, the chief executive may direct that the prisoner be accommodated for the whole or a part of the period for which the maximum security order is in effect in an area in the corrective services facility other than a maximum security unit.

(3) The maximum security order may be made only if the chief executive reasonably believes that 1 or more of the following apply—

(a) there is a high risk of the prisoner escaping or attempting to escape;

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(b) there is a high risk of the prisoner killing or seriously injuring other prisoners or other persons with whom the prisoner may come into contact;

(c) generally, the prisoner is a substantial threat to the security or good order of the corrective services facility.

(4) The maximum security order must not be for a period longer than 6 months.

61 Consecutive maximum security orders

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

(2) The further maximum security order must be made not more than 14 days before the end of the existing maximum security order.

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

(a) not more than 28 days before the end of the existing maximum security order, the chief executive gives written notice to the prisoner advising the prisoner that—

(i) the chief executive is about to consider whether a further maximum security 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 further maximum security order; and

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

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62 Other matters about maximum security order

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

(a) the prisoner is to be separated from other prisoners; and

(b) the prisoner is to receive privileges.

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

(a) that can be enjoyed within the maximum security unit or in the area in which the prisoner is accommodated; 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 corrective services facility.

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

(4) The chief executive may provide for the prisoner's reintegration into the mainstream prisoner population of the corrective services facility before the period of the maximum security order ends.

63 Review of maximum security order

(1) A prisoner subject to a maximum security order may apply in writing to the chief executive for referral of the order to an official visitor for review.

(2) However—

(a) if the period of the maximum security order is 3 months or less, the prisoner can not ask for the order to be referred more than once; or

(b) if the period of the maximum security order is more than 3 months, the prisoner can not ask for the order to be referred more than twice in any 6 month period.

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(3) After receiving an application under subsection (1), the chief executive must refer the maximum security order to an official visitor.

(4) The official visitor must review the maximum security order.

(5) In addition to the prisoner's entitlement under subsection (2), the prisoner may also ask for the maximum security order to be referred to an official visitor if the chief executive amends the order, other than under subsection (9).

(6) The official visitor, on the official visitor's own initiative, must review the maximum security order if—

(a) the period of the order is more than 3 months; and

(b) the order has not been reviewed—

(i) at the prisoner's request; or

(ii) within the previous 3 months.

(7) When reviewing the maximum security order, the official visitor may exercise the powers mentioned in section 291.

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

(9) The chief executive must consider the recommendation and confirm, amend or cancel the maximum security order.

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

(11) For this section, 2 or more maximum security orders running consecutively are taken to be 1 maximum security order.

63A Suspension of maximum security order

(1) This section applies if a prisoner subject to a maximum security order is transferred to another place and lawfully given into another person's custody.

Note—

See, for example, section 68(5).

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(2) The maximum security order is suspended while the prisoner is in the other person's custody.

(3) The suspension ends when the prisoner returns to the chief executive's custody.

(4) Within 7 days after the prisoner returns to the corrective services facility, the chief executive must review the maximum security order and confirm, amend or cancel it.

64 Health examination

If a maximum security order is made for a prisoner, a health practitioner must examine the prisoner for any health concerns—

(a) as soon as practicable after the order takes effect; and

(b) subsequently, at intervals of not more than 28 days (to the greatest practicable extent) for the duration of the order; and

(c) as soon as practicable after the order ceases to have effect.

65 Record

(1) The chief executive must record, for each corrective services facility, the details of each prisoner subject to a maximum security order.

(2) The details must include each of the following—

(a) the prisoner's name, identification number and age;

(b) whether the prisoner is an Aboriginal or Torres Strait Islander person;

(c) the date on which the maximum security order was made;

(d) the period for which the maximum security order was made;

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(e) if the maximum security order is suspended under section 63A—

(i) the date on which the order was suspended; and

(ii) the date on which the suspension ended;

(f) the dates the prisoner was examined under section 64;

(g) if the order was reviewed—

(i) the date when the review was carried out; and

(ii) the name of the official visitor who reviewed the order; and

(iii) the decision of the chief executive following the review.

Division 7 Transfer and removal of prisoners

Subdivision 1 Transfer to a work camp

66 Work order

(1) The chief executive may, by written order (a ***work order***), transfer a prisoner from a corrective services facility to a work camp.

(2) The prisoner must perform community service as directed by the chief executive.

(3) A work order may include the conditions the chief executive reasonably considers necessary for all or any of the following—

(a) to help the prisoner reintegrate into the community;

(b) to ensure the prisoner's good conduct;

(c) to stop the prisoner committing an offence.

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

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(5) The *Judicial Review Act 1991*, parts 3, 4 and 5, other than section 41(1), do not apply to a decision made, or purportedly made, under this section about transferring a prisoner.

Note—

The *Judicial Review Act 1991*, part 3 deals with statutory orders of review, part 4 deals with reasons for decisions and part 5 deals with prerogative orders and injunctions.

(6) In this section—

decision includes a decision affected by jurisdictional error.

67 Restriction on eligibility for transfer to work camp

(1) A prisoner is not eligible to be transferred to a work camp if—

(a) the prisoner has been charged with an offence that has not been dealt with by a court; 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) an appeal has been made to a court against the prisoner's conviction or sentence and the appeal is not decided; or

(e) the prisoner is ineligible under section 68A for transfer to a low custody facility.

(2) When deciding whether to transfer a prisoner to a work camp, the chief executive must consider—

(a) all recommendations of the sentencing court; and

(b) the risk the prisoner may pose to the community, including, for example, by considering—

(i) the risk of the prisoner escaping or attempting to escape; and

(ii) the risk of physical or psychological harm to a member of the community and the degree of risk; and

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(iii) the prisoner's security classification; and

(c) anything else the chief executive considers relevant.

Subdivision 2 Other transfer and removal of prisoners

68 Transfer to another corrective services facility, health facility or personal care facility

(1) The chief executive may, by written order, transfer a prisoner from a corrective services facility to—

(a) subject to section 68A, another corrective services facility; or

(b) a place for—

(i) medical or psychological examination or treatment; or

(ii) examination or treatment for substance dependency; or

(iii) assessment and provision of palliative or other personal care.

(2) The order may include the conditions the chief executive reasonably considers 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) If a prisoner is transferred to an authorised mental health service and becomes a classified patient under the *Mental Health Act 2016*, the patient is taken to be in the custody of the administrator of the patient's treating health service under that Act.

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(6) The *Judicial Review Act 1991*, parts 3, 4 and 5, other than section 41(1), do not apply to a decision made, or purportedly made, under this section about transferring a prisoner.

Note—

The *Judicial Review Act 1991*, part 3 deals with statutory orders of review, part 4 deals with reasons for decisions and part 5 deals with prerogative orders and injunctions.

(7) In this section—

decision includes a decision affected by jurisdictional error.

68A Restriction on eligibility for transfer to low custody facility

(1) A prisoner (an ***ineligible prisoner***) is not eligible to be transferred from a secure facility to a low custody facility if the prisoner—

(a) has been convicted of a sexual offence; or

(b) has been convicted of murder; or

(c) is serving a life sentence.

(2) Subsection (1) is subject to section 271C.

(3) In this section—

low custody facility means—

(a) a prison, other than a secure facility; or

(b) a community corrections centre; or

(c) a work camp.

69 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 or an attendance authority.

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

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(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 or an attendance authority.

(4) In this section—

attendance authority means—

(a) a summons under the *Justices Act 1886*; or

(b) a notice to appear under the *Police Powers and Responsibilities Act 2000*; or

(c) a law list published by a court; or

(d) a notice from a court to the chief executive advising that the prisoner is required to be present in the court for a particular matter.

civil proceeding does not include—

(a) a criminal proceeding; or

(b) a proceeding relating to corrupt conduct alleged against a staff member.

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

70 Removal of prisoner for law enforcement purposes

(1) A person may, in the approved form, apply to the chief executive 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 perform 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 authorise the removal of the prisoner only if the prisoner, in the presence of an official visitor, agrees in writing.

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(3) A prisoner is taken to be in the presence of an official visitor if the official visitor can see and hear the prisoner by means of a contemporaneous communication link.

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

(5) 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.

Subdivision 3 Reconsidering transfer decision

71 Reconsidering decision

(1) This section applies if—

(a) the chief executive decides to transfer a prisoner under section 66 or 68, other than a preliminary transfer or a transfer for the purposes of the prisoner's initial placement; and

(b) the prisoner is dissatisfied with the decision.

(2) The prisoner may, within 7 days after being given notice of the decision, apply in writing to the chief executive for a reconsideration of the decision.

(3) After reconsidering the decision, the chief executive may confirm, amend or cancel the decision.

(4) The *Judicial Review Act 1991*, parts 3, 4 and 5, other than section 41(1), do not apply to a decision made, or purportedly made, under subsection (3).

Note—

The *Judicial Review Act 1991*, part 3 deals with statutory orders of review, part 4 deals with reasons for decisions and part 5 deals with prerogative orders and injunctions.

(5) In this section—

decision, for subsection (4), includes a decision affected by jurisdictional error.

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initial placement, of a prisoner who is sentenced to a period of imprisonment, means the placement of the prisoner at—

(a) if a preliminary transfer of the prisoner has been made—the corrective services facility to which the prisoner is transferred following the preliminary transfer; or

(b) otherwise—the corrective services facility to which the prisoner is transferred after first being admitted to a corrective services facility on sentencing.

preliminary transfer means the transfer on sentencing of a prisoner who is detained on remand for an offence, if the transfer is for the purposes of assessing and determining an appropriate corrective services facility for the prisoner's initial placement.

Division 8 Leave of absence

Subdivision 1 Chief executive's powers

72 Power to grant leave

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

(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 another purpose the chief executive is satisfied justifies granting the leave.

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

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

(4) This section applies subject to section 73 and subdivision 3.

73 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—to maintain the relationship with the child; or

(e) for a prisoner who is a child's parent or kin but, before being imprisoned, was not the primary care giver of the child—to establish a relationship, or maintain the relationship, with the child.

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

(3) When considering whether to grant compassionate leave to a prisoner, the chief executive must take into account the prisoner's culturally specific needs.

(4) In this section—

kin, in relation to a child, see the *Child Protection Act 1999*, schedule 3.

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Subdivision 3 Restrictions on granting particular leave

81 Leave for prisoner serving a life sentence, or serious violent offender

(1) This section applies to the grant of any of the following leave to a prisoner who is serving a life sentence or is a serious violent offender—

(a) community service leave;

(b) educational leave.

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

(3) Otherwise, the chief executive must not grant leave to the prisoner unless the prisoner has reached the prisoner's parole eligibility date.

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

82 Leave for other particular prisoners

(1) The following prisoners may be granted only compassionate leave 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;

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Note—

The *Criminal Law Amendment Act 1945*, part 3 deals with indeterminate detention of offenders convicted of sexual offences.

(e) a prisoner detained, other than as mentioned in paragraph (d), for a sexual offence.

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

Subdivision 4 Other provisions about leave of absence

83 Prisoner's expenses while on leave

(1) The chief executive may authorise a prisoner granted leave of absence to be given money or something else the chief executive reasonably 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.

84 Prisoner's duties while on leave

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

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

Maximum penalty for subsection (2)—6 months imprisonment.

85 Suspending or cancelling order for leave of absence

(1) The chief executive may suspend the operation of an order for a prisoner's leave of absence and require the prisoner to return to a corrective services facility if the chief executive reasonably believes the prisoner—

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(a) has failed to comply with the order; or

(b) poses a serious and immediate risk of harm to someone else; or

(c) poses an unacceptable risk of committing an offence.

(2) The chief executive must notify the prisoner of the suspension or cancellation of the order before requiring the prisoner to return, unless the chief executive reasonably believes the prisoner poses a serious and immediate risk of harm to someone else.

87 Leave of absence is part of period of imprisonment

The time spent by a prisoner on leave of absence, whether before or after the commencement of this section, counts as time served under the prisoner's period of imprisonment.

88 When leave of absence is not required

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 other corrective services facility.

Division 9 Interstate leave of absence

Subdivision 1 Interstate leave permit

89 Interstate leave permit

(1) The chief executive may, by written order (***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

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stated period of not more than 7 days for a purpose prescribed under a regulation.

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

Example—

The chief executive may require a corrective services officer to escort the prisoner while on leave.

(3) The prisoner must comply with the conditions of the interstate leave permit, unless the prisoner has a reasonable excuse.

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

90 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—

(a) for the purpose and period stated in the permit; and

(b) as stated in the permit, either—

(i) unescorted; or

(ii) while being escorted.

(2) An interstate leave permit requiring the prisoner to be escorted authorises the prisoner to be escorted—

(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.

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91 Amending or cancelling permit

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

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

92 Notice to participating State

(1) 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.

(2) In this section—

corresponding chief executive, of a participating State, means the officer responsible for the administration of corrective services in that State.

93 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 a person escorting the prisoner, while in the participating State because of an interstate leave permit.

(2) Nothing in this section affects or limits any right of action the State may have against the prisoner or person for the damage or loss.

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Subdivision 2 Corresponding interstate leave permit

94 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.

95 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 interstate prisoner escapes from custody, the prisoner may be arrested without warrant by the prisoner's interstate escort, a police officer or someone else.

(3) If the interstate 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 interstate 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 interstate prisoner mentioned in the warrant may be detained as a prisoner of the State—

(a) for 14 days after the warrant is issued; or

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(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 interstate 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.

Subdivision 3 Corresponding law

96 Corresponding law

A regulation may declare a law of another State to be a corresponding law for this division if the law substantially corresponds to the provisions of this division.

Division 9A Approvals for Mutual Assistance in Criminal Matters Act 1987 (Cwlth)

96A Mutual assistance approval

(1) At the request of the Commonwealth Attorney-General, the relevant entity may, by order in writing—

(a) give approval (***mutual assistance approval***) for a prisoner to travel to a foreign country—

(i) for the purpose of giving evidence at a proceeding relating to a criminal matter, as mentioned in the Commonwealth Act, section 26; or

(ii) for the purpose of giving assistance in relation to an investigation relating to a criminal matter, as mentioned in the Commonwealth Act, section 27; and

(b) give the directions and impose the conditions that the relevant entity considers are necessary for the release of the prisoner under the approval.

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(2) While a mutual assistance approval is in force, the prisoner to whom the approval relates—

(a) is authorised to be absent from custody (other than custody referred to in the Commonwealth Act, section 26(1)(e)(iii) or 27(1)(e)(iii)) in relation to any period during which the prisoner would, if the approval were not in force, be required to be in custody; and

(b) is exempt from any other requirements imposed under this or any other Act that would, if the approval were not in force, prevent the prisoner from travelling to the foreign country for the purpose stated in the Commonwealth Attorney-General's request.

(3) In this section—

Commonwealth Act means the *Mutual Assistance in Criminal Matters Act 1987* (Cwlth).

relevant entity means—

(a) in relation to a prisoner who is released on parole—the parole board; or

(b) otherwise—the chief executive.

96B Giving prisoner notice of approval and conditions

On the giving of a mutual assistance approval, the entity that gave the approval must give the prisoner to whom it relates written notice of—

(a) the approval; and

(b) any conditions relating to the approval and imposed on the prisoner under section 96A(1)(b).

96C Complying with conditions of approval

A prisoner who is given notice, under section 96B, of a mutual assistance approval and conditions imposed on the prisoner must comply with the conditions.

Maximum penalty—6 months imprisonment.

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96D Time spent while released under mutual assistance approval is part of period of imprisonment

The time spent by a prisoner while released under a mutual assistance approval counts as time served under the prisoner's period of imprisonment.

Division 11 Discharge or release

108 Discharge or release

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

(2) Subsection (3) applies if the prisoner's discharge day or release day would, apart from that 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.

(3) The prisoner must be discharged or released on the last day before the discharge day or release day that is not a day mentioned in subsection (2)(a), (b) or (c).

(4) The chief executive may give a prisoner the help the chief executive reasonably considers appropriate when the prisoner is discharged or released.

Example—

help with bus or train fares

109 Effect of remission on discharge day for cumulative sentence

(1) This section applies if a prisoner is serving a term of imprisonment (the ***second term***) cumulatively with another term of imprisonment (the ***first term***).

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(2) For working out the prisoner's discharge day, the second term starts at the end of the first term, taking into account any remission granted under any of the repealed Acts in relation to the first term, including a remission granted after the commencement of this section.

Note—

For a remission granted after the commencement, see sections 401 and 402.

110 Discharge within 7 days before discharge day

(1) This section applies to a person—

(a) who is—

(i) a prisoner; or

(ii) a person who has been sentenced to a term of imprisonment and is in the commissioner's custody; and

(b) who has served at least half of the person's period of imprisonment.

(2) The chief executive may order that the person be discharged within 7 days immediately before the person's discharge day.

Example—

The person's discharge day falls on a Friday but transport to the person's community is only available on a Wednesday. The person may be discharged on the Wednesday before the discharge day.

111 Remaining in corrective services facility after discharge day or release day

(1) A prisoner may apply in writing to the chief executive for permission to remain in a corrective services facility after the prisoner's discharge day or release day.

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

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(3) If the prisoner has applied to remain in the corrective services facility after the prisoner's discharge day and the chief executive grants the permission, the prisoner—

(a) is taken to have completed the prisoner's period of imprisonment on the prisoner's discharge day; and

(b) must be discharged within 4 days after the discharge day.

(4) While a person who was a prisoner remains in a corrective services facility after the person's discharge day or release day, a corrective services officer may give the person a direction the officer reasonably considers necessary for the security or good order of the 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 corrective services officer may direct the person to leave the corrective services facility; and

(b) if the person fails to leave the facility—a corrective services officer may, as directed by the chief executive and using reasonably necessary force, remove the person from the facility.

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

Division 12 Arrest of prisoners

112 Arresting prisoner unlawfully at large or absent

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

(a) arrest the prisoner without warrant; or

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(b) apply in writing to an authorised person for the issue of a warrant for the prisoner's arrest.

Note—

See also the *Police Powers and Responsibilities Act 2000*, section 366.

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

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

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

(5) A prisoner is ***unlawfully at large*** if the prisoner has escaped from lawful custody.

(6) A prisoner is ***unlawfully absent*** if—

(a) the prisoner is mistakenly, unlawfully or otherwise incorrectly discharged or released before the prisoner's discharge day or release day; or

(b) the prisoner is at large in the community because the prisoner was mistakenly released or discharged from the custody of the proper officer of a court or a police officer instead of being transferred to a corrective services facility.

(7) In this section—

authorised person means—

(a) if a prisoner is unlawfully at large after a parole order has been suspended or cancelled—the parole board; or

(b) in any case—the chief executive or a magistrate.

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Chapter 3 Breaches of discipline and offences

Part 1 Breaches of discipline by prisoners

113 Breaches of discipline generally

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

(2) 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 prisoner's previous conduct.

(3) A corrective services officer must not start proceedings against a prisoner for a breach of discipline if the prisoner's act or omission was referred to the commissioner under section 114(5), unless the commissioner has advised the chief executive that the matter is not to be prosecuted as an offence.

(4) If a corrective services officer decides to start proceedings against a prisoner for a breach of discipline, the officer must decide, having regard to the matters mentioned in subsection (2), whether the prisoner should be proceeded against for a major breach of discipline or a minor breach of discipline.

(5) However, if a prisoner's act or omission was referred to the commissioner under section 114(5) and is not to be prosecuted as an offence, a corrective services officer may only decide whether the prisoner should be proceeded against for a major breach of discipline.

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114 Breach of discipline constituting an offence

(1) If a corrective services officer observes, or obtains knowledge of, a prisoner's act or omission that could be dealt with either as an offence or as a breach of discipline, the officer must immediately inform the chief executive of the act or omission.

(2) The chief executive must decide whether to refer the matter to the commissioner.

(3) However, if the matter could be prosecuted as a sexual offence mentioned in schedule 1 or as an offence that has a maximum penalty of 14 years or more, the chief executive must refer the matter to the commissioner.

(4) Subsection (5) applies if the chief executive—

(a) decides to refer the matter to the commissioner under subsection (2); or

(b) must refer the matter to the commissioner under subsection (3).

(5) The chief executive must, within 48 hours after the corrective services officer informs the chief executive of the matter—

(a) refer the matter to the commissioner; and

(b) tell the prisoner that the matter has been referred to the commissioner.

115 Prisoner not to be punished twice for same act or omission

(1) 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.

(2) 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.

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116 Considering whether breach of discipline committed

(1) If a corrective services officer starts proceedings against a prisoner for a breach of discipline, a deciding officer must conduct a hearing to decide whether the breach was committed.

(2) The time within which the decision must be made is—

(a) if the matter was referred to the commissioner and the commissioner advised the chief executive that the matter is not to be prosecuted as an offence—as soon as practicable, but within 14 days, after the chief executive receives the advice; or

(b) if paragraph (a) does not apply—

(i) for a minor breach of discipline—within 24 hours after the alleged time the alleged breach happened; or

(ii) for a major breach of discipline—as soon as practicable, but within 14 days, after the deciding officer becomes aware of the alleged breach.

(3) The deciding officer must—

(a) tell the prisoner of any evidence supporting the allegation of the breach of discipline; and

(b) give the prisoner a reasonable opportunity to make submissions in the prisoner's defence, including, for example, by attending the hearing and—

(i) questioning any witness called by the chief executive; and

(ii) calling a person within the corrective services facility to give evidence in the prisoner's defence, unless the deciding 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.

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

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

(6) However, the prisoner may be helped by someone from the corrective services facility if the prisoner is disadvantaged by language barriers or impaired mental capacity.

(7) The deciding officer is not bound by the rules of evidence but may, subject to a regulation, obtain information about the matter in the way the deciding officer thinks appropriate.

117 Further provisions about considering major breach of discipline

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

(2) After considering a major breach of discipline and deciding it is appropriate in the circumstances, the deciding officer may—

(a) declare the breach to be a minor breach of discipline; and

(b) continue the proceedings against the prisoner for the minor breach of discipline.

118 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 reasonable doubt, that a prisoner has committed a major breach of discipline.

(2) The deciding officer may—

(a) reprimand the prisoner without further punishment; or

(b) order that privileges the prisoner may have otherwise received be forfeited—

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(i) for a minor breach of discipline—in the 24 hours starting when the prisoner is advised of the decision; or

(ii) for a major breach of discipline—in the 7 days starting when the prisoner is advised of the decision; or

(c) subject to section 121, 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 breach immediately preceding the alleged current 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 tell the prisoner—

(a) 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 tell the deciding officer immediately after being told the decision.

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

119 Review of decision

(1) A review of a decision that a prisoner has committed a breach of discipline must be conducted by a corrective services officer (the ***reviewing officer***) who holds a more senior office than the deciding officer.

(2) The review must be—

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(a) by way of rehearing, unaffected by the decision, on the material before the deciding officer and any further evidence allowed by the reviewing officer; and

(b) carried out as soon as practicable after the prisoner tells the deciding officer that the prisoner wants the decision reviewed.

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

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

(5) However, the prisoner may be helped by someone from the corrective services facility if the prisoner is disadvantaged by language barriers or impaired mental capacity.

(6) For a major breach of discipline, the review hearing must be videotaped.

(7) The reviewing officer may—

(a) confirm the decision; or

(b) vary the decision; or

(c) set the decision aside and substitute another decision; or

(d) for a major breach of discipline—

(i) declare the breach to be a minor breach of discipline; and

(ii) set the decision aside and substitute another decision.

(8) Immediately after making the review decision, the reviewing officer must tell the prisoner of the decision.

(9) The review decision is not subject to appeal or further review under this Act.

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120 Disciplinary breach register

The chief executive must keep a register for each corrective services facility containing details of the following about prisoners at the facility—

(a) each decision to deal with a prisoner for a breach of discipline;

(b) each decision that a prisoner has committed a breach of discipline, including whether the prisoner was warned that the next breach could result in the prisoner being separately confined;

(c) each review of a decision that a prisoner has committed a breach of discipline.

121 Separate confinement

(1) An order for a prisoner to undergo separate confinement must—

(a) state the period of separate confinement; and

(b) take any special needs of the prisoner into account; and

(c) contain directions about the extent to which the prisoner is to receive privileges.

(2) The period of separate confinement stated in the order must not be more than 7 days.

(3) A health practitioner must examine the prisoner for any health concerns as soon as practicable after—

(a) the order takes effect; and

(b) the order ceases to have effect.

Part 2 Offences by prisoners

122 Unlawful assembly, riot and mutiny

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

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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 something be done or not be 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) 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 corrective services facility is endangered.

prisoner means a prisoner in a corrective services facility.

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

unlawful assembly means 3 or more prisoners—

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

(i) tumultuously disturb the peace; or

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

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

(i) tumultuously disturb the peace; or

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

123 Dealing with prohibited thing

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

(2) A prisoner in a corrective services facility must not deal, or attempt to deal, with—

(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 chief executive's written approval to make it; or

(b) possession of a thing if the prisoner has the chief executive's written approval to possess it.

(4) The finding of a prohibited thing in a prisoner's room that is not shared with another prisoner, or on the person of a prisoner, in a corrective services facility is evidence the thing was in the prisoner's possession when it was found.

(5) In this section—

deal with, a thing, means make, possess, conceal or knowingly consume the thing.

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124 Other offences

(1) A prisoner must not—

(a) prepare to escape from lawful custody; or

Note—

See the Criminal Code, section 142 for the offence of escaping from lawful custody.

(b) assault or obstruct a staff member who is performing a function or exercising a power under this Act or is in a corrective services facility; or

(c) disobey a lawful direction of the proper officer of a court or a person assisting the proper officer of a court; or

(d) organise, attempt to organise or take part in any opposition to authority under this Act, whether inside or outside a corrective services facility; or

(e) threaten to do grievous bodily harm to someone else; or

(f) unlawfully kill or injure, or attempt to unlawfully kill or injure, a corrective services dog; or

(g) obstruct a corrective services dog working under the control of a corrective services officer who is performing duties under this Act; or

(h) assume another identity or adopt a disguise in order to commit an offence against this Act; or

(i) wilfully and unlawfully destroy, damage, remove or otherwise interfere with any part of a corrective services facility or any property in the facility; or

(j) without lawful authority, abstract or remove information from, copy or destroy information in, or make a false entry in, a record kept under this Act; or

(k) without reasonable excuse, be unlawfully at large; or

(l) without reasonable excuse, be in a restricted area of a corrective services facility.

Maximum penalty—2 years imprisonment.

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(2) If a prosecution for an offence against subsection (1)(l) relates to a restricted area prescribed by regulation and access to the area is not controlled by a corrective services officer, the prosecution must prove the prisoner was given sufficient warning to inform the prisoner that the area is a restricted area or that the prisoner must not access the area.

(3) Without limiting subsection (2), a prisoner is taken to have been given a warning informing the prisoner of the restricted area at a corrective services facility if—

(a) a notice is displayed in the area identifying it as a restricted area; or

(b) the prisoner was informed, when admitted to the facility, about the restricted areas for the facility; or

(c) a corrective services officer gave the prisoner a direction not to access the area.

(4) In this section—

restricted area, for a corrective services facility, means—

(a) each roof of the facility; or

(b) any other part of the facility prescribed by regulation for this definition.

Part 2A Offences by staff members

124A Prohibition on intimate relationships between staff members and offenders

(1) A person has an ***intimate relationship*** with another person if the relationship between the persons includes either or both of the following—

(a) sexual conduct or other physical expressions of affection or sexual contact;

(b) the exchange of written or other forms of communication of a sexual or intimate nature.

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(2) A staff member must not have an intimate relationship with a person who is an offender.

Maximum penalty—100 penalty units or 3 years imprisonment.

(3) Subsection (2) does not apply to a staff member if—

(a) the staff member did not know, or could not reasonably have known, the person was an offender; or

(b) the staff member and the person were in an intimate relationship before the person became an offender.

Part 2B Offence to possess restricted item on corrective services land

124B Offence to possess restricted item on corrective services land

(1) A person must not possess a restricted item while on corrective services land if the person knows, or ought reasonably to know, that the person is on corrective services land.

Maximum penalty—2 years imprisonment.

(2) Subsection (1) does not apply if—

(a) the possession is approved by the chief executive; or

(b) the person is an officer of a law enforcement agency, protective service or emergency service acting in that capacity; or

(c) the person is assisting an officer acting under paragraph (b).

(3) If it is established in a prosecution for an offence against subsection (1) that there was, at the time of the alleged offence, appropriate signage at the corrective services land, the defendant bears the evidential burden of proving the

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defendant did not know, and could not by the exercise of reasonable diligence have known, that the land was corrective services land.

(4) In this section—

appropriate signage, for corrective services land, means signage—

(a) identifying the land as corrective services land; or

(b) warning a person entering the land that there is an increased penalty for possessing a restricted item on the land and that prior approval of the chief executive is required for possessing a restricted item on the land.

corrective services land means—

(a) land on which a corrective services facility is located; or

(b) land owned or leased by the State adjacent to a corrective services facility and used for a purpose associated with the corrective services facility; or

(c) land owned or leased by the State and used for a purpose related to the supervision or accommodation of supervised dangerous prisoners (sexual offenders); or

(d) land comprising the premises and curtilage of a community corrections office or other place at which community corrective services are provided; or

(e) land owned or leased by the State and used as an educational or training facility for corrective services officers.

restricted item means an item prescribed by regulation to be a restricted item.

Part 3 General offences

125 Definition for pt 3

In this part—

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person does not include a prisoner, other than a prisoner who is released on parole or a supervised dangerous prisoner (sexual offender).

126 Helping prisoner at large

(1) A person must not aid someone that the person knows, or ought reasonably know, is a prisoner who is unlawfully at large.

Maximum penalty—100 penalty units or 2 years imprisonment.

(2) In this section—

aid includes abet, employ, harbour and maintain.

127 Obstructing staff member or proper officer of a court

(1) A person must not obstruct a staff member who is performing a function or exercising a power under this Act, unless the person has a reasonable excuse.

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

(2) A person must not obstruct the proper officer of a court who is performing a function or exercising a power under this Act, unless the person has a reasonable excuse.

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

(3) A person who obstructs a corrective services dog under the control of a corrective services officer who is performing duties under this Act is taken to obstruct a corrective services officer.

(4) In this section—

obstruct includes hinder, resist and attempt to obstruct.

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128 Taking prohibited thing into corrective services facility or giving prohibited thing to prisoner

(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 in a corrective services facility or to a prisoner of a court; or

(d) cause, or attempt to cause, a prohibited thing to be given to a prisoner in a corrective services facility or to a prisoner of a court.

Maximum penalty—100 penalty units or 2 years imprisonment.

(2) A person does not commit an offence against 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.

129 Removing things from corrective services facility

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

(a) remove, or attempt to remove, anything from a corrective services facility; or

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(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 acting in the course of the officer's duties as a corrective services officer.

130 Unlawful entry

A person must not—

(a) enter, or attempt to enter, a corrective services facility without the chief executive's approval; or

(b) assume a false identity for the purpose of entering a corrective services facility.

Maximum penalty—100 penalty units or 2 years imprisonment.

131 Killing or injuring corrective services dog

(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.

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131A Wilfully and unlawfully killing or seriously injuring corrective services dog

(1) A person, or a prisoner, must not wilfully and unlawfully kill or cause serious injury to a corrective services dog—

(a) that is being used by a corrective services officer in the performance of the officer's duties; or

(b) because of, or in retaliation for, its use by a corrective services officer in the performance of the officer's duties.

Maximum penalty—5 years imprisonment.

(2) A person, or a prisoner, must not attempt to commit an offence against subsection (1).

Maximum penalty—5 years imprisonment.

(3) An offence against subsection (1) or (2) is a crime.

(4) A court that finds a person, or a prisoner, guilty of an offence against subsection (1) or (2) may, in addition to any penalty that may be imposed, order the person, or the prisoner, to pay to the chief executive a reasonable amount for—

(a) the treatment, care, rehabilitation and retraining of the corrective services dog concerned; or

(b) if it is necessary to replace the corrective services dog—buying and training the corrective services dog replacement.

(5) In this section—

serious injury see the Criminal Code, section 242(3).

unlawfully means without authorisation, justification or excuse by law.

132 Interviewing and photographing prisoner etc.

(1) A person must not—

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(a) interview a prisoner, or obtain a written or recorded statement from a prisoner, whether the prisoner is inside or outside a corrective services facility; or

Note—

Prisoner, as defined in schedule 4, includes a prisoner released on parole.

(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 against subsection (1) 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) the inspector of detention services; or

(e) a person who has the chief executive's written approval to carry out the activity mentioned in the subsection.

(3) In this section—

photograph includes record or create a visual image other than by photography.

132A Unlawful use of drones around corrective services facilities

(1) A person (the ***operator***) must not operate, or attempt to operate, a drone at a corrective services facility or the land on which the facility is located, without reasonable excuse.

Maximum penalty—100 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply if—

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(a) the operation of the drone is approved by the chief executive; or

(b) the operator is an officer of a law enforcement agency or emergency service and the drone is being used to assist the officer in carrying out the officer's functions; or

(c) the operator is acting on behalf of, or under the direction of, a person mentioned in paragraph (b).

(3) Subsection (1) applies to the operation of a drone regardless of the location of the operator.

(4) In this section—

at includes above.

drone means a device that is—

(a) capable of flight; and

(b) remotely piloted or able to be programmed to autonomously fly a particular route; and

(c) not capable of transporting a person.

emergency service includes—

(a) the Queensland Ambulance Service established under the *Ambulance Service Act 1991*, section 3A; and

(b) the St John Ambulance Australia Queensland Limited; and

(c) Queensland Fire and Rescue established under the *Fire Services Act 1990*, section 8(1); and

(d) Rural Fire Service Queensland established under the *Fire Services Act 1990*, section 8(2); and

(e) the State Emergency Service; and

(f) a rural fire brigade.

officer, of an emergency service that is the State Emergency Service or a rural fire brigade, includes a member of the State Emergency Service or rural fire brigade.

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rural fire brigade means a rural fire brigade registered under the *Fire Services Act 1990*.

State Emergency Service means the State Emergency Service under the *State Emergency Service Act 2024*.

133 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.

Maximum penalty—100 penalty units or 2 years imprisonment.

(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.

134 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.

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(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 any of the following when performing a function or exercising a power under this Act—

(a) the chief executive;

(b) a staff member;

(c) a corrective services officer;

(d) the parole board;

(e) an inspector;

(f) an official visitor.

135 Person near prisoner

(1) This section applies if an official with control of a prisoner 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) When making the requirement, the official must warn the person that—

(a) it is an offence for the person not to comply with the requirement, unless the person has a reasonable excuse; and

(b) the official may take the action mentioned in subsection (5).

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

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

(5) If the person fails to comply with the requirement, the official, using reasonably necessary force, may—

(a) remove the person from the vicinity of the prisoner or place of detention; or

(b) if the official is not a police officer, detain the person until the person can be handed over to a police officer.

(6) However, the person must not be detained under subsection (5)(b) for longer than 4 hours.

(7) In this section—

official means a corrective services officer, police officer or proper officer of a court.

prisoner includes a prisoner of a court.

136 Temporary detention for security offence

(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 corrective services officer may, using reasonably necessary force—

(a) conduct a general search or scanning search of the person; and

(b) search anything in the person's possession, including a motor vehicle.

(3) The corrective services officer may, using reasonably necessary force, detain the person until the person can be handed over to a police officer.

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

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(5) In this section—

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.

137 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 corrective services officer may require the person to state the person's name and address.

(3) When making the requirement, the corrective services 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 corrective services 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) The 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; and

(b) the person is not proved to have committed the offence.

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Part 4 Seizing property

138 Seizing property

(1) 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 considers poses, or is likely to pose, a risk to—

(i) the security or good order of the facility; or

(ii) the safety of persons in the facility; or

(b) a prohibited thing found in a corrective services facility, other than on or in the possession of a prisoner who has the chief executive's written approval to possess the thing; or

(c) a prohibited thing found on or in the possession of a prisoner who does not have the chief executive's written approval to possess the thing.

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

(3) Section 140(6) does not apply in relation to a thing seized under this section if the chief executive refers the matter to the commissioner under section 114.

139 Receipt for seized property

(1) After a thing is seized from a person under section 46, 47, 48 or 138, 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.

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(3) This section does not apply to a thing if it would be impracticable or unreasonable to expect the corrective services officer to account for the thing given its condition, nature and value.

140 Forfeiting seized thing

(1) A thing seized under section 46, 47, 48 or 138 is forfeited to the State if the chief executive decides to forfeit the thing because the chief executive—

(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 a 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 chief executive decides to forfeit a thing because of subsection (1)(c), the chief executive must, by written notice, tell the owner of the thing of the decision and reasons for the decision.

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

(4) For this section, regard must be had to the thing's condition, nature and value in deciding—

(a) whether it is reasonable to make efforts or inquiries; and

(b) if efforts or inquiries are made—what efforts or inquiries, including the period over which they are made, are reasonable.

(5) A thing forfeited under this section—

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(a) becomes the State's property; and

(b) may be dealt with by the chief executive 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) 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 required under subsection (2) was given;

(b) if, within the 28 days mentioned in paragraph (a), an application is made under the *Justices Act 1886*, section 39 in relation to the property—the application, and any appeal against the application, is decided.

Note—

The *Justices Act 1886*, section 39 deals with the power of a Magistrates Court to order delivery of certain property.

141 Returning seized thing

(1) If a thing seized under section 46, 47, 48 or 138 is not forfeited under section 140, the chief executive 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 chief executive becomes satisfied its retention as evidence is no longer necessary, the chief executive must return it immediately.

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(3) Despite subsection (1), the chief executive may retain a seized thing if the chief executive reasonably considers its return is inappropriate.

Example—

a letter written by the prisoner to a victim of the prisoner

142 Power of court in relation to seized thing

(1) To remove any 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

143 Authority to use reasonable force

(1) A corrective services officer may use 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 may use force that is reasonably necessary to compel a prisoner to submit to a search ordered by the chief executive under section 36 that applies to the prisoner.

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

(c) restrain a prisoner who is committing an offence against an Act or a breach of discipline; or

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(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; or

(e) restrain a prisoner who is—

(i) attempting or preparing to self harm; or

(ii) self harming.

(2) The corrective services 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 corrective services officer need not comply with subsection (2)(b) or (c) if doing so would create a risk of injury to—

(a) the officer; or

(b) someone other than the person who is committing the act or omission; or

(c) a prisoner who is—

(i) attempting or preparing to self harm; or

(ii) self harming.

(4) The use of force may involve the use of only the following—

(a) a gas gun;

(b) a chemical agent;

(c) riot control equipment;

(d) a restraining device;

(e) a corrective services dog under the control of a corrective services officer.

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Division 2 Use of lethal force

144 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 and other forms of force in a way that causes the least possible risk of injury to anyone other than the person against whom lethal force is directed.

145 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 carry, use and store the weapons to perform functions or exercise powers under this Act.

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

146 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 believes 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 believes 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 believes

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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 use of lethal force will cause grievous bodily harm to, or the death of, someone other than the person against whom the lethal force may otherwise be directed.

(3) The use of lethal force may involve, but is not limited to, the use of—

(a) weapons, including firearms; or

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

147 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 corrective services officer need not comply with subsection (1)(b), (c) or (d) if doing so would create a risk of injury to—

(a) the officer; or

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(b) someone other than the person against whom the lethal force is directed.

148 Reporting use of lethal force

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

(a) lethal force is used; 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 corrective services facilities

149 Prisons

(1) A regulation may—

(a) declare a place to be a prison; and

(b) assign a name to a prison.

(2) In this section—

place includes premises and part of premises.

150 Prison amenities

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

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(a) a meeting place for Aboriginal and Torres Strait Islander prisoners that—

(i) promotes communication; and

(ii) endorses the prisoners' indigenous cultural heritage;

(b) for a prison accommodating female prisoners—accommodation units that allow the prisoners to care for young children;

(c) areas suitable for children visiting their parents;

(d) facilities for prisoners who are experiencing psychological crises;

(e) the accommodation and access requirements of older prisoners and prisoners with disabilities;

(f) videoconferencing technology—

(i) to help prisoners maintain relationships with family members who would otherwise be required to travel long distances to the prison; and

(ii) for the appearance of prisoners before courts, tribunals or the parole board.

151 Other corrective services facilities

(1) The Minister may, by gazette notice—

(a) declare a place to be—

(i) a community corrections centre; or

(ii) a work camp; and

(b) assign a name to—

(i) a community corrections centre; or

(ii) a work camp.

(2) In this section—

place includes the following—

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(a) premises;

(b) part of premises;

(c) a vehicle.

Part 2 Visiting corrective services facilities

Division 1 General

152 Warnings to visitors

(1) The chief executive must ensure a sign is prominently displayed at the entrance to a secure facility warning visitors that lethal force may be used against a visitor if the visitor helps, or attempts to help, a prisoner to escape.

(2) The chief executive may erect a sign at the entrance to each corrective services facility warning visitors—

(a) of the things that are prohibited things under this Act; and

(b) the consequences for a visitor if the visitor brings, or attempts to bring, a prohibited thing into the facility.

153 Prisoner's entitlement to visits

(1) A prisoner is only entitled to receive a visit from—

(a) a personal visitor once a week; and

(b) a legal visitor.

(2) The chief executive may allow the prisoner to receive extra visits, including, for example—

(a) for a prisoner who was the primary care giver of a child—a visit from the child to maintain the relationship with the child; or

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(b) a visit from a relevant elder or respected person to ensure appropriate levels of cultural interaction and support.

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

(4) The chief executive may allow more than 1 personal visitor to visit a prisoner at the same time, if it is within the operational limits of the corrective services facility.

154 Contact during personal visit

(1) A personal visit must be a non-contact visit, unless the chief executive approves that the visit be a contact visit.

(2) In deciding whether to give the approval, the chief executive must consider 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) 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 a personal visitor fails to comply with subsection (3), the personal visitor may be directed to leave the corrective services facility.

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Division 2 Procedure for visits

155 Access approval required for particular visitors

(1) Before visiting a corrective services facility for the first time, a visitor, other than a prescribed person, must apply for approval to access the facility (***access approval***).

(2) The application must be made in the approved form to the chief executive.

(3) In this section—

prescribed person means—

(a) an accredited visitor; or

(b) a casual site visitor as defined under section 165; or

(c) an emergency services officer; or

(d) an employee of the department in which the *Child Protection Act 1999* is administered; or

(e) an officer or employee of a law enforcement agency; or

(f) a staff member.

156 Deciding application for access approval

(1) The chief executive may grant an access approval if satisfied the visitor seeking the approval does not pose a risk to the security or good order of the corrective services facility.

Note—

See section 334 for provisions about obtaining a relevant person's criminal history.

(2) In deciding whether a visitor poses a risk to the security or good order of a corrective services facility, the chief executive must consider each of the following—

(a) whether the visitor has, as an adult, been convicted of escaping, or attempting to escape, from lawful custody in Queensland or elsewhere;

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(b) whether the visitor has been convicted of helping, or attempting to help, a prisoner to escape from lawful custody in Queensland or elsewhere;

(c) whether the visitor has been convicted of committing, or attempting to commit, an offence while visiting a prisoner in lawful custody in Queensland or elsewhere;

(d) whether the visitor has been refused access to, or been suspended from entering, a corrective services facility.

(3) Subsection (2) does not apply to an Australian legal practitioner as defined under the *Legal Profession Act 2007*, section 6.

(4) Subsection (2) does not limit the matters the chief executive may consider in deciding whether a visitor poses a risk to the security or good order of a corrective services facility.

(5) The chief executive may—

(a) impose conditions on an access approval; and

(b) for a legal visitor or religious visitor—grant the visitor an access approval for all corrective services facilities.

(6) If the chief executive refuses to grant an access approval for a visitor, the chief executive may order that the visitor is also refused access to—

(a) another corrective services facility in stated circumstances; or

Example—

A person may be refused access to any corrective services facility in which a former accomplice of the person is being detained.

(b) all corrective services facilities.

(7) Also, if the chief executive refuses to grant an access approval for a visitor, the chief executive may order that the visitor can not make a further application for an access approval until the end of a stated period, of not more than 1 year, after the refusal.

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(8) In deciding whether to make an order under subsection (7), the chief executive must consider—

(a) the effect of the proposed order on a child for whom approval has been given to accompany the visitor to visit the prisoner; and

(b) whether the child may, unaccompanied by an adult, visit the prisoner.

(9) A visitor who is refused an access approval may, in writing, ask the chief executive to reconsider the decision.

(10) The chief executive must reconsider the decision and may confirm, amend or cancel the decision.

(11) The chief executive must advise the visitor of the reconsidered decision.

156A Interim access approval for personal visitor

(1) This section applies if—

(a) a personal visitor of a prisoner applies for an access approval for a corrective services facility under section 155; and

(b) the chief executive has not decided the application under section 156.

(2) The chief executive may grant the personal visitor approval to access the corrective services facility on an interim basis (***interim access approval***) until the chief executive has decided the application under section 156, if the chief executive is satisfied it is appropriate in the circumstances.

(3) A personal visit under the interim access approval must be a non-contact visit, unless it is impracticable having regard to the facilities at the corrective services facility.

(4) The chief executive may impose conditions on the interim access approval.

(5) The interim access approval has effect until the chief executive decides the application under section 156.

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(6) While the interim access approval has effect, it is taken to be an access approval.

156B Urgent access approval for commercial visitor

(1) This section applies if—

(a) work by a tradesperson or technician (a ***relevant commercial visitor***) is required to be carried out urgently at a corrective services facility; and

(b) a relevant commercial visitor who has been granted an access approval for the corrective services facility is not available to carry out the work; and

(c) a relevant commercial visitor applies for an access approval for the corrective services facility under section 155 for the purpose of carrying out the work.

(2) If the chief executive is satisfied the relevant commercial visitor mentioned in subsection (1)(c) does not pose an immediate risk to the security or good order of the corrective services facility, the chief executive may grant the relevant commercial visitor approval to access the facility for carrying out the work (***urgent access approval***).

(3) In deciding whether the relevant commercial visitor poses an immediate risk to the security or good order of the corrective services facility, the chief executive need not consider the matters mentioned in section 156(2).

(4) The chief executive may impose conditions on the urgent access approval.

(5) The urgent access approval has effect for only a single visit to the corrective services facility.

(6) While the urgent access approval has effect, it is taken to be an access approval.

157 Suspending access approval

(1) The chief executive may suspend a visitor's access approval for a corrective services facility if the visitor—

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(a) fails to comply with a lawful and reasonable direction of the chief executive or a corrective services officer; or

(b) fails to comply with a condition of the approval; or

(c) is charged with an offence; or

(d) engages in threatening behaviour towards a prisoner or another visitor at the facility.

(1A) Also, the chief executive may suspend a visitor's access approval for a corrective services facility if the chief executive reasonably believes the suspension is necessary to preserve the security or good order of the corrective services facility.

(2) The suspension may be—

(a) if paragraph (b) does not apply—for a period of up to 1 year; or

(b) if the visitor is charged with an offence allegedly committed in a corrective services facility—until the end of the proceedings for the offence.

(3) In deciding whether to suspend the access approval, the chief executive must consider—

(a) the effect of the proposed suspension on a child for whom approval has been given to accompany the visitor to visit the prisoner; and

(b) whether the child may, unaccompanied by an adult, visit the prisoner.

(4) If the chief executive suspends the access approval for 1 year under subsection (2)(a), the chief executive must ensure a written record is made stating the reasons for the decision.

(5) If the chief executive suspends the access approval, the chief executive may order that, during the suspension period, the visitor is refused access to—

(a) another corrective services facility in stated circumstances; or

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Example—

Because of disorderly behaviour, the wife of a prisoner is suspended from visiting the corrective services facility where her husband is, and any corrective services facility to which he is transferred, during the period of the suspension.

(b) all corrective services facilities.

(6) If the chief executive suspends the access approval, the visitor may, in writing, ask the chief executive to reconsider the decision.

(7) The chief executive must reconsider the decision and may confirm, amend or cancel the decision.

(8) The chief executive must advise the visitor of the reconsidered decision.

157A Amending or revoking access approval

(1) The chief executive may amend or revoke a visitor's access approval for a corrective services facility if the chief executive is satisfied that, because of a change in the visitor's circumstances, the visitor poses a risk to the security or good order of the corrective services facility.

(2) In deciding whether to amend or revoke the access approval, the chief executive must consider—

(a) the effect of the proposed amendment or revocation on a child for whom approval has been given to accompany the visitor to visit the prisoner; and

(b) whether the child may, unaccompanied by an adult, visit the prisoner.

(3) If the chief executive revokes the access approval, the chief executive must ensure a written record is made stating the reasons for the decision.

(4) If the chief executive amends or revokes the access approval, the visitor may, in writing, ask the chief executive to reconsider the decision.

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(5) The chief executive must reconsider the decision and may confirm or cancel the decision.

(6) The chief executive must advise the visitor of the reconsidered decision.

(7) In this section—

amend, a visitor's access approval, means amend a condition of the access approval or impose a condition on it.

158 Monitoring personal visit

The chief executive may—

(a) make and keep an audiovisual or visual recording of a personal visit; and

(b) monitor a personal visit.

159 Search of visitor

(1) The chief executive may require an accredited visitor to submit to a scanning search or an imaging search before entering a corrective services facility.

(2) The chief executive may require any other visitor to submit to a general search, scanning search or an imaging search before entering a corrective services facility.

(3) If a visitor mentioned in subsection (2) does not submit to a search mentioned in that subsection when required to do so, the chief executive may revoke—

(a) for a personal visitor—

(i) the visitor's access approval; or

(ii) the visitor's approval for the visit to be a contact visit; or

(b) for another visitor—the visitor's access approval.

(4) In this section—

visitor does not include a staff member.

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Note—

See section 173 for searching a staff member.

160 Identification of visitor

(1) The chief executive must require each visitor to a corrective services facility to prove the visitor's identity in the way prescribed under a regulation when entering the corrective services facility.

(2) Without limiting subsection (1), if the visitor is an adult and the corrective services facility has a biometric identification system installed, the visitor must submit to the biometric identification system procedures for the facility.

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

(4) The visitor must sign the visitors book, unless the visitor is a staff member who works at the corrective services facility.

(5) If the visitor is a child, it is sufficient for subsection (4) if an adult accompanying the child signs the visitors book for the child.

161 Visitor may be directed to leave corrective services facility

(1) This section applies if a visitor fails to comply with—

(a) a requirement given under section 159(1) or (2) or 160(1); or

(b) section 160(2), (3) or (4), or 163(2).

(2) The visitor may be directed to leave the corrective services facility.

(3) If the visitor fails to leave the corrective services facility, a corrective services officer may, using reasonably necessary force, remove the visitor from the facility.

(4) Subsection (3) applies whether or not the visitor is charged with an offence against section 163(2).

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162 Proof of identity

(1) The chief executive may keep a visitor's biometric information given to a corrective services facility as proof of the visitor's identity, and any data about the visitor's biometric information stored in a biometric identification system.

(2) The chief executive must destroy the visitor's biometric information, and any data about the biometric information stored in a biometric identification system, if the chief executive is satisfied it is no longer required.

163 Direction to visitor

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

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

Maximum penalty for subsection (2)—40 penalty units.

Division 3 Further provisions about particular visitors

164 Accredited or government visitor

(1) An accredited visitor or government visitor may visit a prisoner, or access any part of a corrective services facility, for performing the functions or exercising the powers of the visitor's office or position.

(2) In this section—

government visitor means a person, other than a staff member, who is an employee of a department.

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165 Casual site visitor

(1) A casual site visitor may only access the following external areas of a corrective services facility—

(a) visitors' carparks;

(b) roadways;

(c) waiting areas.

(2) In this section—

casual site visitor includes the following—

(a) a bus or taxi driver;

(b) a person transporting a visitor or staff member to or from a corrective services facility;

(c) a person collecting a discharged or released prisoner, or a prisoner's property, from a corrective services facility.

166 Children

(1) A child, whether accompanied or unaccompanied by an adult, may visit a prisoner if the chief executive considers it is in the child's best interests, even if the child was the complainant in the offence leading to the prisoner's imprisonment.

(2) The child need not be related to the prisoner but must be a personal visitor of the prisoner.

(3) In deciding whether it is in the best interests of a child in care to visit a prisoner, the chief executive must consult with the child protection chief executive.

167 Law enforcement visitor

(1) This section applies if an employee or officer of a law enforcement agency (the ***law enforcement visitor***) wants to visit a prisoner.

(2) The prisoner may—

(a) refuse to see the law enforcement visitor; or

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(b) agree to see the law enforcement visitor, but refuse to answer any of the law enforcement visitor's questions.

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

168 Personal visitor

A personal visitor must arrange the time and length of the visit with the chief executive.

169 Professional visitor

(1) A professional visitor may only—

(a) visit the prisoner the subject of the professional visitor's access approval; or

(b) access the part of the corrective services facility allowed under the professional visitor's access approval.

(2) The visit or access must be carried out during the time approved by the chief executive.

(3) 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.

(4) In this section—

professional visitor means a person who provides a professional service to a prisoner.

Examples—

- a legal visitor
- a health practitioner
- a teacher or tutor
- a program facilitator
- a religious visitor

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170 Commercial visitor

(1) A commercial visitor to a corrective services facility may only access the part of the facility allowed under the commercial visitor's access approval.

(2) The access must be carried out on the day and during the time approved by the chief executive.

(3) In this section—

commercial visitor means a person who visits a corrective services facility for the purpose of engaging in trade or commerce.

Examples—

- a sales representative
- a tradesperson

171 Other visitors

(1) A visitor to a corrective services facility who is not mentioned in sections 164 to 170 may only—

(a) visit the prisoner the subject of the visitor's access approval; or

(b) access the part of the facility allowed under the visitor's access approval.

Examples of a visitor not mentioned in sections 164 to 170—

- a volunteer
- a research student
- a representative of a corrective services agency of another jurisdiction

(2) The visit or access must be carried out on the day and during the time approved by the chief executive.

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Part 3 Staff members

172 Staff member interacting with prisoner, etc.

A staff member at a corrective services facility may, to the extent necessary for carrying out the staff member's duties—

(a) interact with any prisoner at the facility; and

(b) access any part of the facility.

173 Search of staff member

(1) The chief executive may require a staff member at a corrective services facility to submit to a general search, scanning search or an imaging search—

(a) at any time the staff member is at the facility; or

(b) before entering the facility.

(2) If the staff member does not submit to a search mentioned in subsection (1) when required to do so, the chief executive may direct the person to leave the corrective services facility.

Part 3A Electronic surveillance

173A Electronic surveillance of corrective services facilities

(1) The chief executive may authorise the use of a prescribed surveillance device at a corrective services facility to monitor and record activity in and around the facility only if satisfied the use is likely to enhance—

(a) the safety of prisoners, corrective services officers, visitors to the facility and the community; or

(b) the maintenance of security and good order at the facility; or

(c) the prevention of intimidation, corruption and the commission of other offences at the facility; or

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(d) the detection of prohibited things entering, at or leaving the facility.

(2) In authorising the use of a prescribed surveillance device at a corrective services facility, the chief executive must have regard to the privacy of prisoners, corrective services officers and visitors to the facility.

(3) An authorisation under subsection (1)—

(a) must include requirements about the use, storage and destruction of recordings made by a prescribed surveillance device; and

(b) must not authorise the covert use of a prescribed surveillance device; and

(c) must not authorise the recording or monitoring of a prisoner communication that cannot be lawfully recorded or monitored under chapter 2, part 2, division 4, subdivision 3.

(4) For subsection (3)(b), a prescribed surveillance device is covertly used if use of the device is not openly acknowledged.

(5) To remove any doubt, it is declared that—

(a) this section does not limit the monitoring or use of a surveillance device at a corrective services facility, including the covert use of a surveillance device, authorised under another provision of this Act or another Act; and

Example—

the use of a surveillance device under a surveillance device warrant under the *Police Powers and Responsibilities Act 2000*, chapter 13

(b) a person authorised by the chief executive under this section to use a prescribed surveillance device is using the device under this Act.

(6) In this section—

prescribed surveillance device means a surveillance device prescribed by regulation for this definition.

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prisoner communication see section 52(6).

surveillance device means a device capable of transmitting or recording sound, images or changes in an environment.

Examples—

a fixed or portable video camera, a camera drone, an intercom, a motion detector, a non-contact thermometer

173B Body-worn camera used by corrective services officer outside corrective services facility

(1) Subject to this section, a corrective services officer is authorised to use a body-worn camera while acting in the performance of the officer's duties outside a corrective services facility.

(2) A body-worn camera may only be used outside a corrective services facility to record or monitor activity when the corrective services officer—

(a) has a prisoner under the officer's control; or

(b) is responding to an incident; or

(c) is using, or considering using, force under chapter 3, part 5; or

(d) believes there is an imminent and significant risk to the life, health or safety of an individual; or

(e) believes that an offence or breach of discipline is being, has been or is about to be committed and that use of the device may provide evidence relevant to the offence or breach of discipline.

(3) If an activity being recorded or monitored takes place in a sensitive location, a body-worn camera may only be used if the corrective services officer believes there is an imminent and significant risk to the life, health or safety of an individual.

(4) A body-worn camera must not be used to record or monitor prisoner communication that could not be lawfully recorded

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or monitored under chapter 2, part 2, division 4, subdivision 3 if it took place in a corrective services facility.

(5) A body-worn camera used by a corrective services officer—

(a) must be a body-worn camera issued to the officer by the chief executive; and

(b) must not be deliberately hidden from view or disguised to look like another type of device.

(6) Use of a body-worn camera is not rendered unlawful only because it is—

(a) incidental to an authorised use; or

(b) inadvertent or unexpected.

(7) This section is a provision authorising the use of a listening device for the purposes of the *Invasion of Privacy Act 1971*, section 43(2)(d).

(8) The administrative procedures made by the chief executive under section 265 must include requirements about the use, storage and destruction of recordings made by corrective services officers using body-worn cameras outside a corrective services facility.

(9) In this section—

body-worn camera means a prescribed surveillance device under section 173A—

(a) worn on clothing or otherwise secured on a person; and

(b) designed to be used to—

(i) record images; or

(ii) record images and sounds.

sensitive location means any of the following—

(a) a room or other place where a court, tribunal or commission established under an Act is sitting;

(b) a room or other place, other than a patient waiting area, where a person is being personally assessed or treated

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by a health practitioner or authorised mental health service;

(c) a building or other place that is a place of worship;

(d) a building or part of a building that is a private residence;

(e) a room or other place where a person might reasonably be expected to be engaged in—

(i) showering, bathing or using a toilet; or

(ii) some other activity involving a state of undress; or

(iii) an intimate sexual activity not ordinarily done in public;

(f) a location prescribed by regulation to be a sensitive location.

Part 4 Searching corrective services facilities and vehicles

174 Power to search corrective services facility

(1) The chief executive may conduct a search of a corrective services facility other than prisoner facilities.

Note—

See section 33 for power to search a prisoner's room.

(2) The chief executive may direct a corrective services officer to be present during the search.

175 Power to search vehicle

The chief executive may conduct a search of a vehicle, including, for example, a delivery vehicle, before it enters or leaves a corrective services facility.

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Part 5 Powers and limitations for searches

175A Conducting searches

(1) In conducting a general search, scanning search or an imaging search of a person, a corrective services officer must—

(a) ensure, as far as reasonably practicable, the way the person is searched causes minimal embarrassment to the person; and

(b) take reasonable care to minimise any physical contact with the person.

(2) However—

(a) in conducting a general search of a person, a corrective services officer may require the person to—

(i) open the person's hands or mouth for visual inspection; or

(ii) shake the person's hair vigorously; and

(b) in conducting a general search of a thing in the possession of a person, a corrective services officer may touch or move the thing without touching the person; and

(c) in conducting a scanning search of a person, a corrective services officer may use an apparatus for touching or coming into contact with the person; and

(d) in conducting an imaging search of a person, a corrective services officer may, to the extent necessary to effectively conduct the search—

(i) require the person to remove the person's outer garments; or

(ii) require that another person or an apparatus come into contact with the person; or

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(iii) require the person to hold a position temporarily or to move as directed by the officer.

Examples—

- requiring a person to stand on a particular spot while holding out the person's arms
- requiring a person to walk slowly through an apparatus

(3) In conducting a scanning search of a person, a corrective services officer must use only an apparatus, for touching or coming into contact with a person who is submitting to the search, prescribed by regulation for this subsection.

(4) In conducting an imaging search of a person, a corrective services officer must use only an apparatus or device prescribed by regulation for this subsection.

(5) A regulation may prescribe—

(a) additional limitations on the use of particular apparatus or devices in conducting imaging searches; and

Example—

A regulation may prescribe the maximum number of times a person may be searched using a particular device in a stated period.

(b) other requirements and procedures relating to imaging searches, including, for example, the use, storage and destruction of images produced by an imaging search.

Chapter 5 Parole

Part 1AA Preliminary

175B Definitions for chapter

In this chapter—

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commissioner's report, about a no body-no parole prisoner, means a written report prepared by the commissioner containing—

(a) a statement whether the prisoner has given any cooperation in relation to the homicide offence for which the prisoner is serving a sentence of imprisonment; and

(b) if the prisoner has given any cooperation—an evaluation of—

(i) the nature, extent and timeliness of the prisoner's cooperation; and

(ii) the truthfulness, completeness and reliability of any information or evidence provided by the prisoner in relation to the victim's location; and

(iii) the significance and usefulness of the prisoner's cooperation.

cooperation, in relation to a homicide offence for which a no body-no parole prisoner is serving a sentence of imprisonment, means the cooperation given by the prisoner—

(a) in the investigation of the homicide offence to identify the victim's location; and

(b) before or after the prisoner was sentenced to imprisonment for the offence.

no body-no parole prisoner see section 175C.

no cooperation declaration see section 175L.

reconsideration application see section 175R(2).

restricted prisoner see section 175D.

restricted prisoner declaration see section 175E.

restricted prisoner report, for a restricted prisoner, means a report prepared by the chief executive about the prisoner under section 175F.

victim's location means—

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(a) the location, or the last known location, of every part of the body or remains of the victim of the offence; and

(b) the place where every part of the body or remains of the victim of the offence may be found.

175C Meaning of *no body-no parole prisoner*

A prisoner is a ***no body-no parole prisoner*** if—

(a) the prisoner is serving a period of imprisonment for a homicide offence; and

(b) either—

(i) the body or remains of the victim of the offence have not been located; or

(ii) because of an act or omission of the prisoner or another person, part of the body or remains of the victim has not been located.

175D Meaning of *restricted prisoner*

A prisoner is a ***restricted prisoner*** if the prisoner has been sentenced to life imprisonment for—

(a) a conviction of murder and the person killed was a child; or

(b) more than 1 conviction of murder; or

(c) 1 conviction of murder and another offence of murder was taken into account; or

(d) a conviction of murder and the person has on a previous occasion been sentenced for another offence of murder.

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Part 1AB Parole declarations

Division 1 Restricted prisoner declarations

175E Making restricted prisoner declaration

The president may make a declaration under this division (a ***restricted prisoner declaration***) about a restricted prisoner.

175F Restricted prisoner report

(1) The chief executive may, at any time during a restricted prisoner's period of imprisonment, give the president a restricted prisoner report about the prisoner that includes information the chief executive considers is relevant to any of the matters mentioned in section 175H(2).

(2) If the chief executive is given a notice under section 193AA(2), the chief executive must give the president a restricted prisoner report about the prisoner within 28 days after being given the notice.

175G If restricted prisoner report given to president

(1) This section applies if the chief executive, under section 175F, gives the president a restricted prisoner report.

(2) The president must—

(a) if a restricted prisoner declaration (the ***current declaration***) is in force for the prisoner—decide whether to make a declaration (a ***new declaration***) about the prisoner to take effect on the day immediately after the day the current declaration ends; or

(b) if there is no restricted prisoner declaration in force for the prisoner—decide whether to make a restricted prisoner declaration about the prisoner.

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(3) As soon as practicable after being given the restricted prisoner report, the president must give the restricted prisoner a written notice stating that—

(a) the president has received the report about the prisoner; and

(b) the president must decide—

(i) if a current declaration is in force for the prisoner—whether to make a new declaration; or

(ii) if there is no current declaration in force for the prisoner—whether to make a restricted prisoner declaration about the prisoner; and

(c) if a restricted prisoner declaration is made about the prisoner, the prisoner may not apply for parole under section 180 during the period stated in the declaration; and

(d) the prisoner may, within 21 days after the notice is given (the ***stated period***)—

(i) give the president a written submission about the making of the declaration; and

(ii) ask the president to consider any material the prisoner considers relevant to the submission.

(4) The president may extend the stated period if the president considers it reasonable in the circumstances.

175H Deciding to make restricted prisoner declaration

(1) The president may make a restricted prisoner declaration about a restricted prisoner if the president is satisfied it is in the public interest to do so.

(2) In considering the public interest the president must have regard to the following matters—

(a) the nature, seriousness and circumstances of the offence, or each offence, for which the prisoner was sentenced to life imprisonment;

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(b) any risk the prisoner may pose to the public if the prisoner is granted parole;

(c) the likely effect that the prisoner's release on parole may have on an eligible person or a victim.

(3) Also, in deciding whether to make a restricted prisoner declaration the president must have regard to the following information—

(a) the restricted prisoner report about the prisoner;

(b) if an eligible person has, under section 188, at any time made a submission in relation to a parole application made by the prisoner—the submission;

(c) any relevant remarks made by a court in a proceeding against the prisoner for the offence for which the prisoner was sentenced to a term of life imprisonment;

(d) if the prisoner made a submission under section 175G(3)(d)—the submission.

(4) Without limiting subsections (2) and (3), the president may have regard to any other matter or information the president considers relevant to the public interest.

(5) If the president considers it reasonable in the circumstances, the president may—

(a) defer deciding whether to make the restricted prisoner declaration; and

(b) ask any person for further information or documents the president reasonably requires to decide whether to make the declaration.

(6) The president must decide whether to make the restricted prisoner declaration within the following period—

(a) if the president has deferred making the decision under subsection (5)—150 days after receiving the restricted prisoner report;

(b) otherwise—120 days after receiving the restricted prisoner report.

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(7) A failure to make a decision within the period mentioned in subsection (6) does not affect the validity of the president's decision.

(8) In this section—

victim see the *Victims of Crime Assistance Act 2009*, section 5.

175I If restricted prisoner declaration made

(1) If the president makes a restricted prisoner declaration, the declaration must state—

(a) the reasons for the decision; and

(b) the day the declaration takes effect; and

(c) the day the declaration ends; and

(d) that the restricted prisoner may not apply for parole under section 180 while the declaration is in force; and

(e) if the prisoner's application for parole was deferred under section 193AA(2)—that the application for parole is refused.

(2) The day the declaration takes effect must not be—

(a) if a restricted prisoner declaration is in force for the prisoner—a day before the current declaration ends; or

(b) otherwise—a day before the day the declaration is made.

(3) The day the declaration ends must not be later than 10 years after the day the declaration takes effect.

(4) In deciding the term of the declaration the president must—

(a) be satisfied the term is in the public interest; and

(b) have regard to the matters mentioned in section 175H(2).

(5) The president must give a copy of the declaration to—

(a) the prisoner; and

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(b) the chief executive; and

(c) the parole board.

(6) In this section—

current declaration see section 175G(2).

175J If restricted prisoner declaration not made

(1) This section applies if the president decides not to make a restricted prisoner declaration about a restricted prisoner.

(2) As soon as practicable after making the decision the president must give written notice of the decision to—

(a) the prisoner; and

(b) the chief executive; and

(c) the parole board.

(3) If the prisoner's application for parole was deferred under section 193AA(2), the notice given to the prisoner must state that the application is referred to the parole board for hearing and deciding under part 1, division 2.

(4) Nothing in this section limits the president from considering whether to make a declaration about the prisoner if the president receives another restricted prisoner report under section 175F.

Division 2 No cooperation declarations

175K Application of division

This division applies if—

(a) a no body-no parole prisoner applies for a parole order under section 176 or 180; or

(b) the parole board decides to consider whether a no body-no parole prisoner has given satisfactory cooperation.

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175L Parole board may make no cooperation declaration

If the parole board is not satisfied a no body-no parole prisoner has given satisfactory cooperation, the parole board must make a declaration under this division (a ***no cooperation declaration***) about the prisoner.

Note—

See sections 176B, 180(2)(d) and 193A(2).

175M Parole board may request commissioner's report

(1) This section applies if—

(a) a no body-no parole prisoner's application for a parole order is deferred under section 193A; or

(b) the parole board is given a notice under section 175S(4) or 175T(3); or

(c) at anytime after a no body-no parole prisoner begins to serve the prisoner's period of imprisonment, the parole board decides to consider if the prisoner has given satisfactory cooperation.

(2) Subject to subsection (3), the parole board must, by written notice, ask the commissioner for a commissioner's report about the prisoner.

(3) If an appeal has been made to a court against the conviction or sentence to which the period of imprisonment relates, the parole board must not ask for a commissioner's report until the appeal is decided.

(4) The written notice must state the day the parole board proposes to consider if the prisoner has given satisfactory cooperation (the ***proposed hearing day***).

(5) The commissioner must comply with the request by giving the parole board the commissioner's report at least 28 days before the proposed hearing day.

(6) The parole board must give the chief executive a copy of the notice given to the commissioner.

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175N Parole board must notify no body-no parole prisoner

(1) This section applies if the parole board is given a commissioner's report under section 175M.

(2) The parole board must give the no body-no parole prisoner a written notice stating that—

(a) the board has received a commissioner's report about the prisoner; and

(b) the board must consider whether to make a no cooperation declaration about the prisoner; and

(c) if a no cooperation declaration is made about the prisoner—the prisoner may not apply for parole during the period the declaration continues in force; and

(d) the prisoner may, within 21 days after the notice is given (the ***stated period***)—

(i) give the board a written submission about the making of the declaration; and

(ii) ask the board to consider any material the prisoner considers relevant to the submission.

(3) The parole board may extend the stated period if the board considers it reasonable in the circumstances.

175O Deciding if satisfactory cooperation

(1) In deciding whether a no body-no parole prisoner has given satisfactory cooperation, the parole board—

(a) must have regard to—

(i) the commissioner's report about the prisoner; and

(ii) any information the board has about the prisoner's capacity to give satisfactory cooperation; and

(iii) any relevant remarks made by the court that sentenced the prisoner to the term of imprisonment the prisoner is serving for the homicide offence; and

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(iv) if the prisoner asks the board to consider a transcript of a proceeding against the prisoner for the homicide offence—the transcript; and

(b) may have regard to other information the board considers relevant.

(2) In this section—

transcript, of a proceeding, means a transcription of a record under the *Recording of Evidence Act 1962* of the proceeding.

175P If prisoner does not give satisfactory cooperation

(1) This section applies if the parole board makes a no cooperation declaration about a no body-no parole prisoner.

(2) The no cooperation declaration must state—

(a) the reasons the board is not satisfied the prisoner has given satisfactory cooperation; and

(b) the day of the board's decision; and

(c) that the prisoner may not apply for parole under section 176 or 180 unless the prisoner is given a notice under section 175Q; and

(d) that the prisoner may, at any time, make a reconsideration application.

(3) The parole board must, as soon a practicable after making the no cooperation declaration, give a copy of the declaration to—

(a) the prisoner; and

(b) the chief executive.

(4) If the prisoner stops being a no body-no parole prisoner, the no cooperation declaration ends.

175Q If prisoner gives satisfactory cooperation

If the parole board is satisfied a no body-no parole prisoner has given satisfactory cooperation, the parole board must give the prisoner and the chief executive a written notice, stating—

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(a) that the board is satisfied the prisoner has given the cooperation; and

(b) the date of the decision; and

(c) if a no cooperation declaration is in force for the prisoner—that the declaration is ended; and

(d) that the prisoner may apply for parole under—

(i) section 176; or

(ii) if eligible—section 180.

175R Prisoner may make reconsideration application

(1) This section applies if the parole board makes a no cooperation declaration about a no body-no parole prisoner.

(2) At any time after the prisoner is given a copy of the no cooperation declaration made under section 175P, the prisoner may apply to the president or a deputy president (a ***reconsideration application***) asking the president or deputy president to call a meeting of the parole board to reconsider the board's decision to make the no cooperation declaration.

(3) The reconsideration application must be in the approved form.

(4) The application may state—

(a) whether the prisoner has given the police additional information; or

(b) whether there has been a material change in the prisoner's capacity to cooperate satisfactorily; or

(c) the reasons the prisoner considers it is appropriate to grant the application.

(5) In this section—

additional information, in relation to a no body-no parole prisoner, means information the prisoner has not previously given to the police in relation to the investigation of the homicide offence to identify the victim's location.

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175S Deciding reconsideration application

(1) This section applies if a no body-no parole prisoner makes a reconsideration application.

(2) The president or deputy president must decide the application by granting or refusing it.

(3) The president or deputy president may only grant the application if, after considering the application, the president or deputy president is satisfied—

(a) the prisoner has given the police information that the parole board may consider to be additional information; or

(b) there has been a change in the investigation of the homicide offence to identify the victim's location to justify the parole board's reconsideration; or

Example—

The president or deputy president is aware that another prisoner has provided information to identify the victim's location.

(c) there has been a material change in the prisoner's capacity to cooperate; or

(d) for another reason, it would be appropriate in the interests of justice for the board to reconsider the prisoner's cooperation.

(4) If the president or deputy president grants the reconsideration application, the president or deputy president must give a written notice to—

(a) the prisoner; and

(b) the parole board; and

(c) the chief executive.

(5) The notice given under subsection (4) to the prisoner must state that the parole board will reconsider the no cooperation declaration made about the prisoner.

(6) If the president or deputy president refuses to grant the application, the president or deputy president must give the

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prisoner a written notice stating the prisoner's reconsideration application is refused.

(7) In this section—

additional information see section 175R(5).

175T Discretion to call meeting to reconsider

(1) The president or deputy president may, at any time after a no cooperation declaration is made about a prisoner, call a meeting of the parole board to reconsider the making of the declaration.

(2) Without limiting subsection (1), in deciding whether to call the meeting, the president or deputy president may have regard to any of the matters mentioned in section 175S(3).

(3) If the president or deputy president decides to call the meeting, the president or deputy president must give a written notice to—

(a) the prisoner; and

(b) the parole board; and

(c) the chief executive.

(4) The notice given under subsection (3) to the prisoner must state that the parole board will reconsider the no cooperation declaration made about the prisoner.

175U If reconsideration application granted or meeting called

(1) As soon as practicable after receiving a notice under section 175S(4) or 175T(3), the board must meet and reconsider whether the prisoner has given satisfactory cooperation.

(2) If the parole board decides the prisoner has given satisfactory cooperation, the board must give the prisoner a notice stating—

(a) that the no cooperation declaration in force for the prisoner is ended; and

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(b) the prisoner may, subject to sections 176 and 180, apply for a parole order.

(3) If the parole board decides the prisoner has not given satisfactory cooperation, the board must give the prisoner a notice stating that the no cooperation declaration continues in force for the prisoner.

Part 1 Parole orders

Division 1 Application for parole order

Subdivision 1 Exceptional circumstances parole order

176 Applying for an exceptional circumstances parole order

(1) Subject to sections 176B and 176C, a prisoner may apply for an exceptional circumstances parole order at any time.

(2) The application must be made—

(a) in the approved form; and

(b) to the parole board.

176A Deciding applications made by restricted prisoner

(1) This section applies if a restricted prisoner applies for an exceptional circumstances parole order and a restricted prisoner declaration is in force for the prisoner.

(2) The parole board must refuse to make the parole order unless the board is satisfied—

(a) the prisoner, as a result of a diagnosed disease, illness or medical condition—

(i) is in imminent danger of dying and is not physically able to cause harm to another person; or

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(ii) is incapacitated to the extent the prisoner is not physically able to cause harm to another person; and

(b) the prisoner has demonstrated that the prisoner does not pose an unacceptable risk to the public; and

(c) that the making of the parole order is justified in the circumstances.

(3) If the parole board grants the prisoner parole, the board must give the chief executive written notice of the board's decision as soon as practicable after the decision is made.

176B Applications made by no body-no parole prisoner

A no body-no parole prisoner may not apply for exceptional circumstances parole if a no cooperation declaration is in force for the prisoner.

176C Applications made by prisoners on remand

A prisoner who is detained on remand for an offence may not apply for exceptional circumstances parole.

Subdivision 2 Other parole order

178 Definitions for sdiv 2

In this subdivision—

parole order means a parole order other than—

(a) an exceptional circumstances parole order; and

(b) a court ordered parole order.

prescribed offence see the *Penalties and Sentences Act 1992*, section 161N.

relevant further period, in relation to a prisoner serving a term of imprisonment imposed under the *Penalties and*

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Sentences Act 1992, section 161R(2), means the period of the mandatory component of the sentence imposed on the prisoner under that section.

179 Application of sdiv 2

(1) This subdivision applies to the following prisoners—

(a) a prisoner who has been sentenced before the commencement of this section (the ***commencement***)—

(i) for an offence committed before 1 July 2001—to a period of imprisonment of any length; or

(ii) for an offence committed on or after 1 July 2001—to a period of imprisonment of more than 2 years;

(b) a prisoner who has been sentenced after the commencement for an offence, whenever committed—

(i) to a period of imprisonment of more than 3 years; or

(ii) to a period of imprisonment of not more than 3 years, if the period includes a term of imprisonment for a serious violent offence or a sexual offence;

(c) a prisoner the subject of a court ordered parole order that has been cancelled under this Act.

(2) This subdivision does not apply to—

(a) a prisoner—

(i) being detained on remand for an offence; or

(ii) imprisoned for an indefinite period for contempt; or

(iii) subject to an indefinite sentence under the *Penalties and Sentences Act 1992*, part 10; or

(b) a prisoner who has not reached the prisoner's parole eligibility date; or

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(c) a prisoner who is detained in custody under an order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

180 Applying for parole order etc.

(1) A prisoner may apply for a parole order if the prisoner has reached the prisoner's parole eligibility date in relation to the prisoner's period of imprisonment.

(2) However, a prisoner can not apply for a parole order—

(a) if a previous application for a parole order made in relation to the period of imprisonment was refused—

(i) until the end of the period decided under section 193(6)(b); or

(ii) unless the parole board consents; or

(b) if an appeal has been made to a court against the conviction or sentence to which the period of imprisonment relates—until the appeal is decided; or

(c) if the prisoner is a restricted prisoner and a restricted prisoner declaration is in force for the prisoner; or

(d) if the prisoner is a no body-no parole prisoner and a no cooperation declaration is in force for the prisoner; or

(e) otherwise—more than 180 days before the prisoner's parole eligibility date.

(3) The application must be made—

(a) in the approved form; and

(b) to the parole board.

181 Parole eligibility date for prisoner serving term of imprisonment for life

(1) This section applies to a prisoner who is serving a term of imprisonment for life.

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(2) The prisoner's parole eligibility date is the day after the day on which the prisoner has served the following period of time—

(a) if the Criminal Code, section 305(2) applied on sentence—30 years or the longer time ordered under that section;

(b) if the Criminal Code, section 305(4) applied on sentence—25 years or the longer time ordered under that section;

(c) if the prisoner is serving a term of imprisonment for life for an offence of murder and paragraphs (a) and (b) do not apply—20 years;

(d) otherwise—15 years.

(2A) However, if the term of imprisonment for life was imposed as the base component of a sentence under the *Penalties and Sentences Act 1992*, section 161R(2), the prisoner's parole eligibility date is the day that is worked out by adding 7 years to the parole eligibility date that would otherwise apply to the prisoner under subsection (2).

(2B) Also, if a prisoner who is serving a term of imprisonment for life is sentenced under the *Penalties and Sentences Act 1992*, section 161R(2) for a prescribed offence, the prisoner's parole eligibility date is the day that is worked out by adding, to the parole eligibility date that would otherwise apply to the prisoner under subsection (2) or (2A), the lesser of the following periods—

(a) 7 years;

(b) the period of imprisonment provided for under the maximum penalty for the prescribed offence.

(3) Despite subsections (2), (2A) and (2B), if a later parole eligibility date is fixed for the period of imprisonment under the *Penalties and Sentences Act 1992*, part 9, division 3, the prisoner's parole eligibility date is the later date fixed under that division.

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181A Parole eligibility date for prisoner serving term of imprisonment for life for a repeat serious child sex offence

(1) This section applies to a prisoner who is serving a term of imprisonment for life under the *Penalties and Sentences Act 1992*, section 161E for a repeat serious child sex offence.

(2) The prisoner's parole eligibility date is the day after the day on which the prisoner has served 20 years and not 15 years as prescribed under section 181.

(3) However, if the term of imprisonment for life under the *Penalties and Sentences Act 1992*, section 161E was imposed as the base component of a sentence under section 161R(2) of that Act, the prisoner's parole eligibility date is the day that is worked out by adding 7 years to the parole eligibility date that would otherwise apply to the prisoner under subsection (2).

(4) Also, if a prisoner who is serving a term of imprisonment for life under the *Penalties and Sentences Act 1992*, section 161E is sentenced under section 161R(2) of that Act for a prescribed offence, the prisoner's parole eligibility date is the day that is worked out by adding, to the parole eligibility date that would otherwise apply to the prisoner under subsection (2) or (3), the lesser of the following periods—

(a) 7 years;

(b) the period of imprisonment provided for under the maximum penalty for the prescribed offence.

182 Parole eligibility date for serious violent offender

(1) This section applies to a prisoner who is serving a term of imprisonment for a serious violent offence.

(2) The prisoner's parole eligibility date is the day after the day on which the prisoner has served the lesser of—

(a) 80% of the prisoner's term of imprisonment for the serious violent offence; or

(b) 15 years.

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(2A) However, if the term of imprisonment for the serious violent offence was imposed under the *Penalties and Sentences Act 1992*, section 161R(2), the prisoner's parole eligibility date is the day that is worked out by adding the relevant further period to the notional parole eligibility date fixed for the prisoner under subsection (2B).

(2B) The notional parole eligibility date is the day that would apply under subsection (2) if the term of imprisonment imposed on the prisoner under the *Penalties and Sentences Act 1992*, section 161R(2) consisted only of the base component of the sentence imposed under that section.

(3) Despite subsections (2) and (2A), if a later parole eligibility date is fixed for the period of imprisonment under the *Penalties and Sentences Act 1992*, part 9, division 3, the prisoner's parole eligibility date is the later date fixed under that division.

(4) This section is subject to section 185.

182A Parole eligibility date for prisoner serving term of imprisonment for other particular serious offences

(1) This section applies to a prisoner who—

(a) is serving a term of imprisonment for a drug trafficking offence; and

(b) was sentenced for the offence under the *Drugs Misuse Act 1986*, section 5(2) as in force before the commencement of the *Serious and Organised Crime Legislation Amendment Act 2016*, section 164.

(2) Also, this section applies to a prisoner who is serving a term of imprisonment, other than a term of imprisonment for life, for an offence against the Criminal Code, section 314A.

(3) The prisoner's parole eligibility date is the day after the day on which the prisoner has served—

(a) if the prisoner is serving a term of imprisonment for a drug trafficking offence—80% of the term; or

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(b) if the prisoner is serving a term of imprisonment for an offence against the Criminal Code, section 314A—the lesser of the following—

(i) 80% of the term;

(ii) 15 years.

(3A) However, if the term of imprisonment for the offence against the Criminal Code, section 314A was imposed under the *Penalties and Sentences Act 1992*, section 161R(2), the prisoner's parole eligibility date is the day that is worked out by adding the relevant further period to the notional parole eligibility date fixed for the prisoner under subsection (3B).

(3B) The notional parole eligibility date is the day that would apply under subsection (3) if the term of imprisonment imposed on the prisoner under the *Penalties and Sentences Act 1992*, section 161R(2) consisted only of the base component of the sentence imposed under that section.

(4) Despite subsections (3) and (3A), if a later parole eligibility date is fixed for the period of imprisonment under the *Penalties and Sentences Act 1992*, part 9, division 3, the prisoner's parole eligibility date is the later date fixed under that division.

(5) This section is subject to section 185.

183 Parole eligibility date for prisoner detained for a period directed by a judge under Criminal Law Amendment Act 1945, pt 3

(1) This section applies to a prisoner who is being detained, for an offence, in an institution for a period as directed by a judge under the *Criminal Law Amendment Act 1945*, part 3.

(2) The prisoner's parole eligibility date is the day after the day on which the prisoner has been detained for half the fixed period.

(2A) However, subsection (2B) applies if—

(a) the offence for which the prisoner is being detained is a prescribed offence committed with the circumstance of

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aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q; and

(b) the prisoner has been sentenced for the offence under section 161R(2) of that Act.

(2B) The prisoner's parole eligibility date is the day that is worked out by adding the relevant further period to the parole eligibility date that would otherwise apply to the prisoner under subsection (2).

(3) Despite subsections (2) and (2B), if a later parole eligibility date is fixed for the prisoner under the *Penalties and Sentences Act 1992*, part 9, division 3, the prisoner's parole eligibility date is the later date fixed under that division.

(4) This section is subject to section 185.

184 Parole eligibility date for other prisoners

(1) This section applies to a prisoner who—

(a) has been sentenced for an offence—

(i) before the commencement—to a period of imprisonment of more than 2 years or, if the offence was committed before 1 July 2001, to a period of imprisonment of any length; or

(ii) after the commencement—to a period of imprisonment of more than 3 years (excluding the mandatory component of any sentence of imprisonment imposed on the prisoner under the *Penalties and Sentences Act 1992*, section 161R(2)); or

(b) is serving a period of imprisonment of not more than 3 years for an offence (excluding the mandatory component of any sentence of imprisonment imposed on the prisoner under the *Penalties and Sentences Act 1992*, section 161R(2)), if the period includes a term of imprisonment for a sexual offence; or

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(c) is serving a period of imprisonment ordered to be served under the *Penalties and Sentences Act 1992*, section 147(1)(b) or (c); or

(d) was the subject of a court ordered parole order that has been cancelled under this Act.

(2) The prisoner's parole eligibility date is the day after the day on which the prisoner has served half the period of imprisonment to which the prisoner has been sentenced, despite any grant of remission.

(3) However—

(a) if an earlier or later parole eligibility date is fixed for the prisoner under the *Penalties and Sentences Act 1992*, part 9, division 3, the prisoner's parole eligibility date is the date fixed under that division; or

(b) if paragraph (a) does not apply and the prisoner is a prisoner mentioned in subsection (1)(d), the prisoner's parole eligibility date is the date that was fixed for the prisoner's release under that parole order.

(3A) Despite subsections (2) and (3)(a), if the prisoner has been sentenced for the offence under the *Penalties and Sentences Act 1992*, section 161R(2), the prisoner's parole eligibility date is the day that is worked out by adding the relevant further period to the notional parole eligibility date fixed for the prisoner under subsection (3B).

(3B) The notional parole eligibility date is the day that would apply under subsection (2) or (3)(a) if the term of imprisonment imposed on the prisoner under the *Penalties and Sentences Act 1992*, section 161R(2) consisted only of the base component of the sentence imposed under that section.

(4) This section is subject to section 185.

(5) In this section—

commencement means the commencement of this section.

offence, in relation to a prisoner, does not include the following offences—

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(a) an offence for which the prisoner has been sentenced to life imprisonment;

(b) a serious violent offence;

(c) an offence for which the prisoner is being detained in an institution for a period fixed by a judge under the *Criminal Law Amendment Act 1945*, part 3;

(d) an offence to which section 182A applies.

185 Parole eligibility date for prisoner serving terms of imprisonment in particular circumstances

(1) This section applies if, apart from this section, more than 1 of sections 182, 182A, 183 and 184 would apply to a prisoner.

(2) If the imprisonment mentioned in the sections is to be served concurrently, the prisoner's parole eligibility date for the prisoner's period of imprisonment is the day after the day on which the prisoner has served the longer of the periods calculated under the sections.

Example—

A prisoner is serving a term of 8 years imprisonment for a serious violent offence concurrently with a term of 5 years imprisonment for an offence that is not a serious violent offence. The prisoner's parole eligibility date is the day after the day on which the prisoner has served the period of 6.4 years (being the period that is 80% of 8 years, and being longer than the period that is one-half of 5 years).

(3) If any of the imprisonment mentioned in the sections is to be served cumulatively with imprisonment mentioned in another of the sections, the prisoner's parole eligibility date for the prisoner's period of imprisonment is the date mentioned in subsection (4) calculated after applying the following rules—

Rule 1—

Consider first each term of imprisonment (***concurrent term***) that is not cumulative on another term of imprisonment and calculate the period the prisoner must serve for the concurrent term by applying whichever of sections 182, 182A, 183 or 184 apply. For these rules, the prisoner's ***notional parole date***

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is the day the period, or the longest of the periods, so calculated ends.

Rule 2—

Next, consider each term of imprisonment (***cumulative term***) that is cumulative on another term of imprisonment and calculate the period the prisoner must serve for each cumulative term by applying whichever of sections 182, 182A, 183 or 184 apply.

Rule 3—

Next, add the period the prisoner must serve for a cumulative term to the period the prisoner must serve for the term of imprisonment the cumulative term is cumulative on (the ***additional eligibility period***).

(4) The prisoner's parole eligibility date for the prisoner's period of imprisonment is the day after the later of the following dates—

- the notional parole date
- the latest date the additional eligibility periods end.

Example—

A prisoner is serving a period of 13 years imprisonment, comprising a term of 8 years imprisonment for a serious violent offence and a term of 5 years imprisonment for an offence that is not a serious violent offence which was ordered to be served cumulatively with the term of imprisonment for the serious violent offence. Applying rule 1, the prisoner's notional parole date is the day after the period of 6.4 years the prisoner must serve before reaching the prisoner's parole eligibility date for the serious violent offence under section 182. Rule 2 is then applied. The period the prisoner must serve before reaching the prisoner's parole eligibility date for the second offence is 2.5 years under section 184. Rule 3 requires the periods of 6.4 years and 2.5 years to be added together. In this example, the prisoner's parole eligibility date is the day after the day on which the prisoner has served the period of 8.9 years.

(5) In this section—

period of imprisonment, a prisoner must serve, means a period of imprisonment the prisoner must serve before

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reaching the prisoner's parole eligibility date for the prisoner's period of imprisonment.

185A Parole eligibility date for particular prisoners granted exceptional circumstances parole

(1) This section applies to a prisoner if—

(a) whether before or after the commencement of this section (the ***commencement***), a date for the prisoner's release on parole in relation to the prisoner's period of imprisonment (the ***parole release date***) was or is fixed under the *Penalties and Sentences Act 1992*, section 160B(3); and

(b) on or after the commencement but before the parole release date, the prisoner is granted exceptional circumstances parole in relation to the same period of imprisonment.

(2) For this Act, the prisoner's parole release date becomes the prisoner's parole eligibility date in relation to the same period of imprisonment.

(3) Any entitlement or expectation the prisoner had to be released on parole on the parole release date under a court ordered parole order is extinguished.

(4) This section does not affect the fact that a parole release date was fixed for the prisoner's period of imprisonment for the purposes of the *Penalties and Sentences Act 1992*.

185B Parole eligibility date for prisoner serving term of imprisonment for an offence against Weapons Act 1990, s 50, 50B or 65

(1) This section applies if—

(a) a prisoner is serving a term of imprisonment for an offence against the *Weapons Act 1990*, section 50, 50B or 65; and

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(b) a minimum penalty applies to the offence under the following provisions of that Act—

(i) section 50(1), penalty, paragraph (d) or (e);

(ii) section 50B(1), penalty, paragraph (d) or (e);

(iii) section 65(1), penalty, paragraph (c) or (d); and

(c) apart from this section, the prisoner would be eligible for parole under this subdivision before the prisoner has served a term of imprisonment that is the minimum penalty for the offence.

(2) The prisoner's parole eligibility date is the day after the day on which the prisoner has served a term of imprisonment that is the minimum penalty for the offence.

(3) However, if the term of imprisonment was imposed under the *Penalties and Sentences Act 1992*, section 161R(2) for an offence against the *Weapons Act 1990*, section 50B or 65, the prisoner's parole eligibility date is the day that is worked out by adding the relevant further period to the parole eligibility date that would otherwise apply to the prisoner under subsection (2).

Division 2 Hearing and deciding application for parole order

Subdivision 1 Preliminary

186 Definition for div 2

In this division—

parole order does not include a court ordered parole order.

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Subdivision 2 Procedure

188 Submission from eligible person

(1) After receiving a prisoner's application for a parole order (other than an exceptional circumstances parole order) under section 180, the parole board must give the chief executive written notice of the application.

(2) Within 7 days after receiving the notice, the chief executive must, subject to section 324AA, give each eligible person in relation to the prisoner written notice of the application.

(3) The notice given to the eligible person must be dated and advise the person that—

(a) the prisoner has applied for a parole order; and

(b) the parole board is about to consider whether the parole order should be made; and

(c) the person may, within 21 days after the date of the notice, make submissions to the parole board about anything that—

(i) is relevant to the decision about making the parole order; and

(ii) was not before the court at the time of sentencing; and

(d) the person may apply to the parole board to extend the period under paragraph (c) for making submissions to the parole board.

(4) The eligible person may apply to the parole board to extend the period under subsection (3)(c) for making submissions to the parole board.

(5) The parole board may extend the period if the parole board considers it reasonable in the circumstances.

(6) The parole board must consider any submissions made to the board under subsection (3)(c) or in the further period allowed under subsection (5).

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(7) Submissions may be made under subsection (3)(c)—

(a) in writing; or

(b) in some other form approved by the parole board.

189 Appearing before parole board

(1) A prisoner's agent may, with the parole board's leave, appear before the board to make representations in support of the prisoner's application for a parole order that may be heard and decided by the board.

(2) This section does not stop the parole board deciding an application for a parole order if the prisoner or the prisoner's agent fails to appear before the board.

(3) In this section—

appear, before the parole board, means—

(a) appear by using a contemporaneous communication link between the board and the prisoner or the prisoner's agent; or

(b) if the person appearing is a prisoner with a special need—appear personally.

190 Applying for leave to appear before parole board

(1) An application for leave to appear before the parole board must be made in the approved form to the board.

(2) The secretariat must tell the prisoner of—

(a) the board's decision on the application; and

(b) if the board grants the leave—the time and place at which the prisoner or the prisoner's agent may appear before the board.

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191 When application for parole order lapses

A prisoner's application for a parole order lapses if, before the application is decided, the prisoner is sentenced to another term of imprisonment.

192 Parole board not bound by sentencing court's recommendation or parole eligibility date

When deciding whether to grant a parole order, the parole board is not bound by the recommendation of the sentencing court or the parole eligibility date fixed by the court under the *Penalties and Sentences Act 1992*, part 9, division 3 if the board—

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

Example—

a psychologist's report obtained during the prisoner's period of imprisonment

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

193 Deciding parole applications—general

(1) After receiving a prisoner's application for a parole order, the parole board must decide—

(a) to grant the application; or

(b) to refuse to grant the application.

(2) If, at the time the application is made by the prisoner, the prisoner is both a no body-no parole prisoner and a restricted prisoner, the application must be decided under—

(a) section 193A; and

(b) if after deciding the application under section 193A, the parole board does not make a no cooperation declaration—section 193AA.

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(3) However, subject to subsection (4), the parole board may defer making a decision until it obtains any additional information it considers necessary to make the decision.

Note—

See also section 193C(1).

(4) The parole board must decide the application within the following period after receiving the application—

(a) for a decision deferred under subsection (3)—150 days;

(b) otherwise—120 days.

Note—

See also section 193C(2).

(5) The parole board may grant the application even though a parole order for the same period of imprisonment was previously cancelled.

(6) If the parole board refuses to grant the application, the board must—

(a) give the prisoner written reasons for the refusal; and

(b) if the application is for a parole order other than an exceptional circumstances parole order—decide a period of time within which a further application for a parole order (other than an exceptional circumstances parole order) by the prisoner must not be made without the board's consent.

(7) The period of time decided under subsection (6)(b) must not be more than—

(a) if the prisoner is serving a term of imprisonment for life—5 years; or

(b) if the prisoner is serving a term of imprisonment of 10 years or more other than a term of imprisonment for life—3 years; or

(c) if paragraphs (a) and (b) do not apply—1 year.

(8) In deciding the period of time under subsection (6)(b), the parole board—

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(a) must consider—

(i) the nature, seriousness and circumstances of each offence for which the prisoner is serving the period of imprisonment the subject of the application; and

(ii) the reasons the application has been refused; and

(b) may have regard to—

(i) the likely effect that the making of a further application for a parole order may have on an eligible person or victim; and

(ii) the extent to which delaying the making of a further application for a parole order is in the public interest.

(9) If the parole board decides to grant the application, the parole order starts on the day stated in the order (the ***start day***).

(10) If the application for a parole order was made under section 176, the start day must not be more than 14 days after the date of the parole order.

(11) If the application for a parole order was made under section 180, the start day must be—

(a) for a parole order made more than 14 days before the prisoner's parole eligibility date—the parole eligibility date; or

(b) otherwise, a day that is—

(i) on or after the prisoner's parole eligibility date; and

(ii) not more than 14 days after the date of the parole order.

193A Deciding parole applications—no body-no parole prisoner

(1) This section applies to a no body-no parole prisoner's application for a parole order.

(2) If a no cooperation declaration is in force for the prisoner, the board must refuse the application.

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(3) If the prisoner has been given a notice under section 175Q, the board must consider the application under section 193.

(4) If subsections (2) and (3) do not apply, the parole board must defer the hearing of the application and request a commissioner's report under section 175M(2).

193AA Deciding parole applications—restricted prisoner

(1) This section applies in relation to a restricted prisoner's application for a parole order.

(2) Subject to subsection (3), as soon as practicable after receiving the application, the parole board must—

(a) give the president a notice stating that the prisoner has applied for parole; and

(b) give the chief executive a notice stating—

(i) the board has deferred deciding the application until the board receives a notice from the president under section 175J(2)(c); and

(ii) under section 175F the chief executive must give the president a restricted prisoner report.

(3) If the board has received a notice about the prisoner under section 175J(2)(c), the parole board may defer making a decision until it obtains any other information it considers necessary to make the decision.

Note—

See also section 193C(2).

(4) If the application is deferred under subsection (2)(b) and the president makes a restricted prisoner declaration about the prisoner, the application is taken to have been refused by the parole board on the day the declaration is made.

(5) If a restricted prisoner declaration is not in force for the prisoner, the parole board must refuse to grant the application unless the board is satisfied the prisoner does not pose an unacceptable risk to the public.

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193B Deciding applications for parole orders made by prisoners with links to terrorism

(1) This section applies in relation to a prisoner's application for a parole order if—

(a) the prisoner has, at any time, been convicted of a terrorism offence; or

(b) the prisoner is the subject of a Commonwealth control order; or

(c) the parole board is satisfied the prisoner has promoted terrorism; or

(d) a report in relation to the prisoner given by the commissioner under section 193E states there is a reasonable likelihood the prisoner may carry out a terrorist act and any of the following apply—

(i) the prisoner has been charged with, but not convicted of, a terrorism offence;

(ii) the prisoner has been the subject of a Commonwealth control order;

(iii) the parole board is satisfied the prisoner is or has been associated with a terrorist organisation, or with a person who has promoted terrorism.

Note—

For when a person promotes terrorism, see section 247A.

(2) The parole board must refuse to grant the application under section 193(1) unless the board is satisfied exceptional circumstances exist to justify granting the application.

(3) In considering whether exceptional circumstances exist to justify granting the application, the parole board may have regard to any relevant matter.

(4) In considering a matter mentioned in subsection (1)(c) or (d)(iii), the parole board may have regard to—

(a) a report in relation to the matter given by the commissioner under section 193E; and

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(b) any other information the board considers relevant.

(5) If the parole board decides to grant the application, the board must give the prisoner written reasons for the decision.

Note—

See also section 193(6)(a).

(6) To remove any doubt, it is declared that—

(a) this section does not limit or otherwise affect the power of the parole board to refuse the application under section 193(1); and

(b) a decision under subsection (2) that exceptional circumstances exist to justify granting the application is not a decision for section 194(1)(a) that exceptional circumstances exist in relation to the prisoner.

193C Deferring decision to obtain information about terrorism links

(1) The parole board may defer making a decision on a prisoner's application for a parole order to obtain information the board considers necessary to determine whether section 193B applies in relation to the application.

(2) Despite section 193(4), if the parole board defers making a decision under subsection (1), the board must decide the application within 200 days after receiving the application.

193D Parole board may ask commissioner for reports about prisoners' links to terrorism

The parole board may, by written notice given to the commissioner, ask the commissioner to give the board, for use under this division or division 5, a report in relation to any of the following matters—

(a) whether a prisoner has, at any time, been convicted of or charged with a terrorism offence;

(b) whether a prisoner is or has been the subject of a Commonwealth control order;

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(c) any promotion by a prisoner of terrorism;

(d) the likelihood of a prisoner carrying out a terrorist act;

(e) any association a prisoner has or has had with—

(i) a terrorist organisation; or

(ii) a person who has promoted terrorism.

Note—

For when a person promotes terrorism, see section 247A.

193E Reports about prisoners' links to terrorism

(1) The commissioner must comply with a request made under section 193D by giving the parole board a written report in relation to the matters the subject of the request.

(2) However, subsection (1) applies only to the extent information in relation to the matters—

(a) is in the commissioner's possession; or

(b) can be accessed by the commissioner through an arrangement with a law enforcement agency.

(3) Also, the commissioner is not required to give information in relation to a matter mentioned in section 193D(c), (d) or (e) if—

(a) the information is information mentioned in the *Police Powers and Responsibilities Act 2000*, section 803(2)(a) to (e) and the commissioner is satisfied that withholding the information will not adversely affect public safety; or

(b) the commissioner accessed the information through an arrangement mentioned in subsection (2)(b) and the arrangement prevents the commissioner from disclosing the information to the parole board.

(4) If the report is in relation to a matter mentioned in section 193D(a), the information in the report may include a reference to, or a disclosure of, a conviction mentioned in the

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Criminal Law (Rehabilitation of Offenders) Act 1986, section 6.

(5) If the request is in relation to a prisoner's application for a parole order—

(a) the notice given under section 193D must state the day the parole board proposes to hear the application (the ***proposed hearing day***); and

(b) the commissioner must give the report to the parole board at least 28 days before the proposed hearing day.

194 Types of parole orders granted by parole board

(1) The parole board may, by a parole order—

(a) release any prisoner on parole, if the prisoner applied for an exceptional circumstances parole order under section 176 and the board is satisfied that exceptional circumstances exist in relation to the prisoner; or

(b) release an eligible prisoner on parole.

(2) If the prisoner is to be released on parole as mentioned in subsection (1)(a), the board must note on the order that it is an exceptional circumstances parole order.

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

(4) In this section—

eligible prisoner means a prisoner, who—

(a) may apply for the parole order under section 180(1); and

(b) is eligible for the parole order under section 181, 181A, 182, 182A, 183, 184, 185 or 185B.

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Division 3 Court ordered parole order

199 Court ordered parole order

(1) The chief executive must issue a court ordered parole order for a prisoner in accordance with the date fixed for the prisoner's release on parole under the *Penalties and Sentences Act 1992*, part 9, division 3.

(2) However, if the prisoner is being detained on remand for an offence, the chief executive can not issue the court ordered parole order unless—

(a) the prisoner is granted bail in relation to the offence under the *Bail Act 1980*; or

(b) the charge for the offence is withdrawn.

(3) The chief executive must give a copy of the court ordered parole order to the prisoner.

(4) Subsection (1) does not apply in relation to a prisoner to whom section 185A applies.

Division 4 Conditions of parole and directions to prisoners

200 Conditions of parole

(1) A parole order must include conditions requiring the prisoner the subject of the order—

(a) to be under the chief executive's supervision—

(i) until 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 the prisoner was directed to be detained; and

(b) to carry out the chief executive's lawful instructions; and

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(c) to give a test sample if required to do so by the chief executive under section 41; and

(d) to report, and receive visits, as directed by the chief executive; and

(e) to notify the chief executive within 48 hours of any change in the prisoner's address or employment during the parole period; and

(f) not to commit an offence.

(2) A parole order may contain a condition requiring the prisoner to comply with a direction given to the prisoner under section 200A.

(3) A parole order granted by the parole board may also contain conditions the board reasonably considers necessary—

(a) to ensure the prisoner's good conduct; or

(b) to stop the prisoner committing an offence.

Examples—

- a condition about the prisoner's place of residence, employment or participation in a particular program
- a condition imposing a curfew for the prisoner
- a condition requiring the prisoner to give a test sample

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

200A Directions to prisoners subject to parole order

(1) The purpose of this section is—

(a) to enable the movements of a prisoner who is subject to a parole order to be restricted; and

(b) to enable the location of the prisoner to be monitored.

(2) A corrective services officer may direct the prisoner—

(a) to remain at a stated place for stated periods; or

(b) to wear a stated device; or

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(c) to permit the installation of any device or equipment at a stated place, including, for example, the place where the prisoner resides.

Note—

See section 267(2).

(3) A corrective services officer may also give other reasonable directions to the prisoner that are necessary for the proper administration of a direction under subsection (2).

(4) A direction under this section must not be inconsistent with a condition of the prisoner's parole order.

Division 5 Amending, suspending or cancelling parole order

Subdivision 1 Chief executive powers

201 Chief executive may amend parole order

(1) The chief executive may, by written order, amend a prisoner's parole order if the chief executive reasonably believes the prisoner—

(a) has failed to comply with the parole order; or

(b) poses a serious and immediate risk of self harm; or

(c) poses an unacceptable risk of committing an offence.

Example of an amendment—

the addition of a condition imposing a curfew for the prisoner

(2) The written order has effect for the period of not more than 28 days, stated in the order, starting on the day the order is given to the prisoner.

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202 Parole board may cancel amendment

(1) If the chief executive makes an order under section 201 amending a parole order, the chief executive must give the secretariat written notice of the grounds for making the order.

(2) The written notice must be given to the secretariat immediately after the order is made.

(3) The chief executive must give the parole board any further information about the amendment requested by the board.

(4) The parole board may, at any time, cancel the order.

Subdivision 2 Parole board powers generally

205 Amendment, suspension or cancellation

(1) The parole board may, by written order, amend a parole order—

(a) by amending or removing a condition imposed under section 200(3) if the board reasonably believes—

(i) the condition, as amended, is necessary for a purpose mentioned in the subsection; or

(ii) the condition is no longer necessary for a purpose mentioned in the subsection; or

(b) by inserting a condition mentioned in section 200(3) if the board reasonably believes the condition is necessary for a purpose mentioned in the subsection; or

(c) if the board reasonably believes the prisoner poses a serious risk of self harm.

(2) The parole board may, by written order—

(a) amend, suspend or cancel a parole order if the board reasonably believes the prisoner subject to the parole order—

(i) has failed to comply with the parole order; or

(ii) poses a serious risk of harm to someone else; or

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(iii) poses an unacceptable risk of committing an offence; or

(iv) is preparing to leave Queensland, other than under a written order granting the prisoner leave to travel interstate or overseas; or

(b) amend, suspend or cancel a parole order, other than a court ordered parole order, if the board receives information that, had it been received before the parole order was made, would have resulted in the board making a different parole order or not making a parole order; or

(c) amend or suspend a parole order if the prisoner subject to the parole order is charged with committing an offence; or

(d) suspend or cancel a parole order if the board reasonably believes the prisoner subject to the parole order poses a risk of carrying out a terrorist act.

(3) If practicable, the parole board must, before amending a prisoner's parole order, give the prisoner an information notice and a reasonable opportunity to be heard on the proposed amendment.

(4) The parole board is not required to give the prisoner an information notice or a reasonable opportunity to be heard if the parole board suspends or cancels the prisoner's parole order.

(5) A written order amending, suspending or cancelling a parole order has effect from when it is made by the parole board.

(6) In this section—

information notice means a notice—

(a) stating the parole board is proposing to amend the parole order; and

(b) advising the reason for the proposed action; and

(c) inviting the prisoner to show cause, by written submissions given to the board within 21 days after the

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notice is given, why the board should not take the proposed action.

206 Warrant for prisoner's arrest

(1) If the parole board suspends or cancels a prisoner's parole order—

(a) the board may issue a warrant, signed by a board member or an officer of the secretariat prescribed by regulation, for the prisoner's arrest; or

(b) a magistrate, on the application of the board or a board member, may issue a warrant for the prisoner's arrest.

(2) The warrant may be directed to all police officers.

Note—

See also the *Police Powers and Responsibilities Act 2000*, section 798.

(3) 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 prisoner's period of imprisonment.

Notes—

1 See section 112 for the power of the parole board, a magistrate or the chief executive, on the application of a corrective services officer, to issue a warrant for a prisoner's arrest if the prisoner is unlawfully at large and the prisoner's parole order is suspended or cancelled.

2 See section 112(1)(a) for the power of a corrective services officer to arrest a prisoner without warrant if the prisoner is unlawfully at large and the prisoner's parole order is suspended or cancelled.

208 Reconsidering decision to suspend or cancel parole order

(1) If the parole board makes a written order suspending or cancelling a prisoner's parole order, the board must give the

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prisoner an information notice on the prisoner's return to prison.

(2) The parole board must consider all properly made submissions and inform the prisoner, by written notice, whether the board has changed its decision and, if so, how.

(3) If the board changes its decision, the changed decision has effect on the day, not more than 14 days after the day the changed decision is made, stated in the written notice.

(4) In this section—

information notice means a notice—

(a) stating the parole board has decided to suspend or cancel the parole order; and

(b) advising 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.

properly made submissions means written submissions given by or for the prisoner to the parole board within 21 days after the information notice inviting the prisoner to make the submissions is given.

Subdivision 2A Requests for immediate suspension

208A Request for immediate suspension of parole order

(1) This section applies if the chief executive reasonably believes that a prisoner the subject of a parole order—

(a) has failed to comply with the parole order; or

(b) poses a serious and immediate risk of harm to another person; or

(c) poses an unacceptable risk of committing an offence; or

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(d) is preparing to leave the State, other than under a written order granting the prisoner leave to travel interstate or overseas; or

(e) poses a risk of carrying out a terrorist act.

(2) The chief executive may, by written notice given to the secretariat, ask the parole board to—

(a) suspend the parole order; and

(b) issue a warrant for the prisoner's arrest.

(3) The notice must state the grounds on which the request is made.

208B Decision on request for immediate suspension of parole order

(1) If a request is made under section 208A, the parole board or a prescribed board member must as soon as practicable consider the request.

(2) However, the parole board or a prescribed board member may decide the priority for considering requests made under section 208A, having regard to the seriousness of the nature of the grounds on which the requests are made.

(3) If the parole board considers the request, the parole board must decide whether to suspend or cancel the parole order.

(4) If a prescribed board member considers the request, the prescribed board member must decide whether to suspend the parole order.

(5) The parole board may decide to suspend or cancel the parole order, or the prescribed board member may decide to suspend the parole order, only if the parole board or member reasonably believes the prisoner—

(a) has failed to comply with the parole order; or

(b) poses a serious and immediate risk of harm to another person; or

(c) poses an unacceptable risk of committing an offence; or

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(d) is preparing to leave the State, other than under a written order granting the prisoner leave to travel interstate or overseas; or

(e) poses a risk of carrying out a terrorist act.

(6) If the parole board considers the request, the decision whether or not to suspend or cancel the parole order is taken to have been made under section 205(2).

(7) If the parole board decides not to suspend or cancel the parole order, or the prescribed board member decides not to suspend the parole order, the parole board or member must give the chief executive written notice of the decision.

(8) If the prescribed board member decides to suspend the parole order, the member may—

(a) by written order, suspend the parole order; and

(b) issue a warrant, signed by the member or an officer of the secretariat, for the prisoner's arrest.

(9) The order has effect from when it is made.

(10) The warrant may be directed to all police officers.

(11) 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 prisoner's period of imprisonment.

Notes—

1 See section 112 for the power of the parole board, a magistrate or the chief executive, on the application of a corrective services officer, to issue a warrant for a prisoner's arrest if the prisoner is unlawfully at large and the prisoner's parole order is suspended.

2 See section 112(1)(a) for the power of a corrective services officer to arrest a prisoner without warrant if the prisoner is unlawfully at large and the prisoner's parole order is suspended.

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208C Parole board must consider decision of prescribed board member

(1) If a prescribed board member makes a decision under section 208B in relation to a parole order, the parole board must, within 2 business days of the decision being made—

(a) confirm the decision; or

(b) for a decision not to suspend a parole order—set aside the decision and substitute its own decision to suspend or cancel the parole order; or

(c) for a decision to suspend the parole order—

(i) set aside the decision and substitute its own decision to cancel the parole order; or

(ii) set aside the decision.

(2) Subsection (3) applies if—

(a) both of the following apply—

(i) the prescribed board member's decision was to suspend the parole order;

(ii) the parole board decides to confirm the decision; or

(b) the parole board sets aside the prescribed board member's decision and substitutes its own decision to suspend or cancel the parole order.

(3) The parole board's decision is taken to be a decision to suspend or cancel a parole order under section 205(2).

(4) Subsections (5) to (7) apply if—

(a) the prescribed board member's decision was to suspend the parole order; and

(b) the parole board decides to set aside the decision under subsection (1)(c)(ii).

(5) The suspension, and any warrant issued by the prescribed board member under section 208B(8)(b) in relation to the member's decision, stop having effect.

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(6) If a warrant mentioned in subsection (5) has been executed, the prisoner must be released.

(7) For this Act, the prisoner is taken not to have been unlawfully at large for the period—

(a) starting when the order was made by the prescribed board member under section 208B; and

(b) ending when the parole board decided to set aside the prescribed board member's decision.

Subdivision 3 Automatic cancellation

209 Automatic cancellation of order by further imprisonment

(1) If a prisoner is sentenced to another period of imprisonment for an offence committed, in Queensland or elsewhere, during the period of the prisoner's parole order, the order is taken to have been automatically cancelled on the date on which the offence occurred.

(2) Subsection (1) applies—

(a) whether or not the prisoner is sentenced to the other period of imprisonment before or after the parole order has expired; and

(b) subject to section 205.

Note—

See sections 211 and 215 for the effect of the cancellation.

(3) However, subsection (1) does not apply if—

(a) the prisoner is required to serve the period of imprisonment mentioned in the subsection 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

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(b) the period of imprisonment mentioned in the subsection—

(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; or

(iii) is required to be served until the court rises.

210 Warrant for prisoner's arrest

(1) If a prisoner's parole order is automatically cancelled under section 209—

(a) the parole board may issue a warrant, signed by a board member or an officer of the secretariat, for the prisoner's arrest; or

(b) a magistrate, on the application of the parole board or a board member, may issue a warrant for the prisoner's arrest.

(2) The warrant may be directed to all police officers.

Note—

See also the *Police Powers and Responsibilities Act 2000*, section 798.

(3) When arrested, the prisoner must be taken to a prison to serve the unexpired portion of the prisoner's period of imprisonment.

Notes—

1 See section 112 for the power of the parole board, a magistrate or the chief executive, on the application of a corrective services officer, to issue a warrant for a prisoner's arrest if the prisoner is unlawfully at large and the prisoner's parole order is cancelled.

2 See section 112(1)(a) for the power of a corrective services officer to arrest a prisoner without warrant if the prisoner is unlawfully at large and the prisoner's parole order is cancelled.

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Subdivision 4 Effect of cancellation

211 Effect of cancellation

(1) This section applies if a prisoner's parole order is cancelled—

(a) under section 205(2)(a)(i) because the prisoner failed to comply with the parole order; or

(b) under section 205(2)(a)(ii) because the prisoner posed a serious risk of harm to someone else; or

(c) under section 205(2)(a)(iii) because the prisoner posed an unacceptable risk of committing an offence; or

(d) under section 205(2)(a)(iv) because the prisoner was preparing to leave Queensland, other than under a written order granting the prisoner leave to travel interstate or overseas; or

(e) under section 205(2)(b) because the parole board received information that, had it been received before the parole order was made, would have resulted in the parole board making a different parole order or not making the parole order; or

(f) under section 209 because the prisoner was sentenced to another term of imprisonment for an offence committed, in Queensland or elsewhere, during the period of the parole order.

Note—

For subsection (1)(a), (b), (c) and (d), see also sections 208B(6) and 208C(3).

(2) The time for which the prisoner was released on parole before one of the following events happens counts as time served under the prisoner's period of imprisonment—

(a) the prisoner failed to comply with the parole order as mentioned in subsection (1)(a);

(b) the parole order was cancelled for the reason mentioned in subsection (1)(b), (c), (d) or (e);

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(c) the prisoner committed the offence mentioned in subsection (1)(f).

(3) Despite section 206(3)(b), the parole board may, by written order, direct that the prisoner serve only part of the unexpired portion of the prisoner's period of imprisonment.

Division 6 Other provisions about parole orders

212 Travelling interstate while released on parole

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

(2) However, if the prisoner is subject to a court ordered parole order, the period of leave may be more than 7 days.

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

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

213 Travelling overseas while released on parole

(1) The parole board may, by written order, grant leave to a prisoner who is released on parole to travel overseas for a stated period for compassionate purposes in exceptional circumstances.

Note—

See also chapter 2, part 2, division 9A.

(2) Leave granted under this section is subject to the conditions the parole board decides.

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214 Prisoner released on parole taken to be still serving sentence

A prisoner released on parole is taken to be still serving the sentence imposed on the prisoner.

215 Expiry of parole order

A prisoner is taken to have served the prisoner's period of imprisonment if the prisoner's parole order expires without being cancelled under section 205 or 209.

Part 2 Parole Board Queensland

Division 1 Establishment and functions

216 Establishment

The Parole Board Queensland (the ***parole board***) is established.

217 Functions

The functions of the parole board are—

(a) to decide applications for parole orders, other than court ordered parole orders; and

(b) to perform other functions given to it under this Act or another Act.

217A Nature of entity

The parole board—

(a) does not control funds (and is consequently not a statutory body within the meaning of the *Statutory Bodies Financial Arrangements Act 1982* or the *Financial Accountability Act 2009*); and

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(b) is not a public sector entity for the *Public Sector Act 2022*, section 8(2)(s).

Division 2 Powers

218 Powers generally

The parole board has the power to do anything necessary or convenient to be done in performing its functions under this or another Act.

219 Power to require attendance

(1) The parole board may, by written notice (an ***attendance notice***) given to a person, require the person to attend a meeting of the board at a stated time and stated place—

(a) to give the board relevant information; or

(b) to produce a stated document containing relevant information.

(2) A person given an attendance notice must—

(a) attend as required by the attendance notice, unless the person has a reasonable excuse; and

(b) give the parole board the relevant information 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 attendance notice, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

(3) 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 may tend to incriminate the person.

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(4) A person required by an attendance notice to attend a meeting of the parole board may attend the meeting by using a contemporaneous communication link between the person and the board.

(5) In this section—

relevant information means information relating to—

(a) a prisoner's application for a parole order, other than a court ordered parole order; or

(b) a prisoner's parole order, including a court ordered parole order.

220 Expenses of attendance and documents produced

(1) If a person is required by an attendance notice to attend a meeting of the parole board, the secretariat must pay the person's reasonable expenses of attending the meeting as certified by the board member presiding at the meeting.

(2) If the person produces a document under section 219(2)(c), the parole board may inspect the document or make copies of it.

Division 3 Membership

221 Membership

(1) The parole board consists of the following members (each a ***board member***)—

(a) the president;

(b) at least 1 deputy president;

(c) at least 2 members (each a ***professional board member***) who have a university or professional qualification that is relevant to the functions of the parole board;

(d) at least 1 police officer nominated by the commissioner (each a ***police representative***);

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(e) at least 1 public service officer, nominated by the chief executive, who has expertise or experience in the supervision or rehabilitation of offenders (each a ***public service representative***);

(f) the required number of other members (each a ***community board member***), each of whom represents the Queensland community.

(2) Without limiting subsection (1), a qualification in law, criminology, medicine, psychology, behavioural science or social work is a relevant qualification for a professional board member.

(3) At least 1 of the professional board members must be an Aboriginal or Torres Strait Islander person.

(4) At least 1 of the community board members must be a person who has expertise or experience relevant to victims of crime, including how crimes affect victims and the challenges victims face in interacting with the criminal justice system.

(5) Board members mentioned in subsection (1)(a) to (c) and (f) are ***appointed board members***.

(6) Board members mentioned in subsection (1)(d) and (e) are ***permanent board members***.

(7) In this section—

required number, of community board members, means the number of community board members decided by the Minister for the parole board.

222 President and deputy president

(1) The president—

(a) must be a former judge of a State court, the High Court or a court constituted under a Commonwealth Act; or

(b) must have qualifications, experience or standing the Governor in Council considers equivalent to an office mentioned in paragraph (a).

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(2) Each deputy president—

(a) must be a former judge of a State court, the High Court or a court constituted under a Commonwealth Act; or

(b) must be a former magistrate; or

(c) must have qualifications, experience or standing the Governor in Council considers equivalent to an office mentioned in paragraph (a) or (b).

(3) In this section—

magistrate includes a magistrate appointed under the law of another State.

223 Appointment

(1) Appointed board members are appointed by the Governor in Council.

(2) In recommending a person to the Governor in Council for appointment, the Minister—

(a) must be satisfied the person is appropriately qualified to perform the functions of a board member; and

(b) for an appointment as the president or a deputy president—must consult with the parliamentary committee about the proposed appointment; and

(c) for an appointment as a community board member or professional board member—

(i) must consult with the president about the proposed appointment; and

(ii) must have regard to ensuring the parole board represents the diversity of the Queensland community; and

(d) must have regard to providing for—

(i) balanced gender representation in the membership of the parole board; and

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(ii) the representation of Aboriginal people and Torres Strait Islanders in the membership of the parole board.

(3) Before recommending a person to the Governor in Council for appointment, the Minister must request the chief executive to assess (under chapter 6, part 13, division 2) the person's suitability to perform functions as a board member.

(4) The president and the deputy presidents must be appointed on a full-time basis.

(5) A professional board member may be appointed on a full-time or part-time basis.

(6) Subsection (2)(b) does not apply to the reappointment of a person as the president or a deputy president.

(7) In this section—

parliamentary committee means—

(a) if the Legislative Assembly resolves that a particular committee of the Assembly is to be the parliamentary committee under this Act—that committee; or

(b) if paragraph (a) does not apply and the standing rules and orders under the *Parliament of Queensland Act 2001* state that the portfolio area of a portfolio committee includes the parole board—that committee; or

(c) otherwise—the portfolio committee whose portfolio area includes the department, or the part of a department, in which this Act is administered.

portfolio area, of a portfolio committee, see the *Parliament of Queensland Act 2001*, section 88(2)(b).

portfolio committee see the *Parliament of Queensland Act 2001*, section 88(1).

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224 Term of appointment

(1) The president and each deputy president holds office for the term, not longer than 5 years, stated in the board member's instrument of appointment.

(2) An appointed board member, other than the president or a deputy president, holds office for the term, not longer than 3 years, stated in the member's instrument of appointment.

(3) However, if a successor has not been appointed by the end of the appointed board member's term, the member continues to hold office until a successor is appointed.

(4) An appointed board member may be reappointed.

(5) However, a person holding office as the president or a deputy president may be reappointed to the office only if—

(a) no term of appointment is longer than 5 years; and

(b) the person does not hold the office for more than 10 years in total.

225 Conditions of appointment

(1) The president and each deputy president are to be paid the prescribed salary.

(2) An appointed board member, other than the president or a deputy president, is to be paid the remuneration and allowances decided by the Governor in Council.

(3) An appointed board member holds office on the terms, not otherwise provided for by this Act, decided by the Governor in Council.

(4) An appointed board member is appointed under this Act and not the *Public Sector Act 2022*.

(5) The president or the Minister may ask the chief executive to assess (under chapter 6, part 13, division 2) the suitability of a person to continue to perform functions as a board member.

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226 Vacancy in office

(1) An appointed board member's office becomes vacant if—

(a) the member completes the member's term of office; or

(b) the member resigns office by signed notice given to the Minister; or

(c) the member's appointment is terminated by the Governor in Council under subsection (2) or (3).

(2) The Governor in Council may, at any time, end the appointment of a community board member for any reason or none.

(3) The Governor in Council may terminate the appointment of another appointed board member if the member—

(a) is guilty of misconduct of a type that could warrant dismissal from the public service if the member were an officer of the public service; or

(b) becomes incapable of satisfactorily performing the functions of a board member because of physical or mental incapacity or for some other reason.

(4) In this section—

misconduct see the *Public Sector Act 2022*, section 91(5).

227 Leave of absence

(1) The Minister may approve a leave of absence for the president.

(2) The president may approve a leave of absence for a deputy president, professional board member or community board member.

(3) However, only the Minister may approve a leave of absence of more than 20 business days for a deputy president or professional board member.

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228 Acting prescribed members

(1) The Governor in Council may appoint a person to act as the president, a deputy president or a professional board member if the person meets the requirements for appointment to the office.

(2) A person appointed to act as the president is appointed, subject to any limitations stated in the instrument of appointment, to act as the president while—

(a) the office of president is vacant; or

(b) the president is absent from duty or from the State or cannot, for another reason, perform the duties of the president.

(3) A person appointed to act as a deputy president or a professional board member is appointed to carry out duties from time to time as directed by the president—

(a) during a stated period; or

(b) for a stated matter.

(4) Before making a recommendation to the Governor in Council for appointment of an acting board member, the Minister must request the chief executive to assess (under chapter 6, part 13, division 2) the person's suitability to act in that capacity.

(5) Before making a recommendation to the Governor in Council for appointment of an acting deputy president, the Minister must consult with the president.

(6) A person may not be appointed as an acting board member for—

(a) a continuous period of more than 1 year; or

(b) a period that, with the periods of other appointments of the person as an acting board member, forms a continuous period of more than 1 year.

(7) However, subsection (6) does not apply to the appointment of a person to act as the president or a deputy president if, in recommending the person for the appointment, the Minister

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has consulted with the parliamentary committee (within the meaning of section 223).

(8) An acting board member is appointed on the terms, not otherwise provided for by this Act, decided by the Governor in Council.

(9) The president or the Minister may ask the chief executive to assess (under chapter 6, part 13, division 2) the suitability of a person to continue to perform functions as an acting board member.

229 Preservation of rights

(1) This section applies if—

(a) a person is appointed as a prescribed board member; and

(b) the person resigns the person's role as a public service officer in order to accept the appointment.

(2) The person keeps all rights that have accrued to the person as a public service officer, or that would accrue in the future to the person because of that employment, as if service as a prescribed board member were a continuation of service as a public service officer.

(3) At the end of the person's term of office or on resignation as a prescribed board member—

(a) the person has the right to be appointed to an office in the public service on the same terms and conditions that applied to the person before being appointed as a prescribed board member; and

(b) the person's service as a prescribed board member is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

229A Functions of president

(1) The president has the functions given to the president under this Act or another Act.

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(2) The functions of the president include—

(a) managing the performance of appointed board members and acting appointed board members; and

(b) giving directions about the practices and procedures to be followed by the board.

(3) The president has the power to do all things necessary or convenient to be done for the performance of the president's functions.

(4) The president must promote the efficient and effective operation of the board.

229B Delegation of particular function of president

(1) This section applies if the president considers that the president can not independently consider and decide whether to make a restricted prisoner declaration about a prisoner.

(2) Without limiting subsection (1), the president must delegate the president's function under subsection (3) if the president becomes aware of a direct or an indirect interest the president has in relation to the prisoner that could conflict with the proper performance of the president's decision to make the declaration.

(3) The president must delegate to a deputy president the function of the president under chapter 5, part 1AB.

(4) In this section—

function includes power.

interest, in relation to a prisoner, includes a professional or familial interest.

229C Functions of deputy president

(1) A deputy president has the functions given to the deputy president under this Act or another Act.

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(2) The deputy president has the power to do all things necessary or convenient to be done for the performance of the deputy president's functions.

Division 4 Proceedings

230 Conduct of business

Subject to this division

(a) the president's consideration of whether to make a restricted prisoner declaration may be conducted in the way the president considers appropriate; and

(b) the president's or a deputy president's consideration of a reconsideration application may be conducted in the way the president or the deputy president considers appropriate; and

(c) the parole board may conduct its business, including its meetings, in the way it considers appropriate.

231 Quorum

A quorum for a meeting of the parole board is 3 board members.

Note—

For the board members who must be present at a meeting at which particular matters about parole orders are considered, see also section 234.

232 Presiding at meetings

(1) The president presides at all meetings of the parole board at which the president is present.

(2) If the president is absent from a meeting and the parole board has only 1 deputy president, the deputy president is to preside.

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(3) If the president is absent from a meeting and the parole board has more than 1 deputy president, the deputy president chosen by the president is to preside.

(4) If neither the president, nor any of the deputy presidents, are present at a meeting, a professional board member chosen by the president is to preside.

233 Meetings generally

(1) The parole board must meet as often as is necessary to perform its functions.

(2) A meeting may be called by—

(a) if the meeting is called under section 175U—the president or a deputy president; or

(b) otherwise—the president or, in the absence of the president, a deputy president.

(3) In the absence of the president and each deputy president, an officer of the secretariat may call a meeting to consider whether a parole order should be amended, suspended or cancelled.

(4) The parole board may hold meetings, or allow board members to take part in meetings, by using a contemporaneous communication link between the members.

(5) A board member who takes part in a meeting under subsection (4) is taken to be present at the meeting.

(6) A question at a meeting of the parole board must be decided by a majority of votes of the board members present.

(7) If there is an equality of votes, the board member presiding at the meeting has a casting vote.

(8) A prisoner granted leave to appear before the parole board under section 190 may appear before a meeting—

(a) by using a contemporaneous communication link between the prisoner and the parole board; or

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(b) if the prisoner has a special need—by attending personally.

234 Meetings about particular matters relating to parole orders

(1) This section applies if, at a meeting of the parole board, the board is to—

(a) consider a prescribed prisoner's application for parole; or

(b) consider, under section 175M, if a no body-no parole prisoner has given satisfactory cooperation.

(2) A matter mentioned in subsection (1) must not be considered at the meeting unless the following board members are present—

(a) the president, a deputy president or a professional board member;

(b) at least 1 community board member;

(c) at least 1 permanent board member.

(3) In this section—

prescribed prisoner means—

(a) a prisoner mentioned in—

(i) section 181(1); or

(ii) section 181A(1); or

(iii) section 182A(1) or (2); or

(iv) section 183(1); or

(v) section 185B(1)(a); or

(vi) section 193A(1); or

(b) a prisoner who is imprisoned for—

(i) an offence mentioned in the *Penalties and Sentences Act 1992*, section 161A(a)(i); or

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(ii) a serious sexual offence; or

(iii) an offence committed with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q(1); or

(iv) an offence against the Criminal Code, section 315A; or

(c) a prisoner who has, at any time, been convicted of a terrorism offence; or

(d) a prisoner the subject of a Commonwealth control order; or

(e) a prisoner about whom the parole board has information that indicates—

(i) the prisoner may have promoted terrorism; or

Note—

For when a person promotes terrorism, see section 247A.

(ii) there is a risk the prisoner may carry out a terrorist act.

serious sexual offence see the *Dangerous Prisoners (Sexual Offenders) Act 2003*, schedule 1.

235 Attendance of staff member at meetings

If asked to do so by the president, a deputy president or an officer of the secretariat, a staff member must—

(a) attend a meeting of the parole board, including by using a contemporaneous communication link between the staff member and the board; and

(b) give the information the parole board asks for to help it decide a matter relating to a parole order.

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Division 4A Publication of decisions

235A Parole board must publish particular information

(1) The parole board must publish the information prescribed by regulation on the parole board's website.

(2) Without limiting subsection (1), a regulation may prescribe—

(a) a decision or class of decision made by the president or the board about a class of prisoner; and

(b) specified details of the decision.

Division 5 Parole Board Queensland Secretariat

236 Establishment and functions

(1) The Parole Board Queensland Secretariat (the ***secretariat***) is established.

(2) The function of the secretariat is to support the parole board by providing administrative and legal support for the operation of the parole board.

(3) The chief executive may assign public service employees of the chief executive's department to the secretariat.

Note—

The employees are responsible to the chief executive under the *Public Sector Act 2022*.

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Division 6 Pension entitlements of president and deputy president

237 Judges pension scheme applies to former senior board member

The Judges Pensions Act, other than sections 15 and 15A, applies to a former senior board member as if a reference to a judge in that Act includes a reference to the former senior board member, but with—

(a) the changes set out in this division; and

(b) other changes necessary to enable that Act to apply to a former senior board member.

238 Period for which person holds office as president or deputy president

For applying the Judges Pensions Act to a former senior board member under this division, the following are to be counted as a period for which a person held office as the president or a deputy president—

(a) any period, before the person's appointment as the president or a deputy president, that would be counted as service as a judge for the Judges Pensions Act;

(b) any period, before the person's appointment as the president or a deputy president, for which the person acted as the president or a deputy president.

239 Pension at end of appointment generally

(1) The Judges Pensions Act, sections 3 and 4 applies to a former senior board member—

(a) if the member held office as the president or a deputy president for at least 5 years; and

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(b) regardless of the age of the member when the person ceased to hold the office of president or deputy president.

Note—

See, however, section 241 for when a pension becomes payable.

(2) However, the annual pension to which the former senior board member is entitled is an annual pension—

(a) at a rate equal to 6% of the prescribed salary for each year for which the member held office as the president or a deputy president; but

(b) up to a maximum of 60% of the prescribed salary.

240 Pension if appointment ends because of ill health

(1) The Judges Pensions Act, section 5 applies to a former senior board member if—

(a) the member resigned the office of president or deputy president and both of the following apply—

(i) a specialist health practitioner certifies to the Minister that the member's resignation is because of permanent disability or infirmity;

(ii) the Minister is satisfied the member's resignation is because of permanent disability or infirmity; or

(b) the member's appointment as president or deputy president was terminated under section 226(3)(b) because of a proved incapacity to perform the duties of the office.

(2) However, the annual pension to which the former senior board member is entitled is an annual pension—

(a) at a rate equal to 6% of the prescribed salary for each year of the period consisting of—

(i) the period for which the former senior board member held office as the president or a deputy president; and

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(ii) the period for which the former senior board member could have held office as the president or a deputy president under the member's terms and conditions of appointment (including under an option to renew the appointment for a further term) if the member had not resigned, or the member's appointment had not been terminated, as mentioned in subsection (1); but

(b) up to a maximum of 60% of the prescribed salary.

(3) Also, a former senior board member is entitled to an annual pension as set out in this section only if the period mentioned in subsection (2)(a) is at least 5 years.

(4) In this section—

specialist health practitioner see the Health Practitioner Regulation National Law (Queensland), section 5.

241 When pension becomes payable

(1) This section applies if a former senior board member is entitled to a pension under the Judges Pensions Act, as applying under this division.

(2) The pension does not become payable until the former senior board member reaches 65 years of age.

242 Pension of spouse and children on death of former senior board member

(1) The Judges Pensions Act, sections 7 to 8A applies to a former senior board member if the member is entitled to a pension under the Judges Pensions Act, as applying under this division.

(2) The Judges Pensions Act, sections 7 and 8A applies to a spouse or child of a former senior board member who dies before the member reaches 65 years of age in the way the sections apply to a spouse or child of a judge who dies before retirement.

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(3) However, if the spouse or child is entitled to a pension under the Judges Pensions Act, section 7 or 8A, the pension is not payable to the spouse or child until the time when the former senior board member would have reached 65 years of age.

(4) The Judges Pensions Act, sections 8 and 8A applies to a spouse or child of a former senior board member who dies after the member reached 65 years of age in the way the sections apply to a spouse or child of a retired judge.

(5) In this section—

child includes adopted child.

242A What happens if former senior board member is removed from office as a judge

The Judges Pensions Act, section 16 applies to a person who is a former senior board member if the person was a judge removed from office as mentioned in the section after the person held office as the president or a deputy president.

242B What happens if former senior board member's appointment is terminated because of misconduct

This division does not apply to a former senior board member if the member's appointment is terminated under section 226(3)(a), unless the Governor in Council decides otherwise.

242C Former senior board member entitled to other pension

A pension is not payable, or stops being payable, under the Judges Pensions Act in relation to a former senior board member in the member's capacity as a former senior board member if a pension is payable under that Act in relation to the member in the member's capacity as—

(a) a judge; or

(b) a member of the Land Court, the industrial court, or the industrial commission.

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Note—

See the Judges Pensions Act, sections 2AC and 2BB for the pension entitlements of persons who have been appointed as the president or a deputy president.

242D Provision about agreements and court orders under Family Law Act 1975 (Cwlth)

(1) The Judges Pensions Act, part 2, division 2 applies to a former senior board member as follows—

(a) the reference to a retired judge in section 9 of that Act, definition *entitled former spouse* is taken to be a reference to a former senior board member;

(b) information allowed to be given under section 10 of that Act includes information about a benefit for a person who holds office as the president or a deputy president;

(c) sections 11 and 12 of that Act apply whether the person is the president, a deputy president or a former senior board member, at the operative time mentioned in the section;

(d) section 13 of that Act applies in relation to a person who is the president or a deputy president at the operative time mentioned in the section and dies while holding office as the president or a deputy president.

(2) However, if a person who is the president or a deputy president at the operative time mentioned in the Judges Pensions Act, section 13 dies before reaching 65 years of age, the pension payable to the person's entitled former spouse under the section does not become payable until the time when the person would have reached 65 years of age.

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Division 7 Other matters

242E Guidelines

The Minister may make guidelines about policies to help the parole board in performing its functions.

242F Annual report

(1) For each financial year, the parole board must give the Minister a report about—

(a) the operation of this Act in relation to parole orders, other than court ordered parole orders; and

(b) the activities of the parole board.

(2) The report must state the number of persons who, in that financial year, were—

(a) released on parole, other than under a court ordered parole order; and

(b) returned to prison after their parole order, including a court ordered parole order, was suspended or cancelled.

(3) The report must be given to the Minister on or before 30 September after the end of the financial year to which the report relates.

(4) The Minister must table the report in the Legislative Assembly within 14 sitting days after receiving the report.

242G Special report

If asked by the Minister, the parole board must give the Minister a written report about the operation of this Act in relation to—

(a) parole orders; or

(b) the performance of a function by the parole board.

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242GA Information relevant to administration

(1) If asked by the chief executive, the parole board must give the chief executive stated information about a matter affecting the management or administration of the board or the operations of the secretariat.

(2) If asked by the chief executive, the information must be given in writing.

242H Disclosure of interests

(1) This section applies to a board member if—

(a) the board member has an interest in an issue being considered, or about to be considered, by the parole board; and

(b) the interest conflicts or may conflict with the proper performance of the board member's duties about the consideration of the issue.

(2) As soon as practicable after the relevant facts come to the board member's knowledge, the member must disclose the nature of the interest to—

(a) the president; or

(b) if the member is the president, a deputy president.

(3) The disclosure must be recorded in the parole board's minutes.

(4) Unless the president, or deputy president, to whom the disclosure was made otherwise decides, the board member must not—

(a) be present when the parole board considers the issue; or

(b) take part in a decision of the parole board about the issue.

(5) A contravention of this section does not invalidate any decision of the parole board.

(6) However, if the parole board becomes aware a board member contravened this section, the board must reconsider any

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decision made by the board in which the member took part in contravention of this section.

242I Vacancies or failures in appointment of members

An act or proceeding of the parole board is not invalid by reason only of—

(a) a vacancy in its membership; or

(b) a failure to comply with section 221(3) or (4).

Part 3 General

243 Legal proceedings

A legal proceeding based on an act, omission or decision of the parole board may only be started against the board members under the name of the board.

244 Corrective services officer subject to direction of parole board

For enforcing a parole order, other than a court ordered parole order, a corrective services officer is subject to the directions of the parole board.

245 Chief executive must prepare and give report to parole board

If asked to do so by the parole board, the chief executive must give the board a report on, or information relating to, the following—

(a) a prisoner's application for a parole order, other than a court ordered parole order, or approval of a resettlement leave program;

(b) a prisoner;

(c) a parole order, including a court ordered parole order;

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(d) an approved resettlement leave program.

246 Invalidity of parole board's acts, proceedings or decisions

An act, proceeding or decision of the parole board is not invalidated or in any way prejudiced only because of a vacancy in the membership of the board at the time of the act, proceeding or decision.

247 Authentication of document

A document made by the parole board for this Act is sufficiently authenticated if it is signed by the president, or an officer of the secretariat at the president's direction.

247A When a person promotes terrorism

(1) For this chapter, a person promotes terrorism if the person—

(a) carries out an activity to support the carrying out of a terrorist act; or

(b) makes a statement in support of the carrying out of a terrorist act; or

(c) carries out an activity, or makes a statement, to advocate the carrying out of a terrorist act or support for the carrying out of a terrorist act.

(2) To remove any doubt, it is declared that a reference in subsection (1) to a terrorist act—

(a) includes a terrorist act that has not happened; and

(b) is not limited to a specific terrorist act.

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Chapter 6 Administration

Part 1 Grant of financial assistance

Division 1 Application for grant

248 Application

An entity, other than a public sector entity, may apply in writing to the chief executive for a grant of financial assistance to provide a program or service to help prisoners or their families.

249 No entitlement to financial assistance

The chief executive is not required to approve a grant of financial assistance for an entity.

250 Approval of grant

(1) The chief executive may approve a grant of financial assistance if satisfied the program or service funded by the grant will—

(a) promote prisoner welfare; or

(b) help former prisoners reintegrate into the community after their release from custody.

(2) In deciding whether to approve the grant, the matters the chief executive may consider include the following—

(a) whether the program or service is currently provided for;

(b) whether the entity is receiving financial assistance from another source to provide the program or service, and if so, the extent of the assistance.

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251 Who may receive approval for one-off financial assistance

The chief executive may approve a grant of one-off financial assistance for an entity.

Division 2 Conditions of grant

Subdivision 1 Agreement

252 No financial assistance without agreement

(1) If the chief executive approves a grant of financial assistance for an entity, the chief executive must enter into a written agreement with the entity (a ***financial assistance agreement***) for giving the financial assistance.

(2) The chief executive may give the financial assistance to the entity only if the entity has entered into a financial assistance agreement for the assistance.

(3) If the entity is not a body corporate, the member or members of the entity as required by the chief executive, must agree in writing to the conditions on which the grant is made.

(4) Despite subsection (2), the chief executive may give financial assistance before a financial assistance agreement is entered into if satisfied—

(a) there is an urgent need for the assistance; and

(b) it is not practicable to enter into a financial assistance agreement before assistance is given.

(5) If subsection (4) applies, the entity must—

(a) before receiving the financial assistance, agree in writing to enter into a financial assistance agreement after receiving the assistance within a stated time decided by the chief executive; and

(b) enter into the financial assistance agreement within that time.

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(6) Recurrent financial assistance must stop if the entity has not entered into a financial assistance agreement within the stated time.

253 What financial assistance agreement is to contain

(1) A financial assistance agreement must state each of the following the chief executive considers relevant to the financial assistance—

(a) the amount of assistance;

(b) whether the assistance is recurrent or one-off assistance;

(c) the period of the agreement and, for recurrent assistance, how often assistance is to be given;

(d) the type of program or service to be provided;

(e) the place at which the program or service is to be provided;

(f) the way the entity is to report to the chief executive;

(g) the circumstances in which the entity is in breach of the agreement;

(h) the action that may be taken by the chief executive for a breach of the agreement, including the suspension or stopping of financial assistance.

(2) A financial assistance agreement must also state that it is a condition of the agreement that the grantee give the chief executive written notice within 30 days after becoming aware of any of the following matters, unless the grantee has a reasonable excuse—

(a) the grantee's address changes;

(b) for a nonprofit corporation—the grantee is under external administration under the Corporations Act or a similar law of a foreign jurisdiction;

(c) a matter prescribed under a regulation.

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(3) The agreement may also include other matters the chief executive considers necessary to give effect to or enforce the agreement.

(4) If there is an inconsistency between the agreement and subdivisions 2 to 4, the agreement is ineffective to the extent of the inconsistency.

254 Chief executive's powers not limited by agreement

The chief executive's powers under this part are not limited by the inclusion of a matter in an agreement under section 253.

Subdivision 2 Insurance and prescribed requirements

255 Insurance

(1) A grantee must ensure there is in force, for the program or service for which financial assistance is given under this part, adequate insurance cover to manage the risks to the grantee.

(2) Without limiting subsection (1), the insurance cover must comply with any requirements under another law or the financial assistance agreement.

256 Prescribed requirements

(1) A regulation may prescribe requirements relating to the provision of programs or services by grantees.

(2) Without limiting subsection (1), a regulation may prescribe a requirement about—

(a) how a grantee conducts its operations while providing a program or service for which it has received financial assistance under this part, including—

(i) financial management and accountability; and

(ii) corporate governance; or

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(b) how a grantee delivers the programs or services, including—

(i) deciding eligibility and priority for programs or services; and

(ii) giving information; and

(iii) resolving disputes.

(3) A requirement may include provision about—

(a) preparing, maintaining, publishing or implementing a policy; or

(b) reporting to the chief executive; or

(c) maintaining any accreditation that is relevant to the delivery of the program or service.

Example—

accreditation to deliver sexual assault counselling

257 Grantee must comply with prescribed requirements

A grantee must not contravene a prescribed requirement relating to the provision of a program or service for which the grantee has been given financial assistance under this part.

Notes—

1 Under section 262, a grantee may be given a compliance notice requiring the grantee to remedy a contravention of a prescribed requirement.

2 The extent of a grantee's compliance with, or contravention of, a prescribed requirement is likely to be a relevant matter for the chief executive to consider when deciding the further assistance, if any, to give to the grantee under this part.

3 A financial assistance agreement may include a provision about the consequences of a contravention of a prescribed requirement.

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Subdivision 3 Monitoring compliance with conditions

258 Chief executive's examination of records

(1) The chief executive may ask a grantee to produce to the chief executive records kept in relation to amounts received under the grant.

(2) The chief executive may examine and make copies of, or take extracts from, the records relating to the receipt and spending of the amounts.

Subdivision 4 Noncompliance with conditions and prescribed requirements

259 Chief executive's powers if suspicion that condition not complied with

The chief executive may exercise 1 or more of the powers under sections 260 and 261 if the chief executive reasonably suspects that a condition of a grant of financial assistance is not being, or has not been, complied with.

260 Chief executive may ask grantee to provide explanation

(1) The chief executive may, in writing, ask the grantee to explain to the chief executive why—

(a) further payments under the grant should be made; and

(b) amounts paid under the grant should not be required to be refunded.

(2) The request must allow 21 days after the day of its receipt before the grantee must give the explanation.

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261 Chief executive may suspend further payments

The chief executive may suspend further payments under the grant if the chief executive makes a request under section 260 and the grantee—

(a) does not give an explanation to the chief executive within 21 days after receiving the request; or

(b) fails to satisfy the chief executive that the conditions of the grant are being, and have been, complied with.

262 Compliance notice

(1) This section applies if the chief executive reasonably believes a grantee—

(a) is contravening a prescribed requirement; or

(b) has contravened a prescribed requirement in circumstances that make it likely the contravention will continue or be repeated.

(2) The chief executive may give the grantee a notice (a ***compliance notice***) requiring the grantee to remedy the contravention.

(3) The compliance notice must state the following—

(a) that the chief executive reasonably believes the grantee—

(i) is contravening a prescribed requirement; or

(ii) has contravened a prescribed requirement in circumstances that make it likely the contravention will continue or be repeated;

(b) the prescribed requirement the chief executive believes is being, or has been, contravened;

(c) briefly, how it is believed the prescribed requirement is being, or has been, contravened;

(d) that the grantee must remedy the contravention within a stated reasonable time;

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(e) that if the grantee fails, without reasonable excuse, to comply with the compliance notice, the chief executive may, under subsection (5), not give financial assistance to the grantee.

(4) The compliance notice may also state the steps that the chief executive reasonably believes are necessary to remedy the contravention, or avoid further contravention, of the prescribed requirement.

(5) If the grantee fails to comply with the compliance notice, the chief executive is not required to give any assistance, or further assistance, to the grantee under a financial assistance agreement in force when the relevant compliance notice was given, despite any provision of the agreement.

(6) This section does not limit—

(a) a remedy available to the chief executive under a financial assistance agreement; or

(b) the chief executive's powers apart from this section.

Part 2 Chief executive

Division 1 General functions and powers

263 Functions and powers

(1) Subject to any direction of the Minister and any administrative arrangements made by the Governor in Council, the chief executive is responsible for—

(a) the security and management of all corrective services 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—

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(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 under an Act; and

Example—

The chief executive may order the inspection of a corrective services facility whether or not an incident has happened at the facility.

(b) the powers of an inspector, including the chief inspector, and a corrective services officer.

(3) To remove any doubt, it is declared that the chief executive may exercise a power mentioned in subsection (2)(b) in a place other than a corrective services facility.

Example—

The chief executive may order a search of a prisoner who is in a vehicle being used to transport offenders.

Division 2 Particular powers and obligations

264 Administrative directions

(1) The chief executive may, in writing, give an administrative direction to facilitate the effective and efficient management of corrective services.

Example—

a direction to ensure mobile telephones are not brought into a corrective services facility

(2) Each person to whom the direction applies must comply with it.

265 Administrative procedures

(1) The chief executive must make administrative procedures to facilitate the effective and efficient management of corrective services.

Example—

a procedure for dealing with applications for early discharge

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(2) Also, the chief executive must make administrative procedures to facilitate the effective and efficient provision under this Act of support to proper officers of courts by corrective services officers.

Note—

The support provided under this Act comprises—

(a) helping the proper officer of a court under section 308; and

(b) performing functions and exercising powers delegated to corrective services officers by the proper officer of a court under section 309.

(3) Before making administrative procedures under subsection (2), the chief executive must consult with the proper officer of the courts affected by the administrative procedures.

(4) The administrative procedures must take into account the special needs of offenders.

(5) The chief executive must publish the administrative procedures on the department's website on the internet.

(6) However, the chief executive need not publish an administrative procedure if the publication—

(a) may pose a risk to the security or good order of a corrective services facility; or

(b) may compromise the safety or effective management of offenders.

266 Programs and services to help offenders

(1) The chief executive must establish or facilitate programs or services—

(a) for the religious welfare of prisoners; and

(b) to support the health and wellbeing of prisoners; and

(c) to help prisoners reintegrate into the community after their release from custody, including by acquiring skills; and

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(d) to initiate, keep and improve relationships between offenders and members of their families and the community; and

(e) to help rehabilitate offenders.

(2) The programs or services must take into account the special needs of offenders.

267 Monitoring devices

(1) If the chief executive considers it reasonably necessary, the chief executive may, for monitoring an offender's location, direct the offender—

(a) to wear a stated device; or

(b) to permit the installation of any device or equipment at a stated place, including, for example, the place where the offender resides.

Example—

The chief executive may require an offender who is released on parole to wear a monitoring device.

(2) An offender who has been directed under subsection (1) or section 200A(2) to wear a stated device or permit the installation of any device or equipment (each ***associated equipment***) at a stated place must not, without a reasonable excuse, remove or tamper with the stated device or associated equipment.

Maximum penalty for subsection (2)—30 penalty units or 3 months imprisonment.

267A Establishing and operating particular infrastructure

(1) The chief executive may, on relevant premises, establish and operate infrastructure to be used for a purpose relating to the chief executive's functions under section 263 or another Act, including, for example—

(a) a community corrections office; or

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(b) a facility for providing education and training to corrective services officers; or

(c) a facility to be used for a purpose associated with a corrective services facility.

Examples for paragraph (c)—

administration office, staff accommodation, storage facility

(2) In this section—

relevant premises means premises owned or leased by the department on behalf of the State.

269 Commissioner to provide police to help chief executive

(1) The chief executive may ask the commissioner to provide police officers to help the chief executive in the performance of the chief executive's functions.

(2) The commissioner must comply with the request.

270 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.

271 Delegation of functions of chief executive

(1) The chief executive may delegate to an appropriately qualified person (the ***delegate***) a function of the chief executive under this Act, other than section 271B(3), 306F(1) or 306K(1).

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(2) The delegation may permit the delegate to subdelegate the delegated function to an appropriately qualified person.

(3) In this section—

appropriately qualified person includes any of the following—

(a) an employee of the department;

(b) an engaged service provider or an employee of an engaged service provider;

(c) a corrective services officer.

function includes a power.

Division 3 Declaration of emergency

271A Definition for division

In this division—

corrective services facility includes part of a corrective services facility.

271B Declaration of emergency

(1) This section applies if the chief executive—

(a) reasonably believes a situation exists that is likely to threaten—

(i) the security or good order of a corrective services facility; or

(ii) the health or safety of a prisoner or another person at a corrective services facility; and

(b) is satisfied the situation justifies making a declaration under this section.

(2) This section also applies if —

(a) there is a public health emergency; and

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(b) the chief executive is satisfied the public health emergency may affect the health or safety of a prisoner or another person at a corrective services facility.

(3) The chief executive may—

(a) declare that an emergency exists in relation to the corrective services facility for a stated period; and

(b) declare a place to be a corrective services facility (a ***temporary corrective services facility***) for the period the declaration of the emergency is in force.

(4) However, the chief executive may declare an emergency under subsection (3) only if the Minister approves the making of the declaration.

(5) Before declaring an emergency under subsection (3), the chief executive must take reasonable steps to consult with—

(a) for an emergency that relates to a disaster—

(i) the State disaster coordinator; and

(ii) the commissioner under the *Fire Services Act 1990*; and

(iii) if the State disaster coordinator is not a police officer—the commissioner of the police service; and

(b) for an emergency that relates to a public health emergency—the chief health officer; and

(c) otherwise—the chief executive of a department or other agency that has a function of co-coordinating the State's response to that type of emergency.

(6) A failure to consult under subsection (5) does not affect the validity of a declaration made under this section.

(7) The chief executive must ensure the stated period for the declaration is not longer than is reasonably necessary given the emergency.

(8) However, the stated period for the declaration must not be longer than—

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(a) if the emergency relates to a public health emergency—21 days; or

(b) if the emergency relates to a disaster that threatens the security of a corrective services facility or safety of people at the corrective services facility—14 days; or

(c) if the emergency relates to a risk to the health of prisoners or another person at a corrective services facility without also relating to a public health emergency—7 days; or

(d) for all other emergencies—3 days.

(9) The declaration lapses at the end of the stated period unless it is sooner revoked by the chief executive.

(10) However, if the declaration relates to a public health emergency and the public health emergency ends before the declaration lapses under subsection (8), the declaration also lapses.

(11) In this section—

chief health officer see the *Hospital and Health Boards Act 2011*, schedule 2.

disaster means a disaster within the meaning of the *Disaster Management Act 2003*, section 13.

public health emergency means a public health emergency declared under the *Public Health Act 2005*, section 319(2).

State disaster coordinator see the *Disaster Management Act 2003*.

271C Additional powers of chief executive during declared emergency

(1) This section applies if the chief executive declares an emergency exists in relation to a corrective services facility under section 271B.

(2) While the declaration is in force, the chief executive may—

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(a) restrict any activity in the corrective services facility, including, for example, restricting movement within the facility to the extent necessary because of the emergency; or

(b) restrict access to the corrective services facility, including, for example—

(i) refusing entry to the facility by any person; and

(ii) refusing entry to the facility by a person who exhibits symptoms of a declared illness; and

(iii) refusing entry to the facility by a person who has not been screened for symptoms of a declared illness; or

Example of screening for an illness—

taking the temperature of a person

(c) isolate prisoners in the corrective services facility to the extent necessary because of the emergency, including, for example, isolating prisoners, individually or in groups, because of—

(i) damage to the facility; or

(ii) the need to quarantine prisoners likely to have been exposed to a declared illness; or

(d) limit or withhold the privileges of a prisoner at the corrective services facility if the chief executive reasonably believes that because of the emergency it will not be practicable for the prisoner to receive privileges to the extent the prisoner would otherwise have received them; or

(e) authorise the non-invasive screening of persons at or entering the corrective services facility for symptoms of a declared illness; or

(f) authorise police officers to perform a function or exercise a power of a corrective services officer at the corrective services facility, under the direction of the senior police officer present; or

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(g) transfer prisoners to another corrective services facility, including a temporary corrective services facility declared under section 271B(3)(b); or

(h) return prisoners to the corrective services facility.

(3) In this section—

declared illness, for a declaration made under section 271B, means an illness for which the declaration was made.

271D Publication of declaration of emergency

(1) As soon as possible after the chief executive declares an emergency under section 271B, the chief executive must publish the following information on the department's website—

(a) that the declaration was made;

(b) the reasons for making the declaration;

(c) the period for which the declaration is in effect;

(d) the powers that may be exercised because the declaration was made.

(2) The chief executive must update the information published under subsection (1) as soon as practicable after the information changes.

Part 3 Engaged service providers

272 Engaging service provider

(1) The chief executive may, in writing, authorise an entity (an ***engaged service provider***) to perform an office holder's functions (***authorised 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 subsection (1).

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(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 requiring the engaged service provider to obtain the chief executive's approval before delegating a particular power

(b) imposing particular duties on the engaged service provider's employees.

Examples—

- a condition requiring the engaged service provider to ensure the provider's employees receive the training required by the chief executive
- a condition requiring the engaged service provider to ensure the provider's employees are subject to the approved code of conduct for public service agencies, and any approved standard of practice for the department, under the *Public Sector Ethics Act 1994*

(4) The authorisation of an engaged service provider to perform an authorised function does not relieve the chief executive of the chief executive's obligation to ensure the function is properly performed.

(5) Laws apply to the engaged service provider, and to persons in relationship to the engaged service provider, in the performance of an authorised function, or in 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—

(i) the appointment of the chief inspector or inspectors; and

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(ii) the appointment or assignment of official visitors; or

(b) another Act relating to corrective services.

office holder means—

(a) the chief executive; or

(b) a corrective services officer.

273 Acts applying to engaged service provider

(1) The *Right to Information Act 2009* 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 chief executive officer of the provider; and

(c) the Minister were the responsible Minister.

(2) The *Crime and Corruption 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 chief executive officer of the provider; and

(c) a person employed by the provider were a person holding an appointment in a unit of public administration.

(3) Subject to sections 17, 66(5), 68(6) and 71(4), 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

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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.

(5) The *Public Interest Disclosure Act 2010* applies to an engaged service provider as if—

(a) the provider were a public sector entity; and

(b) a person employed by the provider were a public officer; and

(c) the chief executive of the provider were the chief executive officer of the provider.

274 Review of engaged service provider's performance

(1) The chief executive may appoint an appropriately qualified person to review an engaged service provider's performance of its authorised functions.

(2) The engaged service provider must allow the person unlimited access to—

(a) records relating to the performance of the authorised functions; or

(b) persons employed or engaged by the 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.

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(3) The person must prepare a report on the review for the chief executive.

Part 4 Corrective services officers

275 Appointing corrective services officers

The chief executive may appoint an appropriately qualified public service officer, or another appropriately qualified person, as a corrective services officer.

276 Powers of corrective services officer

(1) A corrective services officer—

(a) has the powers given to the officer under an 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 corrective services officer.

277 Issue of identity card

(1) The chief executive must issue an identity card to each corrective services officer.

(2) The identity card must—

(a) contain a recent photo of the corrective services officer; and

(b) contain a copy of the corrective services officer's signature; and

(c) identify the person as a corrective services officer; and

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(d) state an expiry date for the card.

(3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

278 Production or display of identity card

(1) In exercising a power under this Act in relation to a person, a corrective services officer must—

(a) produce the officer's identity card for the person's inspection before exercising the power; or

(b) have the identity card displayed so it is clearly visible to the person when exercising the power.

(2) However, subsection (1) does not apply if it is not practicable, in the circumstances, to comply with the subsection.

279 Corrective services dog

The chief executive may, in the approved form, certify that a dog is a corrective services dog.

280 Use of corrective services dog

(1) A corrective services dog may be used—

(a) to search for prohibited things; or

Example—

A corrective services dog may be used to do a scanning search of persons in a corrective services facility for drugs.

(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 perform functions under this Act.

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(2) Subsection (1)(c) to (e) applies subject to the requirements of chapter 3, part 5.

Note—

Chapter 3, part 5 deals with the use of force.

281 Corrective services dog may accompany corrective services officer

(1) A corrective services dog under the control of a corrective services officer who is performing duties under this Act may enter and remain on any place that the officer may lawfully enter or remain on.

(2) Subsection (1) applies despite the provisions of any other Act or law.

282 Application of local laws

The provisions of a local law do not apply to—

(a) a corrective services dog; or

(b) a corrective services officer handling a corrective services dog in relation to anything done by the officer in performing the officer's duties under this Act.

Part 6 Official visitors

285 Appointing official visitor

(1) The chief executive may appoint an appropriately qualified person as an official visitor for a period of up to 3 years.

(2) The person may be reappointed 1 or more times, for a period of up to 3 years, if the chief executive is satisfied—

(a) the person continues to be appropriately qualified; and

(b) reappointing the person is likely to benefit a corrective services facility or prisoners of a corrective services facility.

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(3) The chief executive must not appoint as an official visitor—

(a) an employee of a public sector entity; or

(b) an employee of an engaged service provider.

(4) The person is appointed under this Act and not the *Public Sector Act 2022*.

(5) The official visitor is prescribed not to be a public sector employee for the *Public Sector Act 2022*, section 12(2)(g).

286 Assigning official visitor to corrective services facility

(1) The chief executive must ensure that—

(a) if 2 or more official visitors are assigned to visit a corrective services facility, at least 1 of the official visitors is a lawyer; and

(b) if a significant proportion of prisoners in custody in a corrective services facility are Aboriginal or Torres Strait Islander prisoners, at least 1 of the official visitors assigned to visit the facility is an Aboriginal or Torres Strait Islander person; and

(c) at least 1 of the official visitors assigned to visit a corrective services facility for female prisoners is a woman.

(2) An official visitor must visit the corrective services facility to which the official visitor has been assigned—

(a) once each month, unless otherwise directed by the chief executive; and

(b) when asked to do so by the chief executive.

(3) If an official visitor is unable to visit a corrective services facility as required by subsection (2), the official visitor must immediately notify the chief executive.

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287 Remuneration, allowances and expenses

An official visitor is entitled to the remuneration, allowances and expenses approved by the chief executive.

288 Terminating appointment

(1) The chief executive may terminate an official visitor's appointment if the official visitor—

(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 the chief executive reasonably considers is adequate justification for terminating the appointment.

(2) An official visitor may resign by signed notice given to the chief executive.

289 Prisoner's request to see official visitor

(1) If a prisoner indicates to a corrective services officer that the prisoner wants to see an official visitor, the corrective services officer must—

(a) record the fact in an official visitor register; and

(b) advise an official visitor of the fact when the official visitor next visits the corrective services facility.

(2) A prisoner is not required, and must not be asked, to tell a corrective services officer why the prisoner wants to see an official visitor.

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290 Official visitor's function

(1) An official visitor must investigate a complaint made by a prisoner, but only if the complaint is—

(a) made by a prisoner at the corrective services facility to which the official visitor is assigned; and

(b) about an act or omission of any of the following relating to the prisoner, whether the act was done or omission made before or after the commencement of this section—

(i) the chief executive;

(ii) a person purportedly performing a function, or exercising a power, of the chief executive;

(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 personal or professional 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 corrupt conduct, unless the chief executive has advised the official visitor that—

(i) the complaint has been referred to the Crime and Corruption Commission; and

(ii) the Crime and Corruption Commission's chairperson has advised the chief executive that the commission does not intend to investigate the complaint; or

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(f) the official visitor reasonably believes the complaint is frivolous or vexatious.

(3) An official visitor must act impartially when investigating a complaint.

(4) An official visitor may arrange for another official visitor assigned 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 a delay because of the arrangement.

(5) After investigating a complaint, an official visitor—

(a) may make a recommendation to the chief executive; and

(b) must advise the prisoner—

(i) whether the official visitor has made a recommendation to the chief executive; and

(ii) if a recommendation has been made—the terms of the recommendation, without disclosing confidential information.

(6) To remove any doubt, it is declared that—

(a) the chief executive 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.

291 Official visitor powers

(1) An official visitor assigned 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 271B; and

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(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 this Act relating to a complaint the official visitor is investigating, other than a document to which legal professional privilege attaches.

(2) The chief executive must give an official visitor reasonable help to exercise a power given to the official visitor under this Act.

292 Official visitor reports

An official visitor must give to the chief executive—

(a) if asked by the chief executive, a written report about an investigation; and

(b) each month, a written report summarising the number and types of complaints the official visitor has investigated.

Part 7 Elders, respected persons and spiritual healers

293 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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Part 8 Inspectors

Division 1 Appointment

294 Appointment and functions of inspectors

(1) The chief executive may appoint an appropriately qualified person as an inspector.

(2) The function of an inspector is—

(a) to investigate an incident; or

(b) to investigate alleged misconduct or alleged corrupt conduct of a staff member; or

(c) to inspect a corrective services facility or a community corrections office; or

(d) to review the operations of a corrective services facility or a community corrections office; or

(e) to review services offered at a corrective services facility or a community corrections office; or

(f) to review services provided under this Act by corrective services officers to support the proper officer of a court.

Note—

The support provided under this Act comprises—

(a) helping the proper officer of a court under section 308; and

(b) performing functions and exercising powers delegated to corrective services officers by the proper officer of a court under section 309.

295 Appointing inspectors for an incident

(1) For each incident, the chief executive must appoint at least 2 inspectors.

(2) At least 1 of the inspectors must be—

(a) a person who is not an employee of—

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(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 an Aboriginal or Torres Strait Islander prisoner—an Aboriginal or Torres Strait Islander person.

(3) However, the chief executive need not appoint inspectors to investigate an incident if the incident is being investigated by an officer of a law enforcement agency.

296 Appointing chief inspector

(1) The chief executive may appoint an inspector who is a public service officer to be the chief inspector.

(2) In addition to the functions of an inspector, the chief inspector has the function to coordinate—

(a) the official visitor scheme established for this Act; and

(b) inspections and reviews mentioned in section 294(2).

297 Appointment conditions and limit on powers

(1) An inspector holds office on any conditions stated in—

(a) the inspector's instrument of appointment; or

(b) a signed notice given to the inspector; or

(c) a regulation.

(2) An inspector who is not a public service officer is entitled to the remuneration, allowances and expenses approved by the chief executive.

(3) The instrument of appointment, a signed notice given to the inspector or a regulation may limit the inspector's powers under this Act.

(4) In this section—

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signed notice means a notice signed by the chief executive.

298 Issue of identity card

(1) The chief executive must issue an identity card to each inspector.

(2) The identity card must—

(a) contain a recent photo of the inspector; and

(b) contain a copy of the inspector's signature; and

(c) identify the person as an inspector under this Act; and

(d) state an expiry date for the card.

(3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

299 Production or display of identity card

(1) In exercising a power under this Act in relation to a person, an inspector must—

(a) produce the inspector's identity card for the person's inspection before exercising the power; or

(b) have the identity card displayed so it is clearly visible to the person when exercising the power.

(2) However, if it is not practicable to comply with subsection (1), the inspector must produce the identity card for the person's inspection at the first reasonable opportunity.

300 When inspector ceases to hold office

(1) An inspector ceases to hold office if any of the following happens—

(a) the term of office stated in a condition of office ends;

(b) under another condition of office, the inspector ceases to hold office;

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(c) the inspector's resignation under section 301 takes effect.

(2) Subsection (1) does not limit the ways an inspector may cease to hold office.

(3) In this section—

condition of office means a condition on which the inspector holds office.

301 Resignation

An inspector may resign by signed notice given to the chief executive.

302 Return of identity card

A person who ceases to be an inspector must return the person's identity card to the chief executive within 14 days after ceasing to be an inspector, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Division 2 Powers

303 Inspector's powers generally

(1) For performing a function mentioned in section 294(2), an inspector may—

(a) at any time, enter—

(i) a corrective services facility; or

(ii) a community corrections office; or

(b) interview any prisoner or staff member; or

(c) on request, have access to a place in a corrective services facility or community corrections office where

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the inspector may interview a prisoner or staff member out of the hearing of other persons; or

(d) inspect and copy any document kept at a corrective services facility or community corrections office that is relevant to the performance by the inspector of the function for which the inspector was appointed, other than a document to which legal professional privilege attaches.

(2) A corrective services officer must give the inspector reasonable help to exercise a power given to the inspector under this Act.

303A Inspector's powers relating to the proper officer of a court

(1) For conducting a review under section 294(2)(f) of services provided by corrective services officers to the proper officer of a court, an inspector may—

(a) with the consent or at the request of the proper officer—

(i) enter an area in the court facilities not open to members of the public; and

(ii) interview any prisoner, staff member, or court officer present at the facilities; and

(iii) have access to a place in the facilities where the inspector may conduct an interview under subparagraph (ii) out of the hearing of other persons; and

(iv) inspect and copy a document kept at the facilities that is relevant to services provided by corrective services officers, other than a document to which legal professional privilege attaches; and

(b) request the proper officer to give stated information relevant to the review.

(2) The proper officer of a court is not under an obligation to give information requested by an inspector but, if the request is

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refused, the proper officer must give the inspector a written notice stating the reasons for the refusal.

304 Inspector's power to require information

(1) This section applies if an inspector investigating an incident, or alleged misconduct or alleged corrupt conduct of a staff member, reasonably believes a person performing a function under this Act may be able to give information about the incident or alleged misconduct or alleged corrupt conduct.

(2) The inspector may require the person to give information about the incident or alleged misconduct or alleged corrupt conduct.

(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.

305 Inspectors' reports

(1) The inspectors appointed to investigate an incident, or alleged misconduct or alleged corrupt conduct of a staff member, must give a written report to the chief executive stating the result of the investigation and any recommendations.

(2) An inspector appointed to carry out an inspection, or to conduct a review, mentioned in section 294(2) must give a written report to the chief executive stating the result of the inspection or review and any recommendations.

(3) If the report states the result of a review mentioned in section 294(2)(f), the chief executive must give a copy of the

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report to the proper officer of the court to whom the services subject to the review were provided.

Part 8A Authorised practitioners

305A Definition for part

In this part—

health service means a service for maintaining, improving, restoring or managing people's health and wellbeing.

305B Appointment of authorised practitioner

(1) The chief executive may, by instrument in writing, appoint the following persons as an authorised practitioner—

(a) an accredited health service provider;

(b) a doctor;

(c) a nurse;

(d) an occupational therapist;

(e) a psychologist.

(2) However, the chief executive may appoint a person as an authorised practitioner only if—

(a) the person is a corrective services officer or a public service officer; and

(b) the chief executive is satisfied the person has the necessary competencies and training, as stated in the authorised practitioner policy, to perform the functions of an authorised practitioner.

(3) An authorised practitioner has the functions and powers given under this Act.

(4) In this section—

accredited health service provider means an individual who—

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(a) provides a health service, including, for example, a social worker or speech pathologist; and

(b) holds the necessary professional registration, licensing or authorisation, as stated in the authorised practitioner policy, to provide the health service.

Example of a professional registration, licensing or authorisation—

an accreditation given by the Australian Association of Social Workers

authorised practitioner policy means a policy made by the chief executive under section 305C.

occupational therapist means a person registered under the Health Practitioner Regulation National Law to practise, other than as a student, in the occupational therapy profession.

305C Authorised practitioner policy

(1) The chief executive may make a policy about the following matters relating to an authorised practitioner—

(a) the competencies and training necessary for a person to perform the functions of an authorised practitioner;

(b) the professional registration, licensing or authorisation necessary to provide a health service.

(2) The chief executive must publish the policy on the department's website.

Part 9 Volunteers

306 Authorising volunteer

(1) The chief executive may, in writing, authorise a person (a ***volunteer***) to perform—

(a) unpaid work for the welfare of prisoners; or

(b) unpaid supervision of offenders who are subject to community based orders.

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(2) A volunteer must comply with any condition stated in the authorisation and with any direction given by the chief executive for the security or good order of the corrective services facility.

(3) A volunteer is entitled to the payment of expenses approved by the chief executive.

Part 9A Alcohol and drug testing

Division 1 Preliminary

306A Definitions for part

In this part—

alcohol test means a test for determining whether a corrective services person is over the limit applying to the person when the test is conducted.

corrective services officer recruit means a person who is participating in a training program.

corrective services person see section 306B.

low alcohol limit see section 306C(b).

no alcohol limit see section 306C(a).

random alcohol test means an alcohol test conducted under section 306F.

random substance test means a substance test conducted under section 306K.

sample means—

(a) for an alcohol test—a sample of breath or blood; or

(b) for a substance test—a sample of urine or another bodily substance, including, for example, hair or saliva.

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substance test means a test for determining the presence and concentration of a dangerous drug or targeted substance in a sample taken from a corrective services person.

targeted substance means a substance, other than a dangerous drug, that may impair a person's physical or mental capacity.

training program means a training program about corrective services, the successful completion of which is a requirement for appointment as a corrective services officer.

306B Persons to whom part applies

This part applies to a person (a ***corrective services person***) who is—

(a) a corrective services officer; or

(b) a corrective services officer recruit.

Division 2 Provisions about alcohol testing

306C When is a person over the limit

For this part—

(a) a person is over the ***no alcohol limit*** if—

(i) the concentration of alcohol in the person's breath is more than 0g of alcohol in 210L of breath; or

(ii) the concentration of alcohol in the person's blood is more than 0g of alcohol in 100mL of blood; and

(b) a person is over the ***low alcohol limit*** if—

(i) the concentration of alcohol in the person's breath is, or is more than, 0.02g of alcohol in 210L of breath; or

(ii) the concentration of alcohol in the person's blood is, or is more than, 0.02g of alcohol in 100mL of blood.

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306D Alcohol limits

(1) A corrective services person who is on duty for performing a function or exercising a power under this Act or another Act must not be over the low alcohol limit.

(2) A corrective services person who is on duty for performing a function or exercising a power under this Act or another Act, and is performing a role prescribed by regulation for this section, must not be over the no alcohol limit.

(3) For subsections (1) and (2), a corrective services person is on duty for performing a function or exercising a power under this Act or another Act if the person—

(a) is about to perform the function or exercise the power; or

(b) is performing the function or exercising the power; or

(c) has just performed the function or exercised the power.

306E Circumstances for alcohol testing

(1) The chief executive may require a corrective services person to submit to an alcohol test if—

(a) the corrective services person has been involved in an incident; or

(b) the test is required under section 306F; or

(c) the chief executive reasonably suspects the person is contravening, or has contravened, section 306D(1) or (2).

(2) The chief executive may require a corrective services officer recruit to submit to an alcohol test at any time during the period in which the recruit is participating in a training program.

(3) The chief executive may require a person who has been notified of the person's appointment as a corrective services officer recruit to submit to an alcohol test before the person starts a training program.

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306F Random alcohol testing

(1) The chief executive may require a corrective services person to submit to a random alcohol test.

(2) A regulation may prescribe the criteria for deciding—

(a) when and where a random alcohol test may be conducted; and

(b) other matters about the conduct of a random alcohol test.

306G Giving samples for alcohol testing

(1) A regulation may prescribe the following for an alcohol test—

(a) the types of samples a person may be required to give;

(b) the methods of collection of a sample.

(2) The chief executive may require a corrective services person to give to a person prescribed by regulation for this section (a ***prescribed person***) at a specified place and time a sample for the purpose of an alcohol test.

(3) If the sample is required because the corrective services person has been involved in an incident, the requirement must be made and the sample must be given as soon as reasonably practicable after the incident happens.

(4) The prescribed person may give reasonably necessary directions to the corrective services person to facilitate the giving of the sample for the alcohol test.

(5) As soon as practicable after the sample has been given, the sample must be dealt with in the way prescribed by regulation for this section.

306H Failure to give sample for alcohol testing

A corrective services person who fails to give a sample as required for alcohol testing is taken to have been tested for alcohol and to have been over the limit for alcohol applying to the person when the failure happened.

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Division 3 Provisions about drug testing

306I Dangerous drugs and targeted substances levels

(1) A corrective services person must not have evidence of a dangerous drug present in a sample taken from the person at any time for substance testing.

(2) A corrective services person who is lawfully taking a targeted substance must not perform duties in or involving an operational capacity or critical role if the substance impairs the person's capacity to perform the duties without danger to the person or someone else.

(3) A corrective services person must not have present in a sample taken from the person for substance testing—

(a) evidence of a targeted substance that the person may not lawfully take; or

(b) evidence of having taken a targeted substance in a way contrary to a direction of a health practitioner or a recommendation of the manufacturer of the substance.

306J Circumstances for substance testing

(1) The chief executive may require a corrective services person to submit to a substance test if—

(a) the corrective services person has been involved in an incident; or

(b) the test is required under section 306K; or

(c) the chief executive reasonably suspects the person is contravening, or has contravened, section 306I.

(2) The chief executive may require a corrective services officer recruit to submit to a substance test at any time during the period in which the recruit is participating in a training program.

(3) The chief executive may require a person who has been notified of the person's appointment as a corrective services

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officer recruit to submit to a substance test before the person starts a training program.

306K Random substance testing

(1) The chief executive may require a corrective services person to submit to a random substance test.

(2) A regulation may prescribe the criteria for deciding—

(a) when and where a random substance test may be conducted; and

(b) other matters about the conduct of a random substance test.

306L Giving sample for substance testing

(1) A regulation may prescribe the following for a substance test—

(a) the types of samples a person may be required to give;

(b) the methods of collection of a sample.

(2) The chief executive may require a corrective services person to give to a person prescribed by regulation (a ***prescribed person***) at a specified place and time a sample for the purpose of a substance test.

(3) If the sample is required because the corrective services person has been involved in an incident, the requirement must be made and the sample must be given as soon as reasonably practicable after the incident happens.

(4) The prescribed person may give reasonably necessary directions to the corrective services person to facilitate the giving of the sample for the substance test.

(5) As soon as practicable after the sample has been given, the sample must be dealt with in the way prescribed by regulation for this section.

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306M Failure to give sample for substance testing

A corrective services person who fails to give a sample as required for substance testing is taken to have been tested for a targeted substance and to have been found to have had evidence of a targeted substance in the person's sample.

Division 4 What happens if a test result is positive

306N Positive alcohol or substance test

(1) This section applies if an alcohol test or substance test conducted under this part shows a corrective services person, when tested—

(a) was over the limit applying to the person when the test was conducted; or

(b) had evidence of a dangerous drug in the person's sample; or

(c) had evidence of a targeted substance in the person's sample and the person was contravening section 306I(2) or (3).

(2) The chief executive may do any 1 or more of the following—

(a) suspend the corrective services person from duty until the person is no longer over the relevant alcohol limit or no longer has evidence of a dangerous drug or targeted substance in a sample given by the person;

(b) correct the corrective services person by way of guidance;

(c) require the corrective services person to undergo counselling or rehabilitation approved by the chief executive;

(d) require the corrective services person to submit to a medical examination under the *Public Sector Act 2022*, chapter 3, part 8, division 5;

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(e) take disciplinary or other action against the corrective services person under the *Public Sector Act 2022*, chapter 3, part 8, division 3 or 4 or chapter 4, part 4, division 3;

(f) require the corrective services person to submit to further testing from time to time until the chief executive is satisfied the reason for making the requirement no longer exists.

(3) Subsection (2)(a), (b), (c) and (e) does not apply to the corrective services person if the person was contravening section 306I(2).

306O Effect of failure to comply

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

(a) fails to attend or complete counselling or rehabilitation under a requirement under section 306N(2)(c); or

(b) fails to submit to a medical examination under a requirement under section 306N(2)(d).

(2) The chief executive may take disciplinary action against the corrective services person under the *Public Sector Act 2022*.

Division 5 General

306P Interfering with samples

A person must not unlawfully interfere with a sample given under this part for an alcohol test or substance test.

Maximum penalty—100 penalty units.

306Q Alcohol or drug test results generally inadmissible

(1) Evidence of the following is inadmissible in a civil or criminal proceeding before a court—

(a) anything done under this part;

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(b) the result of any test conducted under this part.

(2) Also, the chief executive and anyone else involved in any way in anything done under this part can not be compelled to produce to a court any document kept or to disclose to a court any information obtained because of the doing of the thing.

(3) This section does not apply to—

(a) a proceeding for a charge of an offence arising from an incident; or

(b) an inquest in a Coroners Court into the death of a person in an incident; or

(c) a proceeding on an application under the *Industrial Relations Act 2016*, section 317 for reinstatement because of unfair dismissal; or

(d) an investigation or other proceeding under the *Crime and Corruption Act 2001*; or

(e) disciplinary action as provided for under the *Public Sector Ethics Act 1994*.

Part 10 Prisoners of a court

307 Prisoner in proper officer of a court's custody

(1) A person who is required by law to surrender into the custody of a court must do so by surrendering into the custody of the proper officer of the court.

(2) A person who surrenders into the custody 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.

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308 Powers of proper officer of a court

(1) The proper officer of a court has, in relation to a prisoner of the court or a person mentioned in section 310(1), all the powers of the chief executive under this Act, in relation to a prisoner, that are necessary for the discharge of the proper officer's functions.

(2) To help the proper officer of the court perform the proper officer's functions, the proper officer may ask—

(a) the chief executive to provide corrective services officers; or

(b) the commissioner to provide police officers or, to the extent the commissioner considers it appropriate, watch-house officers.

(3) The chief executive or commissioner must comply with the request.

(4) In helping the proper officer of the court, a corrective services officer may—

(a) use the force the corrective services officer may use under chapter 3, part 5 as if the prisoner of the court or person mentioned in subsection (1) were a prisoner; and

(b) give a direction to the prisoner of the court or person that the corrective services officer may give under chapter 2, part 2, division 1 as if the prisoner of the court or person were a prisoner; and

(c) conduct a search of the prisoner of the court or person under chapter 2, part 2, division 3 as if an order of the proper officer for the searching of the prisoner of the court or person were an order of the chief executive.

(5) Subsection (4) does not limit the help the corrective services officer may give to the proper officer of the court to perform the proper officer's functions.

(6) In helping the proper officer of the court, a watch-house officer—

(a) is subject to any directions of the commissioner; and

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(b) may—

(i) exercise a power of a watch-house officer under the *Police Powers and Responsibilities Act 2000*, section 648, 649 or 652 as if the prisoner of the court or person mentioned in subsection (1) were in custody at a watch-house; and

(ii) use reasonably necessary force under the *Police Powers and Responsibilities Act 2000*, section 653 for transferring or escorting the prisoner of the court or person mentioned in subsection (1) to or from a place mentioned in that section as if the prisoner or person were in custody and the transfer or escort were authorised by a watch-house manager.

(7) Subsection (6)(b) does not limit the help the watch-house officer may give to the proper officer of the court to perform the proper officer's functions.

(8) In this section—

watch-house officer see the *Police Service Administration Act 1990*, schedule 2.

309 Delegation of powers of proper officer of a court

(1) The proper officer of a court may delegate the proper officer's functions or powers under this Act to an appropriately qualified person.

(2) The proper officer of a court may enter into a written agreement with the chief executive or commissioner governing the delegation of functions or powers by the proper officer to corrective services officers or watch-house officers (within the meaning of section 308), respectively.

(3) However, non-compliance with an agreement under subsection (2) does not invalidate a delegation.

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310 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 the court is responsible for the management, security and good order of the court cell, despite anything in the *Police Powers and Responsibilities Act 2000* or the *Police Service Administration Act 1990*.

(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 and other persons.

Part 11 Property

Division 1 Prisoner's money

311 Prisoners trust fund

(1) The chief executive must keep a trust fund called the prisoners trust fund.

(2) The prisoners trust fund is to consist of an account for each prisoner for whom an amount is received by the chief executive.

(3) Subject to section 311A, all amounts received for a prisoner by the chief executive must be paid into the prisoner's account in the prisoners trust fund.

(4) 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.

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(5) A prisoner may, with the chief executive's approval, spend an amount that is in the prisoner's account.

(6) The chief executive may limit any or all of the following—

(a) the amount that may be received as a single receipt for a prisoner;

(b) the amount that may be held in a prisoner's account in the prisoners trust fund;

(c) the amount a prisoner may spend;

(d) the amount a prisoner may spend on personal calls within a stated period.

(7) The limitations are to be set out in administrative procedures under section 265.

(8) More restrictive limitations may be applied to a prisoner if the chief executive reasonably believes the prisoner is likely to use personal calls to engage in prohibited prisoner communication.

(9) For subsection (8), the chief executive may have regard to the following—

(a) whether a domestic violence order or notice is, or has ever been, in force against the prisoner;

(b) the terms of a domestic violence order or notice or other court order in force against the prisoner;

(c) information from a law enforcement agency;

(d) the record of the prisoner relating to prohibited prisoner communication and the making of personal calls in contravention of applicable terms and conditions;

(e) the nature and seriousness of the prisoner's criminal history or history of breaching domestic violence orders or notices or other court orders;

(f) any other factor the chief executive considers relevant.

(10) The limitations must not be so restrictive as to effectively limit a prisoner to making fewer than 7 personal calls in any 7 day period.

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(11) When a prisoner is discharged or released, the chief executive must pay the prisoner the amount in the prisoner's account.

311A Dealing with amounts received for prisoners in particular cases

(1) This section applies if the chief executive receives an amount for a prisoner and any of the following apply—

(a) the chief executive is not satisfied that the donor of the amount is sufficiently identified;

(b) the donor of the amount is not an approved donor for the prisoner;

(c) the donor of the amount was released from a corrective services facility within 1 year before the chief executive received the amount;

(d) the amount is more than the allowable receipt amount;

(e) payment of the amount into the prisoner's account would result in the balance of that account being more than the allowable balance.

(2) The chief executive must return the amount to its donor.

(3) However, the chief executive may decide to receive an amount for the prisoner even if the donor of the amount was released from a corrective services facility within 1 year before the chief executive received the amount.

(4) If, despite making reasonable efforts, the chief executive can not return the amount to its donor, the chief executive must, as the chief executive considers appropriate—

(a) pay the amount to an entity nominated by the prisoner; or

(b) keep the amount in the prisoner's account until the prisoner is discharged or released.

(5) A donor is an ***approved donor*** for a prisoner unless the chief executive decides not to receive an amount for the prisoner from the donor for payment into the prisoner's account in the prisoners trust fund.

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(6) To remove any doubt, the prisoner can not access an amount held in the prisoner's account under subsection (4)(b).

(7) In this section—

allowable balance, for a prisoner's account, means the amount allowed under section 311(6)(b).

allowable receipt amount means the amount allowed for a single receipt for a prisoner under section 311(6)(a).

donor, of an amount received for a prisoner, means the person from whom the amount is received.

prisoner's account, for a prisoner, means the prisoner's account mentioned in section 311(2).

312 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.

313 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.

314 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 activity, course or program or for a leave of absence;

(b) to reimburse the chief executive for any payments made to help the prisoner to attend an approved activity, course or program or for a leave of absence;

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(c) to reimburse the chief executive for the cost of replacing or repairing any property the prisoner wilfully damaged or destroyed during the commission of—

(i) an offence against this Act or a breach of discipline; or

(ii) an offence for which the prisoner is convicted, if the reimbursement is in accordance with a court order under the *Penalties and Sentences Act 1992*;

(d) to buy or rent goods for the prisoner, at the prisoner's request;

(e) to pay for, or contribute to the cost of, the prisoner's travel on discharge or release from the corrective services facility;

(f) another purpose prescribed under a regulation.

315 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.

316 Remuneration for prisoner

(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 or program for which an approval has been given under subsection (1).

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Division 2 Other property of prisoner

317 Bringing property into corrective services facility

(1) The chief executive may allow property to be brought into a corrective services facility for a prisoner (the ***prisoner's property***).

(2) However, the chief executive may impose conditions about the prisoner's property, including, for example, a condition—

(a) limiting the property's use; or

(b) that the property be safe for use; or

(c) that the property be stored by the chief executive in safe custody until the prisoner's release from custody.

(3) The prisoner must pay any costs incurred in deciding whether the prisoner's property is safe for use.

(4) If the prisoner fails to pay the costs, the chief executive may refuse to allow the prisoner's property to enter the corrective services 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 a prisoner may keep.

(6) The chief executive must keep a record describing the property brought into the corrective services facility for each prisoner.

318 Dealing with property if prisoner escapes

(1) If a prisoner escapes, the prisoner's property kept in a corrective services facility is taken to have been abandoned, and is forfeited to the State.

(2) The chief executive may dispose of, or destroy, the property.

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Part 12 Compensation

319 Compensation for lost or damaged 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 if satisfied the payment is justified in the circumstances.

(5) In this section—

property means property recorded under section 317(6).

Part 12A Discrimination complaints

Division 1 Preliminary

319A Definitions

In this part—

protected defendant means—

(a) the State, but only in relation to a matter arising out of the administration of this Act; or

(b) an engaged service provider; or

(c) a community service supervisor; or

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(d) an entity employed or engaged under this Act whose functions include rehabilitating offenders; or

(e) an entity that is joined in a proceeding about a contravention of the Anti-Discrimination Act brought by an offender against an entity mentioned in paragraph (a), (b), (c), (d) or (f); or

(f) an individual employed or engaged by an entity mentioned in paragraph (a), (b), (c), (d) or (e).

relevant person means a person mentioned in section 134(1) or (3) of the Anti-Discrimination Act.

Editor's note—

Anti-Discrimination Act, section 134 (Who may complain)

tribunal means QCAT.

319B Purpose of part and its achievement

(1) The purpose of this part is to maintain a balance between—

(a) the financial and other constraints to which protected defendants are subject in their treatment of offenders; and

(b) the need to continue to respect offenders' dignity.

(2) The purpose is achieved primarily by—

(a) requiring offenders to use internal complaints procedures provided by the department for complaining about an alleged contravention of the Anti-Discrimination Act before complaining under that Act about a contravention; and

(b) modifying the Anti-Discrimination Act's application to the treatment of offenders by protected defendants.

319C Relationship with Anti-Discrimination Act

This part applies despite the Anti-Discrimination Act.

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Division 2 Restrictions on complaints

319D No property or interest in right of complaint

(1) Nothing in this part prevents a relevant person complaining to the human rights commissioner under the Anti-Discrimination Act, section 134 about an alleged contravention of that Act committed by a protected defendant against an offender.

(2) However, the offender has no property or interest in the right of complaint.

(3) Subsection (1) applies subject to section 319E.

319E Complaint to chief executive required first

(1) A relevant person can not complain to the human rights commissioner under the Anti-Discrimination Act, section 134 about an alleged contravention of that Act committed by a protected defendant against an offender until—

(a) if the offender was detained in a corrective services facility when the alleged contravention happened—at least 4 months after the offender makes a written complaint about the alleged contravention to the chief executive at the corrective services facility where the offender was detained; or

(b) if the offender was not detained in a corrective services facility when the alleged contravention happened—at least 4 months after the offender makes a written complaint about the alleged contravention to the chief executive at the community corrections office where the offender was required to report to a corrective services officer.

(2) However, subsection (1) does not apply if the offender is notified in writing by the chief executive that the chief executive has finished dealing with the offender's complaint.

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Division 3 Modifications

319G When treatment of offender by protected defendant is not direct discrimination

(1) This section applies if a protected defendant treats, or proposes to treat, an offender with an attribute less favourably than another offender without the attribute in circumstances that are the same or not materially different.

(2) For the Anti-Discrimination Act, section 10 the protected defendant does not directly discriminate against the offender if the treatment, or proposed treatment, is reasonable.

(3) In considering whether the treatment, or proposed treatment, is reasonable, the tribunal must consider any relevant submissions made about any of the following—

(a) the security and good order of any corrective services facility in which the offender was detained when the protected defendant treated, or proposed to treat, the offender less favourably;

(b) the cost to the protected defendant of providing alternative treatment;

(c) the administrative and operational burden that providing alternative treatment might place on the protected defendant;

(d) the disruption to the protected defendant that providing alternative treatment might cause;

(e) the budget constraints of the protected defendant;

(f) the resources constraints of the protected defendant;

(g) whether the treatment, or proposed treatment, adequately meets the needs of the offender, notwithstanding the availability of alternative treatment that more ideally meets the needs of the offender;

(h) the need to respect offenders' dignity;

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(i) whether the treatment, or proposed treatment, unfairly prejudices other offenders;

(j) any other matter the tribunal considers relevant.

(4) In a case involving an allegation of direct discrimination by an offender against a protected defendant, the protected defendant must prove, on the balance of probabilities, that the treatment, or proposed treatment, is reasonable.

319H When term imposed on offender by protected defendant is not indirect discrimination

(1) This section applies if a protected defendant imposes, or proposes to impose, a term—

(a) with which an offender with an attribute does not or is not able to comply; and

(b) with which a higher proportion of offenders without the attribute comply or are able to comply.

(2) In considering whether for the Anti-Discrimination Act, section 11(1)(c) the term is reasonable, the tribunal must consider any relevant submissions made about any of the following—

(a) the security and good order of any corrective services facility in which the offender was detained when the protected defendant imposed, or proposed to impose, the term;

(b) the cost to the protected defendant of imposing an alternative term;

(c) the administrative and operational burden that imposing an alternative term might place on the protected defendant;

(d) the disruption to the protected defendant that imposing an alternative term might cause;

(e) the budget constraints of the protected defendant;

(f) the resources constraints of the protected defendant;

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(g) whether the imposing of, or proposal to impose, the term adequately meets the needs of the offender, notwithstanding the availability of an alternative term that more ideally meets the needs of the offender;

(h) the need to respect offenders' dignity;

(i) whether the imposing of, or proposal to impose, the term unfairly prejudices other offenders;

(j) any other matter the tribunal considers relevant.

(3) In this section—

term includes condition, requirement or practice, whether or not written.

319I Restrictions on tribunal compensation orders

(1) This section applies if the tribunal decides a protected defendant contravened the Anti-Discrimination Act in relation to an offender.

(2) The tribunal may make a compensation order only if it—

(a) finds that the contravention happened because of an act or omission done or made in bad faith; and

(b) considers that no non-compensatory order effectively redresses the offender for the contravention.

(3) If the tribunal decides to make a compensation order, it must give the protected defendant and the offender written reasons that no non-compensatory order effectively redresses the offender for the contravention.

(4) Also, if the tribunal decides to make a compensation order—

(a) the tribunal can not require that payment of an amount of compensation, or interest on an amount of compensation, be paid directly to the offender; and

(b) the order has effect as an award of compensation only for part 12B; and

(c) the offender has no property or interest in the compensation.

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(5) In this section—

compensation order means an order under the Anti-Discrimination Act, section 209(1)(b).

non-compensatory order means an order under the Anti-Discrimination Act, section 209(1) other than a compensation order.

Part 12B Victim trust funds

Division 1 Preliminary

319J Definitions

In this part—

award of compensation, in relation to a person, means—

(a) an amount of compensation (including any interest on the amount), that has been finally decided, in relation to the person under the Anti-Discrimination Act, section 209(1)(b) or (g) for a contravention of that Act committed by a protected defendant while the person was an offender; or

(b) an obligation to pay an amount of compensation in relation to the person under an agreement between the person and a protected defendant relating to a complaint under the Anti-Discrimination Act about an alleged contravention of that Act committed by the protected defendant against the person while the person was an offender.

award of damages, in relation to a person, means—

(a) an award of damages (including any interest), that has been finally decided, in relation to the person by a court for a civil wrong committed by a protected defendant against the person while the person was an offender; or

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(b) an obligation to pay damages in relation to the person under an agreement between the person and a protected defendant relating to a cause of action by the person against the protected defendant for a civil wrong committed by the protected defendant against the person while the person was an offender.

child support registrar means the child support registrar under the *Child Support (Registration and Collection) Act 1988* (Cwlth), section 10.

collection entity means—

(a) the chief executive of the department in which the Victims of Crime Assistance Act is administered; or

(b) the SPER registrar; or

(c) the child support registrar.

disbursements includes outlays.

eligible entity claim see section 319ZC(3).

eligible victim claim see section 319X(3).

entity claim see section 319Z.

finally decided, for an award of compensation or an award of damages, means—

(a) that the period for appealing against the award has ended and no appeal has been made; or

(b) that all appeals against the award have been withdrawn or finally decided.

potential claimant, for the chief executive, means a person who, from documents held by the chief executive or made available to the chief executive under section 319U in relation to offences committed or allegedly committed by the person in relation to whom the relevant award was made, appears to have a victim claim against the person in relation to whom the relevant award was made.

relevant award, for a provision about a victim trust fund, means the award of relevant money that forms the fund.

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relevant money, awarded in relation to a person, means—

(a) an award of damages in relation to the person against a protected defendant; or

(b) an award of compensation in relation to the person against a protected defendant.

SPER means the registry established under the *State Penalties Enforcement Act 1999*, part 2.

SPER registrar means the registrar of SPER under the *State Penalties Enforcement Act 1999*, section 10.

victim claim see section 319S(1).

victim trust fund means the following—

(a) a victim trust fund mentioned in section 319N(2);

(b) in relation to relevant money—the victim trust fund formed by the money.

319K Relationship between divs 2 to 4 and div 5

Divisions 2 to 4 are subject to division 5.

Division 2 Restrictions on causes of action and agreements

319L No property or interest in causes of action

(1) This section applies if a protected defendant commits a civil wrong against a person while the person is an offender.

(2) The person may bring a proceeding in a court in relation to the civil wrong.

(3) However, the person has no property or interest in—

(a) a cause of action for the civil wrong; or

(b) any relevant money awarded in a proceeding mentioned in subsection (2).

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(4) If, in the proceeding, the person establishes the liability of the protected defendant for the civil wrong, the court—

(a) may order the protected defendant to pay damages for harm or injury suffered by the person because of the civil wrong; and

(b) must order that the damages be dealt with under this part.

(5) The *Civil Liability Act 2003* and the *Personal Injuries Proceedings Act 2002* apply to the proceeding.

319M No property or interest under agreements

(1) This section applies if a protected defendant enters into an agreement with a person about the liability of the protected defendant to pay an amount of damages or compensation, however described, in relation to a civil wrong committed by the protected defendant against the person while the person was an offender.

(2) The agreement contains the following implied terms—

(a) the damages or compensation that must be paid by the protected defendant must be dealt with under this part;

(b) the person has no property or interest in the damages or compensation.

(3) An agreement between the protected defendant and the person to deal with the amount of damages or compensation other than as provided by this part is void.

(4) In this section—

damages or compensation includes any interest payable on the damages or compensation.

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Division 3 Establishment of victim trust fund

319N Relevant money held in trust in a victim trust fund

(1) Relevant money awarded in relation to a person—

(a) is held in trust by the protected defendant liable to pay the relevant money for the payment of the following—

(i) any awards on eligible victim claims against the person;

(ii) any amounts of eligible entity claims against the person; and

(b) may be paid out only as allowed under this part.

(2) Relevant money held by a protected defendant in trust under this part forms a fund (a ***victim trust fund***).

(3) This section is subject to any Act of the State or the Commonwealth requiring the protected defendant to pay the relevant money to someone else.

Note—

Section 319ZG also provides an exception to this section for medical expenses. Section 319ZH provides an exception for legal costs.

319O Chief executive to be notified of victim trust fund

(1) This section applies to the following protected defendants liable to pay an award of relevant money—

(a) a protected defendant mentioned in section 319A, definition *protected defendant*, paragraph (a) if the protected defendant's liability to pay the award of relevant money arose because of an act or omission of an individual who is not employed or engaged by the department;

(b) a prescribed protected defendant.

(2) The protected defendant must, as soon as reasonably practicable but at least within 7 days after the relevant money is awarded, give the chief executive a written notice stating—

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(a) the name of the person in relation to whom the award was made; and

(b) the date the award was made; and

(c) the amount of the award; and

(d) the date the victim trust fund was transferred, or is intended to be transferred, to the public trustee.

Maximum penalty for a prescribed protected defendant—2 penalty units.

(3) In this section—

prescribed protected defendant means—

(a) a protected defendant mentioned in section 319A, definition *protected defendant*, paragraph (b) to (e); or

(b) a protected defendant mentioned in section 319A, definition *protected defendant*, paragraph (f) who is an individual employed or engaged by a protected defendant mentioned in paragraph (a).

319P Victim trust fund to be transferred to public trustee

(1) A protected defendant liable to pay an award of relevant money must transfer the victim trust fund to the public trustee within 1 month after the protected defendant—

(a) knows the amount of the relevant money that is required by an Act of the State or the Commonwealth to be paid to someone else; or

(b) is satisfied that none of the relevant money is required by an Act of the State or the Commonwealth to be paid to someone else.

Maximum penalty for a prescribed protected defendant—2 penalty units.

(2) The public trustee must—

(a) hold the victim trust fund under this part; and

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(b) pay an amount out of the victim trust fund only as allowed under this part.

(3) Interest or other money received or realised on the investment of the victim trust fund is payable to and forms part of the victim trust fund.

(4) In this section—

prescribed protected defendant means—

(a) a protected defendant mentioned in section 319A, definition *protected defendant*, paragraph (b) to (e); or

(b) a protected defendant mentioned in section 319A, definition *protected defendant*, paragraph (f) who is an individual employed or engaged by a protected defendant mentioned in paragraph (a).

319Q Discharge of protected defendant

(1) The public trustee must give the protected defendant a receipt for a victim trust fund transferred to the public trustee under section 319P within 14 days after the public trustee receives the fund.

(2) The receipt is sufficient discharge to the protected defendant as to the victim trust fund and on receiving the receipt, the protected defendant is not liable or accountable for the victim trust fund or liable for the application, distribution or appropriation of the victim trust fund.

(3) The public trustee must give a copy of the receipt to the chief executive at the same time the public trustee gives the protected defendant the receipt.

319R Relevant money to form a separate victim trust fund

(1) If relevant money is awarded in relation to a person more than once, each award forms a separate victim trust fund.

(2) This part must be complied with for each of the victim trust funds.

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Example—

If relevant money is awarded in relation to a person on 1 January and 1 October, the relevant money awarded on each occasion forms a separate victim trust fund. The notification requirements under section 319T must be complied with for each of the funds.

Division 4 Distribution of victim trust fund

Subdivision 1 Victim claims

319S What is a *victim claim*

(1) A person has a claim (a ***victim claim***) against someone else (the ***relevant person***) if the person has a cause of action against the relevant person for an injury to the person caused by the conduct of the relevant person that, on the balance of probabilities, constitutes an offence.

(2) Subsection (1) applies—

(a) whether or not the relevant person is prosecuted for, or convicted of, an offence in relation to the conduct; and

(b) even if the relevant person is found to have been suffering from unsoundness of mind in relation to the conduct, or unfit for trial, under the *Mental Health Act 2016*, chapter 5, part 3.

(3) In this section—

injury includes fatal injury.

Note—

See the *Succession Act 1981*, section 66 (Survival of actions).

319T Notice to potential claimants

(1) The chief executive must, within 1 month after receiving the copy of the receipt mentioned in section 319Q(3), give each potential claimant a written notice stating—

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(a) the name of the person in relation to whom relevant money has been awarded (the ***relevant person***); and

(b) that there is a victim trust fund; and

(c) that the potential claimant may have a victim claim against the relevant person and that the victim claim may be payable from the victim trust fund; and

(d) the period within which the potential claimant must start a proceeding in a court on a victim claim to have an eligible victim claim against the relevant person; and

(e) the other steps the potential claimant must take for the potential claimant to have an eligible victim claim against the relevant person.

(2) The chief executive is taken to have complied with subsection (1) if the chief executive—

(a) gives a written notice to each potential claimant at the address of the potential claimant last known to the chief executive; or

(b) publishes a notice in the gazette containing the information mentioned in subsection (1).

319U Identification of potential claimants

(1) The chief executive may consult with the following persons for the purpose of identifying potential claimants for a victim trust fund—

(a) the commissioner of the police service;

(b) the director of public prosecutions;

(c) the chief executive of the department in which the Victims of Crime Assistance Act is administered.

(2) The disclosure of information by the director of public prosecutions for the purpose mentioned in subsection (1) is a disclosure under an Act for the *Director of Public Prosecutions Act 1984*, section 24A.

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(3) The disclosure of information by the commissioner of the police service for the purpose mentioned in subsection (1) is an authorised or permitted disclosure under an Act for the *Police Service Administration Act 1990*, section 10.1.

(4) The disclosure of information by the chief executive of the department in which the Victims of Crime Assistance Act is administered for the purpose mentioned in subsection (1) is authorised despite any other Act or law.

(5) If the chief executive is satisfied there are no potential claimants for a victim trust fund, the chief executive must, as soon as reasonably practicable after being so satisfied, give written notice of that fact to the public trustee.

319V Giving of information to potential claimants

(1) The chief executive must, in response to a request made by a potential claimant and as soon as reasonably practicable after the request is received, give the potential claimant the information the chief executive is reasonably able to give about—

(a) the relevant award; and

(b) the amount of the victim trust fund; and

(c) any other victim claims against the person in relation to whom the relevant money was awarded that may be payable from the victim trust fund and of which the chief executive has been given notice under section 319X(5).

(2) The giving of information under subsection (1)—

(a) is allowed despite an agreement to which the protected defendant liable to pay the relevant award is a party that would otherwise prohibit or restrict the disclosure of information about the relevant award; and

(b) is not a contravention of the agreement.

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(3) However, the giving of information under subsection (1) must not include the giving of someone else's personal information, unless that person has given written consent to its giving.

(4) A potential claimant to whom information is given under subsection (1) must not disclose the information to someone else other than—

(a) for the purpose of obtaining legal advice or representation, or for a proceeding, relating to a victim claim by the potential claimant against the person in relation to whom the relevant money was awarded; or

(b) as required by law; or

(c) for information that is personal information of someone else—with the consent of that person.

Maximum penalty—50 penalty units.

(5) In this section—

personal information, of a person, means the person's name and address, or other information that may identify the person.

319W Starting of victim claims proceedings despite expiry of limitation period

(1) If relevant money is awarded in relation to a person (the ***relevant person***), an action on a victim claim against the relevant person may be brought by a potential claimant—

(a) by a proceeding started within 6 months after the chief executive gives the written notice as mentioned in section 319T(1); and

(b) despite the *Limitation of Actions Act 1974*, section 11.

Note—

See section 478E about the application of this part to civil wrongs committed before the commencement of that section.

(2) However, an award of damages in a proceeding brought under this section—

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(a) has effect only to allow the payment under section 319Y of all or part of those damages out of the victim trust fund; and

(b) can not otherwise be enforced against the relevant person or the relevant person's property.

319X Notifying victim claims

(1) This section applies if a person has a victim claim against someone else in relation to whom relevant money was awarded (the ***relevant person***) and the person either—

(a) started a proceeding in a court on the claim against the relevant person before the award was made; or

Example for paragraph (a)—

The person started a proceeding in a court on a claim for personal injury against an offender 5 years before the award of offender money in relation to the offender.

(b) starts a proceeding in a court on the claim against the relevant person within 6 months after the chief executive gives a written notice as mentioned in section 319T(1).

(2) The person may notify the public trustee of the victim claim by giving the public trustee—

(a) written notice of the proceeding within 6 months after the chief executive gives a written notice as mentioned in section 319T(1); and

(b) the further details of the proceeding or any award of damages made in relation to the victim claim, if any, that are reasonably requested by the public trustee to enable the public trustee to perform its functions under this part.

(3) A victim claim notified to the public trustee as mentioned in subsection (2) is an ***eligible victim claim***.

(4) The public trustee may reject a victim claim if the person fails to comply with a request for further details under subsection (2)(b) without reasonable excuse.

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(5) The public trustee must give a copy of the written notice or the further details received under subsection (2) to the chief executive within 14 days after receiving the notice or the details.

(6) In this section—

written notice, of a proceeding, means—

(a) a certified copy of the notice given under the *Personal Injuries Proceedings Act 2002*, section 9 for the proceeding; or

(b) other written evidence of the proceeding that satisfies the public trustee that the proceeding has been started.

319Y Payment of eligible victim claims from victim trust fund

(1) The public trustee must pay from a victim trust fund any award on an eligible victim claim against the person in relation to whom the relevant award was made (the ***relevant person***).

Note—

See also section 319ZK.

(2) The payment must be made as soon as practicable after all proceedings on eligible victim claims against the relevant person started before the cut-off day have been finally decided.

(3) For subsection (2), a proceeding on an eligible victim claim against the relevant person is taken to have been finally decided if the public trustee is satisfied that—

(a) the period for appealing against a decision awarding damages made by a court in the proceeding has ended and no appeal has been made; or

(b) all appeals against a decision awarding damages made by a court in the proceeding have been withdrawn or finally decided; or

(c) no step has been taken in the proceeding for 1 year from when the last step was taken in the proceeding; or

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(d) the proceeding has been discontinued.

(4) If the amount of the victim trust fund is not enough to pay all of the awards on eligible victim claims against the relevant person, the public trustee must pay each award proportionately.

(5) Subject to an Act providing for the holding of moneys on trust for a person under a legal disability, the payments must be made—

(a) to the person named in the award; and

(b) to the extent that the award has not been satisfied by someone else.

(6) An award on an eligible victim claim against the relevant person, to the extent of any payment of the award under this section—

(a) is discharged; and

(b) can not be enforced against the relevant person or any other person.

(7) In this section—

award, on an eligible victim claim against a relevant person, means—

(a) an award of damages, that has been finally decided, to a person by a court in a proceeding on the eligible victim claim by the person against the relevant person; or

(b) an award of damages to a person under an agreement between the person and the relevant person relating to an eligible victim claim by the person against the relevant person.

cut-off day, for starting a proceeding on an eligible victim claim against the relevant person, means the day after the last day on which a proceeding may be started for section 319X(1)(b).

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Subdivision 2 Entity claims

319Z What is an *entity claim*

(1) The chief executive of the department in which the Victims of Crime Assistance Act is administered has, for the State, a claim (an ***entity claim***) against a person in relation to whom relevant money is awarded (the ***relevant person***) if—

(a) the State has paid an amount under—

(i) the repealed Criminal Offence Victims Act, section 32, for a compensation order made, under section 24 of that Act, against the relevant person; or

(ii) the repealed Criminal Offence Victims Act, section 33, in relation to an act committed by the relevant person; or

(iii) the repealed Criminal Offence Victims Act, section 34, in relation to—

(A) an arrest, or attempted arrest, of the relevant person; or

(B) a prevention, or attempted prevention, of an offence or suspected offence committed by the relevant person; or

(iv) the repealed Criminal Offence Victims Act, section 35, for an offence of murder or manslaughter committed by the relevant person; or

(v) the Criminal Code, repealed chapter 65A, section 663C, in relation to an indictable offence committed by the relevant person; or

(vi) the Criminal Code, repealed chapter 65A, section 663D, in relation to—

(A) an arrest, or attempted arrest, of the relevant person; or

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(B) a prevention, or attempted prevention, of an offence or suspected offence committed by the relevant person; or

(C) an act or omission of the relevant person; or

(D) an indictable offence allegedly committed by the relevant person; and

(b) the State has not recovered the amount in full from any person.

(1A) In subsection (1)—

(a) a reference to the repealed Criminal Offence Victims Act is a reference to the *Criminal Offence Victims Act 1995*, as in force from time to time before its repeal, and includes that Act as it continues to apply under the Victims of Crime Assistance Act, chapter 6, part 2; and

(b) a reference to the Criminal Code, repealed chapter 65A is a reference to the Criminal Code, chapter 65A, as in force from time to time before its repeal, and includes that chapter as it continued to apply under the repealed *Criminal Offence Victims Act 1995*, section 46(2) or continues to apply under the Victims of Crime Assistance Act, chapter 6, part 2.

(1B) The chief executive of the department in which the Victims of Crime Assistance Act is administered has, for the State, a claim (***entity claim***) against a person in relation to whom relevant money is awarded (the ***relevant person***) if—

(a) an amount is payable by the relevant person to the State under the Victims of Crime Assistance Act, section 117(4); and

(b) the State has not recovered the amount in full from any person.

(2) The SPER registrar has a claim (also an ***entity claim***) against a person in relation to whom relevant money is awarded (the ***relevant person***) if—

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(a) an amount is payable by the relevant person to SPER under the *State Penalties Enforcement Act 1999* or another Act; and

(b) SPER has not recovered the amount in full from any person.

(3) The child support registrar has a claim (also an ***entity claim***) against a person in relation to whom relevant money is awarded (the ***relevant person***) if—

(a) the relevant person owes a child support debt to the Commonwealth; and

(b) the Commonwealth has not recovered the debt in full from any person.

(4) In this section—

child support debt means—

(a) an amount that is a debt due to the Commonwealth under the *Child Support (Registration and Collection) Act 1988* (Cwlth), section 30; or

(b) any amount payable as a penalty on an amount mentioned in paragraph (a) under the *Child Support (Registration and Collection) Act 1988* (Cwlth), section 67.

Note—

The chief executive of the department in which the Victims of Crime Assistance Act is administered, the SPER registrar and the child support registrar are all collection entities for this part. See section 319J.

319ZA Notice to collection entities of establishment of victim trust fund

The chief executive must, within 1 month after relevant money is awarded in relation to a person (the ***relevant person***), give each collection entity a written notice stating—

(a) the name of the relevant person; and

(b) that there is a victim trust fund; and

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(c) that the collection entity may have an entity claim against the relevant person and that the claim may be payable from the victim trust fund; and

(d) that the public trustee will notify the collection entity under section 319ZB if there is an amount left in the victim trust fund available for paying eligible entity claims.

319ZB Notice to collection entities if amount left in victim trust fund

(1) The public trustee must work out the amount, if any, left in a victim trust fund that is available under section 319ZD for paying eligible entity claims at the following time—

(a) generally—within 1 month after paying under section 319Y all awards made on eligible victim claims;

(b) if the public trustee has received a notice from the chief executive under section 319U(5)—within 1 month after receiving the notice.

(2) If there is an amount left in the victim trust fund that is available under section 319ZD for paying eligible entity claims, the public trustee must, within 1 month after working out the amount, give each collection entity a written notice stating—

(a) the name of the person in relation to whom relevant money was awarded (the ***relevant person***); and

(b) the amount left in the victim trust fund; and

(c) that the collection entity may have an entity claim against the relevant person and that the claim may be payable from the victim trust fund; and

(d) the period within which the collection entity must notify an amount of an entity claim to the public trustee to have an eligible entity claim against the relevant person; and

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(e) the other steps the collection entity must take for the collection entity to have an eligible entity claim against the relevant person.

319ZC Notifying entity claims

(1) This section applies if a collection entity has an entity claim against a person in relation to whom relevant money was awarded (the ***relevant person***).

(2) The collection entity may notify the public trustee of the entity claim by giving the public trustee—

(a) written notice of the amount of the entity claim within 1 month after the collection entity is notified under section 319ZB(2); and

(b) evidence of the entity claim that reasonably satisfies the public trustee that—

(i) the relevant person is liable for the entity claim; and

(ii) the amount notified is accurate.

(3) An entity claim notified to the public trustee as mentioned in subsection (2) is an ***eligible entity claim***.

(4) The public trustee may reject an entity claim if the collection entity fails to comply with a request for evidence under subsection (2)(b) without reasonable excuse.

(5) The public trustee must give a copy of the written notice or the evidence received under subsection (2) to the chief executive within 14 days after receiving the notice or the evidence.

319ZD Payment of eligible entity claims from victim trust fund

(1) The public trustee must pay from the amount left in a victim trust fund, after paying under section 319Y all awards made on eligible victim claims in relation to the victim trust fund, the amount of any eligible entity claim against the person in relation to whom relevant money was awarded (the ***relevant person***).

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Note—

See also section 319ZK.

(2) The payment must be made within 3 months after giving notice under section 319ZB(2).

(3) The public trustee must pay the amount of any eligible entity claims in the following order to the extent of the amount left in the victim trust fund—

(a) eligible entity claims notified by the chief executive of the department in which the Victims of Crime Assistance Act is administered;

(b) eligible entity claims notified by the SPER registrar;

(c) eligible entity claims notified by the child support registrar.

(4) An eligible entity claim, to the extent of any payment of an amount of the claim under this section—

(a) is discharged; and

(b) can not be enforced against the relevant person or any other person.

Subdivision 3 Payments to offender

319ZE Payment to offender of victim trust fund surplus

(1) The public trustee must, within 1 month after complying with 319ZD in relation to a victim trust fund, work out the amount, if any, left in the victim trust fund.

(2) If there is an amount left in the victim trust fund, the public trustee must, within 1 month after working out the amount—

(a) if the person in relation to whom the relevant money was awarded is a prisoner—pay the amount to the chief executive for payment into the person's account in the prisoners trust fund under section 311; or

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(b) if the person in relation to whom the relevant money was awarded is not a prisoner—pay the amount to or at the direction of the person.

Note—

See also section 319ZK.

319ZF Payment to offender if no victim claims or entity claims against offender

(1) This section applies if the public trustee is not notified under section 319ZC of the amount of any entity claim in relation to a victim trust fund.

(2) The public trustee must pay the amount of the victim trust fund to the person in relation to whom the relevant money was awarded within 2 months after giving notice under section 319ZB(2).

Note—

See also section 319ZK.

Division 5 Amounts not included in victim trust fund

319ZG Exception for future medical expenses

Divisions 2 to 4 do not apply to an amount that is identified in an award of relevant money or an agreement about relevant money as being payable by a protected defendant as damages for future medical expenses.

319ZH Exception for legal costs

(1) Divisions 2 to 4 do not apply to an amount that is payable by a protected defendant as legal costs—

(a) under an order for costs made by a court or tribunal against the protected defendant; or

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(b) under an agreement about relevant money between the protected defendant and the person in relation to whom the relevant money was awarded (the ***relevant person***); or

(c) for an award of relevant money against the protected defendant that is inclusive of costs, that is reasonably attributable to the legal costs of the relevant person.

(2) The amount reasonably attributable to the legal costs mentioned in subsection (1)(c) is the reasonable amount—

(a) decided by the protected defendant on the basis of a bill for the costs given to the protected defendant by the legal practitioner concerned; and

(b) notified by the protected defendant to the relevant person.

(3) If the relevant person, by written notice to the protected defendant, disputes the protected defendant's decision, the protected defendant must apply for the assessment of the costs under the *Legal Profession Act 2007*.

(4) The assessment must be conducted as if the protected defendant were liable to pay the costs as a result of an order for the payment of an unstated amount of costs made by a court.

(5) The costs of the assessment are payable—

(a) if the amount of costs fixed by the costs assessor is at least 10% more than the amount decided by the protected defendant—by the protected defendant; or

(b) otherwise—from the victim trust fund, in priority to all other payments from the fund.

(6) In this section—

legal costs means amounts that a person has been or may be charged by, or is or may become liable to pay to, a law practice for the provision of legal services including interest on the amounts, and disbursements and interest on disbursements.

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319ZI Orders in relation to relevant money

(1) This section applies if a court or tribunal makes an award of compensation or an award of damages in relation to a person.

(2) The court or tribunal must make all necessary orders to ensure that an amount mentioned in section 319ZG or 319ZH is not held in a victim trust fund.

319ZJ Agreements in relation to relevant money

(1) This section applies if a protected defendant enters into an agreement about relevant money with the person in relation to whom the relevant money was awarded.

(2) The agreement contains an implied term that an amount mentioned in section 319ZG or 319ZH is not held in a victim trust fund.

Division 6 Miscellaneous

319ZK Amounts payable to public trustee for performance of functions

(1) This section applies to any amounts payable under the *Public Trustee Act 1978* from a victim trust fund to the public trustee for the performance of its functions under this part.

(2) The amounts must be paid to the public trustee from the victim trust fund before paying any of the following amounts under this part—

(a) an award on an eligible victim claim under section 319Y;

(b) an amount of an eligible entity claim under section 319ZD;

(c) an amount payable to an offender under section 319ZE or 319ZF.

Note—

See section 319ZH(5)(b).

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319ZL Maximum legal costs of victim claims

(1) The maximum amount of legal costs, inclusive of GST, that a legal practitioner may charge and recover from a client for work done relating to a victim claim that may be payable from a victim trust fund is—

(a) if the amount recovered on the claim is $100,000 or less—20% of the amount recovered or $10,000 whichever is greater; or

(b) if the amount recovered on the claim is more than $100,000 but not more than $250,000—18% of the amount recovered or $20,000 whichever is greater; or

(c) if the amount recovered on the claim is more than $250,000 but not more than $500,000—16% of the amount recovered or $45,000 whichever is greater; or

(d) if the amount recovered on the claim is more than $500,000—15% of the amount recovered or $80,000 whichever is greater.

(2) This section applies despite any other Act providing for the assessment or payment of legal costs.

(3) In this section—

amount recovered, on a claim, means the full amount of the damages awarded and not just the amount of the award paid from a victim trust fund.

legal costs means amounts that a person has been or may be charged by, or is or may become liable to pay to, a law practice for the provision of legal services including interest on the amounts, but not including disbursements or interest on disbursements.

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Part 13 Information

Division 1 Giving notices and information to eligible persons

320 Eligible persons register

(1) The chief executive must keep a register of eligible persons who may receive notices or information about prisoners or homicide offenders under this Act.

Note—

Subject to section 324AA—

- notice of an application by a prisoner for a parole order must be given to an eligible person under section 188; and
- information about a prisoner (including a prisoner who is a homicide offender) must be given to an eligible person under section 324A; and
- information about a prisoner or homicide offender may be given to an eligible person under section 325.

(2) To make an entry in the eligible persons register, the chief executive must be satisfied—

(a) the prisoner or homicide offender is a prisoner or homicide offender for whom an entry can be made; and

(b) the person proposed to be registered against the prisoner or homicide offender is—

(i) entitled to be registered; and

(ii) requests or consents to the registration.

(3) Despite being satisfied of the matters stated in subsection (2), the chief executive may refuse to register a person against a prisoner or homicide offender if the chief executive reasonably believes that giving the person a notice or information as an eligible person may endanger—

(a) the security of a corrective services facility; or

(b) the safe custody or welfare of a prisoner; or

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(c) the safety or welfare of someone else.

(4) The chief executive may make an entry in the eligible persons register against a prisoner or homicide offender—

(a) on application in the approved form by a person claiming to be an eligible person; or

(b) on a referral in the approved form by an entity supporting an eligible person; or

(c) on the chief executive's own initiative.

321 Effect of offence and violence as ground for registration

(1) An entry can be made in the eligible persons register against a prisoner—

(a) who has been sentenced to a period of imprisonment for an offence of violence or a sexual offence; or

(b) who is subject to a continuing or interim detention order, or a supervision or interim supervision order, under the *Dangerous Prisoners (Sexual Offenders) Act 2003*, having been found guilty of a serious sexual offence within the meaning of that Act.

(2) A person is entitled to be registered as an eligible person against the prisoner if—

(a) the person is one of the following—

(i) a person against whom the offence was committed (the ***victim***);

(ii) an immediate family member of a deceased victim of the offence; or

(b) the chief executive is satisfied the person's life or physical safety could reasonably be expected to be endangered because of—

(i) a documented history of violence by the prisoner against the person; or

(ii) a connection between the person and the offence.

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(3) In this section—

offence of violence means an offence in which a victim suffers actual or threatened violence.

322 Domestic violence as ground for registration

(1) An entry can be made in the eligible persons register against a prisoner who has been sentenced to a period of imprisonment for an offence if—

(a) there is or has been a domestic violence order or notice in force against the prisoner; or

(b) the chief executive is satisfied, by a documented history of domestic violence by the prisoner or by other evidence, the prisoner has committed domestic violence.

(2) A person is entitled to be registered as an eligible person against the prisoner if the chief executive is satisfied the person is at risk of domestic violence from the prisoner.

323 Registration against homicide offender

(1) An entry can be made in the eligible persons register against a homicide offender.

(2) A person is entitled to be registered as an eligible person against a homicide offender if—

(a) the person is an immediate family member of a victim of the homicide offence; or

(b) the chief executive is satisfied registration of the person against the prisoner is warranted because of the effect of the homicide offence on the person; or

(c) the chief executive is satisfied the person's life or physical safety could reasonably be expected to be endangered because of—

(i) a documented history of violence by the offender against the person; or

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(ii) a connection between the person and the homicide offence.

323A Registration if eligible person is child or person with impaired capacity

(1) If an eligible person is a child—

(a) a parent or guardian of the child is taken to be an eligible person; and

(b) subject to this Act, the parent or guardian may be registered instead of, or as well as, the child.

(2) If an eligible person is a person with impaired capacity—

(a) a guardian of the person or an attorney of the person with an enduring power of attorney is taken to be an eligible person; and

(b) subject to this Act, the guardian or attorney may be registered instead of, or as well as, the person with impaired capacity.

(3) If a person proposed to be registered as an eligible person is a child—

(a) the child is only eligible to be registered if the chief executive is satisfied that registration is in the child's best interests; and

(b) in the case of a child who is in care, the chief executive must consult with the child protection chief executive in deciding whether registration of the child is in the child's best interests; and

(c) if the chief executive decides to register the child, the chief executive must—

(i) give the child information about being an eligible person and about how to be removed from the register; and

(ii) tell the child and the child's parent or guardian that the parent or guardian may register as an eligible person instead of, or as well as, the child.

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323B Nomination of entity to receive information on behalf of eligible person

(1) An eligible person may nominate an entity as an entity to whom the chief executive may give a notice or information required or authorised to be given to the eligible person under this Act.

Example of nominee—

a victims support agency

(2) The chief executive may refuse to accept a nomination if the chief executive—

(a) is not satisfied that the entity consents to the nomination; or

(b) reasonably considers the entity not to be suitable in the circumstances.

(3) Details of a nominee must be noted in the eligible persons register.

(4) If a nominee withdraws consent to the nomination, the details must be removed from the register.

324 Removing details from eligible persons register

(1) The chief executive must remove an eligible person's details from the eligible persons register—

(a) for a prisoner other than a homicide offender, when the prisoner in relation to whom the person is registered—

(i) is discharged; or

(ii) if the prisoner is released subject to a relevant order—stops being subject to a relevant order; or

(iii) dies; or

(iv) is transferred to another jurisdiction; or

(b) for a homicide offender, when the homicide offender dies; or

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(c) if the conviction of the prisoner or homicide offender in relation to which the person is registered is overturned; or

(d) if asked to do so by the eligible person.

(2) The chief executive may remove an eligible person's details from the register if—

(a) the chief executive reasonably believes that giving the person a notice or information as an eligible person may endanger—

(i) the security of a corrective services facility; or

(ii) the safe custody or welfare of a prisoner; or

(iii) the safety or welfare of someone else; or

(b) the eligible person discloses, for public dissemination, any notice or information given to the person under this Act as an eligible person.

(3) The chief executive may also remove an eligible person's details from the register if the chief executive is unable, after making reasonable efforts, to contact the eligible person.

(4) The chief executive may, on the chief executive's own initiative, reinstate details of an eligible person registered against a prisoner other than a homicide offender if, within 90 days after the removal of the details, the prisoner is again in the custody of the chief executive.

(5) In this section—

details, of an eligible person, includes details of any entity nominated to receive a notice or information under this Act for the eligible person.

relevant order means—

(a) a supervision order or interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*; or

(b) a probation order.

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324AA Provision of notice or information to eligible person

(1) The chief executive must not give an eligible person a notice or information under this Act unless—

(a) the person has given the chief executive a signed declaration stating that the person will not disclose, for public dissemination, any notice or information about a prisoner given to the person under this Act; and

(b) if a nominee for the eligible person is noted in the eligible persons register—both the nominee and the eligible person have given the chief executive a signed declaration stating that the person will not disclose, for public dissemination, any notice or information about a prisoner given to the nominee under this Act.

(2) The chief executive may refuse to give an eligible person a notice or information under this Act if the chief executive reasonably believes that giving the notice or information to the person may endanger—

(a) the security of a corrective services facility; or

(b) the safe custody or welfare of a prisoner; or

(c) the safety or welfare of someone else.

(3) If there is a nominee of an eligible person on the eligible persons register when the chief executive is required or authorised to give a notice or information to the eligible person, the chief executive—

(a) must endeavour to give the notice or information to the nominee; but

(b) may give the notice or information directly to the eligible person if the chief executive has been unable to give the notice or information to the nominee despite a reasonable attempt to do so.

(4) A requirement to give a notice or information to an eligible person ceases to apply if the chief executive has made a reasonable attempt to give the notice or information to the person but has been unable to do so.

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(5) This section does not apply to confidential information disclosed to an eligible person or nominee under section 341.

324A Right of eligible persons to receive particular information

(1) The chief executive must, subject to section 324AA, give an eligible person the following information about a prisoner (including a prisoner who is a homicide offender) in relation to whom the eligible person is registered—

(a) the prisoner's eligibility dates for discharge or release;

(b) the prisoner's date of discharge or release;

(c) the death of the prisoner and, if the prisoner died while detained in a corrective services facility, the date of death;

(d) the escape of the prisoner and the date of escape;

(e) details of a change of name of the prisoner registered under a law of the State about births, deaths and marriages;

(f) the fact, and date, of any particular circumstances relating to the prisoner that could reasonably be expected to endanger the eligible person's life or physical safety;

Examples of particular circumstances relating to a prisoner—

- The prisoner is mistakenly discharged before the prisoner's discharge day.
- The prisoner is granted leave under chapter 2, part 2, division 8 without supervision.

(g) for a no body-no parole prisoner—whether a no cooperation declaration is in force for the prisoner.

(2) The information must be given to the person—

(a) for information mentioned in subsection (1)(a), (b), (e) or (g)—as soon as practicable after the chief executive becomes aware of the information; or

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(b) for information mentioned in subsection (1)(c), (d) or (f) —immediately after the chief executive becomes aware of the information.

325 Giving eligible persons other information

(1) Subject to section 324AA, the chief executive may give an eligible person registered against a prisoner or homicide offender information, within the knowledge of the chief executive, about the prisoner or offender as the chief executive considers appropriate.

(2) Without limiting the information that may be given, the information may include the following information about a prisoner (including a homicide offender)—

(a) the current location of the prisoner;

(b) the transfer of the prisoner—

(i) between corrective services facilities; or

(ii) interstate or overseas;

(c) the length of the term of imprisonment the prisoner is serving;

(d) any further cumulative terms of imprisonment imposed on the prisoner while in custody for the offence;

(e) the nature of an order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*, to which the prisoner is or becomes subject;

(f) the prisoner ceasing to be subject to an order mentioned in paragraph (e);

(g) the results of the prisoner's application for parole orders;

(h) other matters relevant to parole of the prisoner;

(i) details of a reassignment or alteration of the sex of the prisoner noted or recorded in a register kept under a law of the State about births, deaths and marriages;

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(j) the deportation or removal status of the prisoner under the *Migration Act 1958* (Cwlth);

(k) other exceptional events relating to the prisoner.

(3) Without limiting the information that may be given, the information may include the following information, within the knowledge of the chief executive, about a homicide offender who is not a prisoner—

(a) the current location of the offender or that the offender is no longer resident in the State;

(b) the nature of a community based order, parole order, or order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*, to which the offender is or becomes subject;

(c) the offender ceasing to be subject to an order mentioned in paragraph (b);

(d) details of a change of name of the offender registered under a law of the State about births, deaths and marriages;

(e) details of a reassignment or alteration of the sex of the offender noted or recorded in a register kept under a law of the State about births, deaths and marriages;

(f) the deportation or removal status of the offender under the *Migration Act 1958* (Cwlth);

(g) the death of the offender;

(h) other exceptional events relating to the offender.

Division 2 Criminal history of relevant person

Subdivision 1 Preliminary

326 Purpose of div 2

(1) The purpose of this division is to ensure—

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(a) the chief executive has all the relevant information the chief executive needs to assess a person's suitability to be, or continue to be, a relevant person; and

(b) the chief executive can give the Minister or the president all the relevant information needed to assess a person's suitability to be, or continue to be, a board member or acting board member.

(2) The purpose is achieved mainly by providing for the chief executive to obtain the criminal history of, and other information about, the relevant person.

327 Definitions for div 2

In this division—

charge, of an offence, means a charge in any form, including, for example, the following—

(a) a charge on an arrest;

(b) a notice to appear served under the *Police Powers and Responsibilities Act 2000*, section 382;

(c) a complaint under the *Justices Act 1886*;

(d) a charge by a court under the *Justices Act 1886*, section 42(1A) or another provision of an Act;

(e) an indictment.

relevant person—

(a) means any one of the following—

(i) a person performing a function under this Act;

(ii) a staff member;

(iii) an applicant seeking—

(A) to be engaged by the department; or

(B) a position as a staff member; and

(b) for subdivision 3—includes a visitor, other than an accredited visitor.

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328 Relationship with Criminal Law (Rehabilitation of Offenders) Act 1986

This division applies to a person despite anything in the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

329 Chief executive must advise of duties of disclosure etc.

Before a person becomes a relevant person, the chief executive must tell the person—

(a) of the person's duties of disclosure as a relevant person under this division; and

(b) that the chief executive may, under section 334, obtain information about the person; and

(c) that guidelines for dealing with information obtained by the chief executive under this division are available from the chief executive on request.

Subdivision 2 Disclosure of criminal history

330 Person seeking to be a relevant person must disclose criminal history

A person seeking to be a relevant person must disclose to the chief executive, before becoming a relevant person—

(a) whether or not the person has a criminal history; and

(b) if the person has a criminal history, the person's complete criminal history.

331 Relevant person must disclose changes in criminal history

(1) If there is a change in the criminal history of a relevant person, the person must immediately disclose the details of the change to the chief executive.

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(2) For a relevant person who does not have a criminal history, there is taken to be a change in the person's criminal history if the person acquires a criminal history.

332 Requirements for disclosure

(1) To comply with section 330 or 331, a person must give the chief executive a disclosure in the approved form.

(2) The information disclosed in the approved form by the person about a conviction or charge of an offence in the person's criminal history must include—

(a) the existence of the conviction or charge; and

(b) when the offence was committed or alleged to have been committed; and

(c) the details of the offence or alleged offence; and

(d) for a conviction—whether or not a conviction was recorded and the sentence imposed on the person.

333 False, misleading or incomplete disclosure or failure to disclose

(1) A person must not—

(a) give the chief executive an approved form under section 332 that is false, misleading or incomplete in a material particular; or

(b) fail to give the chief executive a disclosure as required under section 330, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units or 2 years imprisonment.

(2) Subsection (1)(a) does not apply to a person in relation to particular information that the person is unable to provide if the person—

(a) indicates in the approved form the information that the person is unable to provide; and

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(b) otherwise gives the information in the approved form to the best of the person's ability.

(3) In a proceeding for an offence against subsection (1)(a), it is enough for a charge to state that the disclosure was, without specifying which, false or misleading.

Subdivision 3 Chief executive may obtain criminal information from other entities about criminal history and particular investigations

334 Chief executive may obtain report from commissioner of police service

(1) This section applies to a person who—

(a) is a relevant person; or

(b) seeks to become a relevant person and has given the chief executive an approved form under section 332.

(2) The chief executive may ask the commissioner to give the chief executive the following information about the person—

(a) a written report about the person's criminal history;

(b) a brief description of the circumstances of a conviction or charge mentioned in the person's criminal history;

(c) for a relevant person other than a visitor—information about an investigation relating to the possible commission of a serious offence by the person.

(3) Subject to subsections (4) and (5), the commissioner must comply with the request.

(4) The duty imposed on the commissioner to comply with the request—

(a) applies only to information in the commissioner's possession or to which the commissioner has access; and

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(b) in relation to information mentioned in subsection (2)(c)—applies only to information recorded on a central electronic database kept by the commissioner.

(5) The commissioner must not give information about an investigation relating to the possible commission of a serious offence by the person if—

(a) the commissioner is reasonably satisfied that giving the information—

(i) may prejudice or otherwise hinder an investigation to which the information may be relevant; or

(ii) may lead to the identification of an informant; or

(iii) may affect the safety of a police officer, complainant or other person; or

(b) for an investigation that has been completed—the investigation has not led, and the commissioner is reasonably satisfied it is unlikely to lead, to a reasonable suspicion that the person committed a serious offence; or

(c) for an investigation that has not been completed—the commissioner is reasonably satisfied the investigation is unlikely to lead to a reasonable suspicion that the person committed a serious offence.

335 Prosecuting authority to notify chief executive about committal, conviction etc.

(1) This section applies if a person, other than a visitor, is charged with an indictable offence and the commissioner or the director of public prosecutions (a ***prosecuting authority***) is aware that the person is a relevant person.

(2) If the person is committed by a court for trial for an indictable offence, the prosecuting authority must, within 7 days after the committal, give written notice to the chief executive of the following—

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(a) the person's name;

(b) the court;

(c) particulars of the offence;

(d) the date of the committal;

(e) the court to which the person was committed.

(3) If the person is convicted before a court of an indictable offence, the prosecuting authority must, within 7 days after the conviction, give written notice to the chief executive of the following—

(a) the person's name;

(b) the court;

(c) particulars of the offence;

(d) the date of the conviction;

(e) the sentence imposed by the court.

(4) If the person is convicted of an indictable offence, and has appealed the conviction, and the appeal is finally decided or has otherwise ended, the prosecuting authority must, within 7 days after the decision or the day the appeal otherwise ends, give written notice to the chief executive of the following—

(a) the person's name;

(b) particulars of the offence;

(c) the date of the decision or other ending of the appeal;

(d) if the appeal was decided—

(i) the court in which it was decided; and

(ii) particulars of the decision.

(5) If the prosecution process ends without the person being convicted of an indictable offence, the prosecuting authority must, within 7 days after the end, give written notice to the chief executive about the following—

(a) the person's name;

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(b) if relevant, the court in which the prosecution process ended;

(c) particulars of the offence;

(d) the date the prosecution process ended.

(6) For subsection (5), a prosecution process ends if—

(a) an indictment is presented against the person and—

(i) a nolle prosequi is entered on the indictment; or

(ii) the person is acquitted; or

(b) the prosecution process has otherwise ended.

(7) A reference in this section to a conviction of an indictable offence includes a summary conviction of an indictable offence.

Subdivision 4 Control on use of information about criminal history and particular investigations

336 Use of information obtained under this division

(1) This section applies to the chief executive in considering information about a person received under this division.

(2) The information must be used only for the purposes of this division.

(3) When making the assessment, the chief executive must have regard to the following matters relating to information about the commission, or alleged or possible commission, of an offence by the person—

(a) when the offence was committed, is alleged to have been committed or may possibly have been committed;

(b) the nature of the offence and its relevance to—

(i) for a person mentioned in section 327, definition *relevant person*, paragraph (a)(i), (ii) or (iii)—the

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person's proposed duties or duties under this Act; or

(ii) for a person mentioned in section 327, definition *relevant person*, paragraph (b)—any risk posed by the person to the security or good order of a corrective services facility;

(c) anything else the chief executive considers relevant to the assessment of the person.

337 Person to be advised of information obtained

(1) This section applies to information obtained by the chief executive about a person, under this division, from the commissioner.

(2) Before using the information to assess the person's suitability to be, or continue to be, a relevant person, the chief executive must—

(a) disclose the information to the person; and

(b) allow the person a reasonable opportunity to make representations to the chief executive about the information.

338 Reconsidering decision

(1) This section applies if the chief executive decides that a person is not suitable to be, or continue to be, a relevant person.

(2) The person may, within 7 days after being given notice of the decision, apply in writing to the chief executive for a reconsideration of the decision.

(3) After reconsidering the decision, the chief executive may confirm or change the decision.

339 Confidentiality

(1) This section applies to a person who—

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(a) is, or has been, a public service employee in the department or a selection panel member; and

(b) in that capacity acquired information, or gained access to a document, under this division about someone else's criminal history or about an investigation relating to the possible commission of a serious offence by someone else.

(2) The person must not disclose the information, or give access to the document, to anyone else.

Maximum penalty—100 penalty units or 2 years imprisonment.

(3) Subsection (2) does not apply to the disclosure of information, or giving of access to a document, about a person—

(a) to a public service employee in the department, or a selection panel member, for the purpose of assessing the person's suitability to be, or continue to be, a relevant person; or

(b) with the person's consent; or

(c) if the disclosure or giving of access is otherwise required under an Act.

(4) In this section—

selection panel member means a member of a panel formed to make a recommendation to the chief executive about a person becoming, or being promoted as, a relevant person.

340 Guidelines for dealing with information

(1) The chief executive must make guidelines, consistent with this Act, for dealing with information obtained by the chief executive under this division.

(2) The purpose of the guidelines is to ensure—

(a) natural justice is afforded to the persons about whom the information is obtained; and

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(b) only relevant information is used in assessing the persons' suitability to be, or continue to be, relevant persons; and

(c) decisions about the suitability of persons, based on the information, are made consistently.

(3) The chief executive must give a copy of the guidelines, on request, to a person seeking to become a relevant person.

Division 3 Other provisions about information

340AA Sensitive information that need not be included in reasons

(1) A decision-maker need not, in giving reasons for a decision or proposed decision made under this Act, disclose anything that the decision-maker is satisfied could reasonably be expected to—

(a) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or

(b) endanger a person's life or physical safety; or

(c) seriously threaten a person's welfare; or

(d) prejudice public safety or national security; or

(e) prejudice the detection, investigation or prosecution by a law enforcement agency of—

(i) a terrorism offence; or

(ii) an offence with a maximum penalty of 14 years or more imprisonment; or

(iii) another offence prescribed by regulation for this section; or

(f) be prohibited under a law of this or another State or the Commonwealth.

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(1A) In deciding whether to rely on subsection (1), the decision-maker must weigh the need to avoid the reasonably expected consequences of disclosure mentioned in subsection (1) against the need to avoid unfairness to an individual that the decision-maker is satisfied could reasonably be expected as a consequence of non-disclosure.

(1B) If a decision-maker relies on subsection (1), the decision-maker must keep a written record of the decision to rely on the subsection and the reasons for the decision.

(1C) The contents of the record may only be disclosed—

(a) to a court for the purpose of a proceeding relating to the decision or proposed decision; or

(b) with the approval of the chief executive.

(1D) The court must ensure that the contents of the record are not disclosed except to a member of the court as constituted for the purpose of the proceeding.

(2) In this section—

decision-maker means—

(a) the parole board; or

(b) a person required or authorised to make a decision under this Act.

340A Sensitive information from law enforcement agencies

(1) This section applies to a person (the ***informed person***) who has obtained access to either of the following sensitive law enforcement information, whether before or after the commencement of this section—

(a) sensitive law enforcement information that the chief executive has obtained from a law enforcement agency;

(b) sensitive law enforcement information in the possession of a law enforcement agency that the chief executive has accessed under an arrangement with the agency.

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(2) The informed person must not disclose the sensitive law enforcement information to another person or make a record of the information, other than as authorised under subsection (3).

Maximum penalty—100 penalty units or 2 years imprisonment.

(3) The informed person may disclose the sensitive law enforcement information or make a record of the information—

(a) for the purpose for which the information was given to the chief executive; or

(b) with the approval of the law enforcement agency that provided the information; or

(c) if the use or disclosure of the information is likely to prevent a serious threat to a person's life, health or safety.

(4) In this section—

sensitive law enforcement information means—

(a) information that, if disclosed, could reasonably be expected to—

(i) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of a law, to be ascertained; or

(ii) endanger a person's life or physical safety; or

(iii) result in a person being subjected to a serious act of harassment or intimidation; or

(iv) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; or

(v) prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or

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(vi) endanger the security of a building, structure or vehicle; or

(vii) prejudice a system or procedure for the protection of persons, property or the environment; or

(viii) facilitate a person's escape from lawful custody; or

(b) information that—

(i) consists of information given in the course of an investigation of a contravention or possible contravention of a law; and

(ii) was given under compulsion under an Act that abrogated the privilege against self-incrimination; or

(c) information obtained, used or prepared—

(i) for an investigation by a part of the police service known as the State Intelligence Group; or

(ii) for an investigation by a part of the police service known as the State Security Operations Group; or

(iii) by Crime Stoppers Queensland Limited ACN 010 995 650.

341 Confidential information

(1) This section applies to either of the following (each of whom is an ***informed person***)—

(a) a person who is performing or has performed a function under this Act or any of the repealed Acts, or is or was otherwise engaged in the administration of this Act or any of the repealed Acts;

(b) a person who has obtained access to confidential information, whether before or after the commencement of this section and whether directly or indirectly, from a person mentioned in paragraph (a).

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(2) The informed person must not disclose confidential information acquired by the informed person to anyone else other than under subsection (3) or section 340A(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) for confidential information that consists of a person's private details—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; or

(f) if the information merely informs someone—

(i) of the corrective services facility in which a prisoner is being held in custody; or

(ii) for an offender who is subject to a parole order or a community based order—that the offender is subject to the order; or

(g) to a health practitioner if—

(i) the confidential information relates to a prisoner; and

(ii) the informed person reasonably believes the disclosure is relevant for the care, treatment or rehabilitation of the prisoner; or

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(h) if the confidential information relates to the condition of a prisoner and is communicated in general terms; or

Example of communicated in general terms—

a corrective services officer at a corrective services facility discloses that a prisoner is in a detention unit or in transit to a hospital

(i) for confidential information that relates to an offender—to a corrective service of another State or foreign country if the information is relevant to support the supervision or management of the offender; or

(j) to a law enforcement agency for a function of the agency.

(4) Subsection (3)(h) does not apply to—

(a) a prisoner who is released on parole; or

(b) a supervised dangerous prisoner (sexual offender).

(5) In this section—

***confidential information*—**

(a) includes information—

(i) about a person's private 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

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(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.

corrective service, of another State or a foreign country, means an entity in that State or foreign country that has the function of detaining, housing, supervising or reporting on prisoners or other persons held in custody by that State or foreign country.

private details of a person includes the person's identity, private residential address or contact details.

341A Chief executive may give registrar particular information

The chief executive may inform the registrar under the *Births, Deaths and Marriages Registration Act 2023* that an identified person—

(a) is in a corrective services facility for detention; or

(b) is released on parole; or

(c) is subject to a supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

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342 Commissioner to provide offender's 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 an offender.

(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 an Act; or

(b) a designated authority under the *Parole Orders (Transfer) Act 1984*, section 7(1); or

(c) a proper authority under the *Penalties and Sentences Act 1992*, section 136(2); or

(d) the parole board.

(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.

343 Traffic history

(1) The chief executive may ask the transport chief executive to give the chief executive a report about an offender's traffic history for use under this Act and the *Penalties and Sentences Act 1992*.

(2) The transport chief executive must give the chief executive a written report about the traffic history that—

(a) is in the transport chief executive's possession; or

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(b) the transport chief executive can access through arrangements with a government department 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 an Act; or

(b) a designated authority under the *Parole Orders (Transfer) Act 1984*, section 7(1); or

(c) a proper authority under the *Penalties and Sentences Act 1992*, section 136(2); or

(d) the parole board.

(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.

(5) In this section—

traffic history of an offender means the offender's traffic history under the *Transport Operations (Road Use Management) Act 1995*.

transport chief executive means the chief executive of the department in which the *Transport Operations (Road Use Management) Act 1995* is administered.

344 Pre-sentence report

(1) When required to do so by a court, the chief executive must prepare a pre-sentence report for the court about a stated person convicted of an offence.

(2) A pre-sentence report may, for example, state the person's criminal or traffic history obtained under section 342 or 343.

(3) If the court proposes to grant bail to the person, the court must order the person to report to the chief executive within a stated time.

(4) The pre-sentence report must be—

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(a) given to the court within 28 days; and

(b) if the report is in writing, given in triplicate.

(5) The court must give a copy of a pre-sentence report to—

(a) the prosecution; and

(b) the convicted person's lawyers.

(6) The court must ensure the prosecution and lawyers have sufficient time before the proceedings to consider and respond to the report.

(7) The court may order that the report, or part of the report, not be shown to the convicted person.

(8) The copy of the report must be returned to the court before the end of the proceedings.

(9) A report purporting to be a pre-sentence report made by the chief executive is evidence of the matters contained in it.

(10) An objection must not be taken or allowed to the evidence on the ground that it is hearsay.

344AA Notification before participation in a program or service

(1) This section applies if a prisoner is being detained on remand for an offence.

(2) Before the prisoner participates in any program or service established or facilitated under section 266, the chief executive must ensure the prisoner is told if the program or service is an ineligible program or service under section 344AB(7).

344AB Participation in a program or service not to be used in evidence

(1) This section applies if—

(a) a prisoner is being detained on remand for an offence; and

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(b) the prisoner participates in a section 266 program or service.

(2) The following are not admissible in evidence against the prisoner in any civil, criminal or administrative proceeding for the facts constituting the alleged offence for which the prisoner is detained on remand—

(a) an admission made by the prisoner in the course of, for the purpose of, or as a condition of, participating in a section 266 program or service;

(b) evidence directly or indirectly derived from an admission mentioned in paragraph (a).

(3) Subsection (2) does not apply to a proceeding for an offence committed or allegedly committed by the prisoner while participating in a section 266 program or service.

(4) The reference in subsection (2)(a) to an admission made by the prisoner includes—

(a) any written material made by the prisoner; and

(b) anything said or done by the prisoner that makes it evident the prisoner committed an offence.

Examples of written material—

homework, workbooks, relapse prevention plans, offence mapping

(5) However, evidence that would otherwise be inadmissible in a proceeding because of subsection (2) is admissible if the prisoner agrees to its admission.

(6) Despite subsection (2), nothing in this section affects the information that may be adduced before, or considered by, the Parole Board.

(7) In this section—

section 266 program or service means a program or service that—

(a) is established or facilitated under section 266; and

(b) is not an ineligible program or service.

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(8) For the purpose of subsection (7), definition *section 266 program or service*, paragraph (b), a regulation may prescribe an ineligible program or service.

Part 13A Use of dangerous drugs for training

Division 1 Preliminary

344A Object of pt 13A

(1) The object of this part is to ensure training in the department about dangerous drugs is realistic and effective.

(2) The object is to be achieved by putting in place arrangements—

(a) to allow the department to have access to dangerous drugs for training purposes; and

(b) to ensure dangerous drugs in the possession of the department for training purposes—

(i) are carefully handled to ensure their effectiveness for training purposes is not compromised; and

(ii) are subject to strict tracking and accountability requirements.

344B Definitions for pt 13A

In this part—

agency arrangement means an arrangement, or series of arrangements, between the chief executive and the chief executive officer, by whatever name known, of a department or other agency of the State or the Commonwealth (the ***other agency***) providing for the following—

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(a) the transfer of possession of a batch of a dangerous drug from the possession of the other agency into the possession of the department;

(b) that the batch of the dangerous drug is to be used for training in the department;

(c) the type and extent of the training for which the batch of the dangerous drug is to be used;

(d) what is to be done with the batch of the dangerous drug at the end of the training;

(e) anything else the parties to the arrangement consider appropriate.

Example of an agency arrangement made up of a series of arrangements—

A first arrangement between the chief executive and an agency could establish basic principles to govern the supply of dangerous drugs to the chief executive for training purposes. A second arrangement between the chief executive and the agency could establish particular procedures to be followed for transferring particular types of dangerous drugs between the department and the agency subject to the basic principles established in the first arrangement. A third arrangement between the chief executive and the agency could provide for the special circumstances applying to a batch of one of the particular types of dangerous drugs mentioned in the second arrangement. For the batch mentioned in the third arrangement, the agency arrangement may be ascertained from a reading of all 3 arrangements.

drug control direction means a direction of the chief executive—

(a) authorising—

(i) the keeping of a batch of a dangerous drug; and

(ii) the use of the batch in training in the department; and

(b) stating the conditions under which the keeping and use of the batch of the dangerous drug is authorised.

drug control officer means a person holding an appointment under division 2 as a drug control officer.

drug vault means a secure facility suitable for the storage of dangerous drugs in the possession of the department for

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training purposes under the authority of a drug control direction.

register of dangerous drugs for training means the register of dangerous drugs for training kept under section 344M.

secure facility means a facility that is secure against unauthorised entry.

Division 2 Drug control officers

344C Appointment and qualifications

(1) The chief executive may appoint a corrective services officer as a drug control officer.

(2) However, the chief executive may appoint a corrective services officer as a drug control officer only if—

(a) the chief executive is satisfied the officer is qualified for appointment because the officer has the necessary expertise or experience; or

(b) the officer has satisfactorily finished training approved by the chief executive.

344D Appointment conditions

(1) A drug control officer holds office on any conditions stated in—

(a) the drug control officer's instrument of appointment; or

(b) a signed notice given to the drug control officer; or

(c) a regulation.

(2) The instrument of appointment, a signed notice given to the drug control officer or a regulation may limit the drug control officer's powers under this part.

(3) In this section—

signed notice means a notice signed by the chief executive.

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344E Issue of identity card

(1) The chief executive must issue an identity card to each drug control officer.

(2) The identity card must—

(a) contain a recent photo of the drug control officer; and

(b) contain a copy of the drug control officer's signature; and

(c) identify the person as a drug control officer under this part; and

(d) state an expiry date for the card.

(3) This section does not prevent the issue of a single identity card to a person for this Act and for other purposes.

344F Resignation

A drug control officer may resign by signed notice given to the chief executive.

344G Return of identity card

A person who ceases to be a drug control officer must return the person's identity card to the chief executive within 21 days after ceasing to be a drug control officer unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

344H Function and powers of drug control officer

(1) A drug control officer has the function of administering and controlling, as required under this part and the conditions on which the drug control officer holds office, the following—

(a) the receiving into the possession of the department of batches of dangerous drugs to be used for training purposes (the ***batches***);

(b) the storage of the batches;

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(c) the movement in and out of storage, for the purposes of training, of the batches or parts of the batches;

(d) how the batches leave the possession of the department.

(2) A drug control officer has power, within the department, to do all things necessary to be done for the performance of the drug control officer's function.

Division 3 Keeping and use of dangerous drugs for training

344I Keeping dangerous drug for use in department training

A batch of a dangerous drug may lawfully be kept in the possession of the department and used for training in the department if—

(a) the keeping of the batch, and its use for training in the department, is authorised under a drug control direction; and

(b) the batch is kept, and used for training, in accordance with the conditions included in the drug control direction.

344J Making drug control direction

(1) The chief executive may make a drug control direction for a batch of a dangerous drug.

(2) The chief executive may make a drug control direction for a batch of a dangerous drug only if the batch comes into the possession of the department under an agency arrangement.

(3) The conditions included in the drug control direction must include the following conditions—

(a) a condition that the batch must be used only for the training purposes stated in the condition;

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Example of training purposes—

training corrective services dogs to detect the presence of dangerous drugs in various situations

(b) a condition that the training for which the batch is used must be of the type, and of the extent, stated in the condition;

(c) a condition that the whole of the batch must at all times—

(i) be under the effective control of a drug control officer or 1 or more of the corrective services officers identified in the condition; or

(ii) be kept securely in a way stated in the condition;

(d) a condition that, as soon as practicable after the batch is used for training purposes for the last time, the batch must be destroyed or disposed of in the way stated in the condition.

(4) Subsection (3) does not limit the conditions that may be included in the drug control direction.

(5) The chief executive must ensure that the department complies with the conditions included in the drug control direction.

344K Entering into agency arrangement

(1) The chief executive may enter into an agency arrangement.

(2) The chief executive may enter into an agency arrangement only if the department or other agency, whose chief executive officer is the other party to the arrangement, is authorised to possess the batch of the dangerous drug the subject of the arrangement.

(3) The chief executive must ensure the department complies with the agency arrangement.

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344L Requirements for keeping of dangerous drugs for training purposes

(1) The following requirements apply for the department's possession of dangerous drugs for training purposes—

(a) each batch of a dangerous drug must be stored in a drug vault;

(b) when a batch of a dangerous drug is received into a drug vault for storage for the first time, it must be accompanied by a document certifying, in a way approved by the chief executive, the weight and purity of the batch;

(c) a drug vault must not be used for storing a dangerous drug that is in the possession of the department other than for training purposes;

(d) a drug vault must be designed and constructed for ensuring, to the greatest practicable extent, that each batch of a dangerous drug stored in it keeps its level of effectiveness for training purposes;

(e) a drug vault must include enough separate storage to ensure that no batch of a dangerous drug stored in the vault can be contaminated by another batch, or can otherwise be made ineffective or less effective for training purposes;

(f) the whole of a batch of a dangerous drug must be stored in a drug vault at all times, except to the extent the batch, or a part of the batch, is required to be held somewhere else for training purposes;

(g) an audit of each drug vault must be conducted at least once every 3 months by a corrective services officer not otherwise directly associated with the keeping or use of dangerous drugs for training purposes;

(h) when a batch of a dangerous drug leaves a drug vault for the last time—

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(i) it must be accompanied by a document certifying, in a way approved by the chief executive, the weight and purity of the batch; and

(ii) a copy of the document mentioned in subparagraph (i) must be kept at the drug vault or at another place the chief executive directs.

(2) Without limiting the scope of an audit under subsection (1)(g), the audit must include—

(a) weighing each batch of dangerous drugs in the drug vault to find out whether all quantities of dangerous drugs that should be in the drug vault at the time of the audit are in the vault; and

(b) finding out whether the drug vault is storing any dangerous drugs, or anything else, that should not be stored in the drug vault; and

(c) finding out whether, and to what extent, the purity of any batch of a dangerous drug stored at the drug vault has been adversely affected since it was received into the drug vault; and

(d) a review of the register of dangerous drugs for training.

(3) Without limiting the requirements for an audit under subsection (1)(g), requirements for the audit include the following—

(a) the performance of the audit must be supervised by a corrective services officer who is—

(i) authorised by the chief executive to supervise the performance of the audit; and

(ii) not otherwise directly associated with the keeping or use of dangerous drugs for training purposes;

(b) all batches of dangerous drugs stored in the drug vault must be the subject of analysis by an analyst under the *Drugs Misuse Act 1986*;

(c) the accuracy of the scales used in measuring the weights of batches of dangerous drugs stored in the drug vault

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must be certified in a way approved by the chief executive.

Division 4 Register of dangerous drugs for training

344M Register of dangerous drugs for training

(1) The chief executive must keep a register of dangerous drugs for training.

(2) The register may form part of another register whether kept under this or another Act.

(3) The chief executive—

(a) subject to subsection (4), may keep the register of dangerous drugs for training in the way the chief executive considers appropriate; and

Example for paragraph (a)—

The register may be kept on a computer or partly on a computer and partly in written form.

(b) must ensure the register is kept in a secure place.

(4) The register of dangerous drugs for training must be kept in a way that, to the greatest practicable extent, enables a drug control officer, or a corrective services officer performing a lawful function associated with the keeping of dangerous drugs in the possession of the department under this Act, whether or not under this part, to comply with this Act's requirements.

(5) Unless the chief executive otherwise authorises, an entry in the register of dangerous drugs for training may only be made by a drug control officer who is authorised, under the conditions on which the drug control officer holds office, to make the entry.

(6) If the chief executive gives a direction under this division restricting access to information included in the register of dangerous drugs for training, a drug control officer authorised

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to record the information in the register must ensure the information is recorded in a way that, to the greatest practicable extent, stops disclosure of the information to a person not authorised to have access to it.

344N Information to be recorded in the register of dangerous drugs for training

(1) The following information must be recorded in the register of dangerous drugs for training about each batch of a dangerous drug coming into the possession of the department to be used for training purposes—

(a) the name of the dangerous drug;

(b) a description of the batch;

(c) the weight, in grams, of the batch;

(d) a description of any container or packaging, and of any other item, used for conveying the batch into the possession of the department;

(e) the weight, in grams, of any container or packaging, and of any other item, used for conveying the batch into the possession of the department;

(f) when the batch was received into the possession of the department;

(g) the purity of the batch, and details of the certification of the purity;

(h) a description of the circumstances in which the batch came into the possession of the department.

(2) The following information must be recorded in the register of dangerous drugs for training about each batch of a dangerous drug in the possession of the department for training purposes if the batch, or part of the batch, is taken from the drug vault where it is stored because it is to be used for training purposes—

(a) when the batch or part of the batch leaves the drug vault;

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(b) the nature of the training for which the batch or part of the batch is to be used;

(c) the condition of any container or packaging in which the batch or part of the batch leaves the drug vault;

(d) the weight, in grams, of the batch or part of the batch when it leaves the drug vault;

(e) the condition of any container or packaging in which the batch or part of the batch is returned to the drug vault;

(f) the weight, in grams, of the batch or part of the batch when it is returned to the drug vault.

(3) The following information must be recorded in the register of dangerous drugs for training when a batch of a dangerous drug leaves a drug vault for the last time to be disposed of or to be returned to an entity under an agency arrangement—

(a) the weight, in grams, of the batch when it leaves the drug vault;

(b) the weight, in grams, of any container or packaging in which the batch leaves the drug vault.

(4) Recording under subsection (1), (2) or (3) must be performed as close as reasonably practicable to the happening of the event to which the recording relates.

344O Restriction on release of information from register of dangerous drugs for training

(1) The chief executive may give a direction restricting access to information recorded in the register of dangerous drugs for training to persons other than—

(a) a drug control officer who reasonably needs the information for the performance of the officer's function under this part; or

(b) a corrective services officer who reasonably needs the information for conducting or supervising, under this part, an audit of a drug vault; or

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(c) another corrective services officer, if the corrective services officer is performing a function associated with the keeping of dangerous drugs in the possession of the department under this Act, whether or not under this part, and reasonably needs the information for the performance of the officer's function; or

(d) a police officer who reasonably needs the information for the performance of the officer's functions under an Act; or

(e) a person stated in the direction.

(2) A direction under subsection (1) may restrict access to all information recorded in the register or only to information of a type stated in the direction.

(3) The chief executive must keep a written record of the reasons for giving a direction under subsection (1) in each particular case.

(4) The chief executive may give a direction under subsection (1), and keep the direction in place, only if the chief executive considers that a failure to give the direction, or to keep the direction in place, may prejudice—

(a) the security of a drug vault; or

(b) the safety of—

(i) a corrective services officer; or

(ii) another person associated with keeping dangerous drugs in the possession of the department for training purposes; or

(iii) a person associated with a person mentioned in subparagraph (i) or (ii).

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Part 14 Surrender of equipment and identity card

345 Staff members

(1) If a person stops being a staff member, the person must return to the issuing entity, as required under subsection (2), a firearm or other weapon issued to the person to perform the person's duties under this Act, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(2) The firearm or other weapon must be returned immediately after the person stops being a staff member.

(3) Also, if a person stops being a staff member, the person must return the following things to the issuing entity, as required under subsection (4), unless the person has a reasonable excuse—

(a) the person's identity card;

(b) anything else not mentioned in subsection (1) issued to the person to perform the person's duties under this Act that the chief executive requires to be returned.

Maximum penalty—10 penalty units.

(4) Anything required to be returned under subsection (3) must be returned as soon as practicable, but within 7 days, after the person stops being a staff member.

(5) In this section—

issuing entity means—

(a) for something issued by the chief executive—the chief executive; or

(b) for something issued by an engaged service provider—the engaged service provider.

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Part 15 Legal provisions

346 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 is to be read as limiting or changing any authority or jurisdiction that a court, judge or justice has under another Act or law.

347 Interpretation of authority for admission to corrective services facility

(1) If a question arises about the construction or effect of an authority for admitting a prisoner to a corrective services facility, the chief executive may apply to a Supreme Court judge to interpret the authority.

(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.

(4) In this section—

authority, for admitting a person to a corrective services facility, means an authority mentioned in section 9(1).

348 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.

348A Approved corrective services facilities

(1) The chief executive may approve a corrective services facility for service of documents under section 348B.

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(2) The chief executive must publish an approval under subsection (1) on the department's website.

348B Personal service of documents in particular circumstances

(1) This section applies if—

(a) a police officer is required or permitted under the *Domestic and Family Violence Protection Act 2012* to personally serve a document on a person; and

(b) the person is a prisoner detained in a corrective services facility approved under section 348A(1); and

(c) the chief executive agrees, under an arrangement between the chief executive and the police commissioner, to receive the document.

(2) The chief executive must personally serve the document on the person.

(3) Unless the contrary is proved, for the *Domestic and Family Violence Protection Act 2012*, the document is taken to be personally served on the person on the day the document is served by the chief executive.

(4) This section does not prevent a police officer from personally serving the document on the person under the *Domestic and Family Violence Protection Act 2012*.

349 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) A board member does not incur civil liability for an act done, or omission made honestly, with or without negligence, under this Act.

(3) If subsection (1) or (2) prevents a civil liability attaching to an official or board member, the liability attaches instead to the State.

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(4) In this section—

***official*—**

(a) means—

(i) the Minister; or

(ii) the chief executive; or

(iii) a person, other than a board member, appointed for this Act; or

(iv) a volunteer; or

(v) a protected defendant mentioned in section 319A, definition *protected defendant*, paragraph (b) to (e) performing a function under chapter 6, part 12B; or

(vi) the public trustee performing a function under chapter 6, part 12B; or

(vii) an individual employed or engaged by an entity mentioned in subparagraph (v) or (vi) performing a function under chapter 6, part 12B; or

(viii) a person performing a function under section 319U(1); 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).

350 Proceedings for offences—general

(1) A proceeding for an offence against this Act, other than an offence under section 122 or 131A, is a summary proceeding under the *Justices Act 1886*.

(2) Subject to subsection (3), 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.

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(3) If the proceeding is for an offence under section 28F(1) or (5), it may start at any time but, if started more than 1 year after the commission of the offence, must start within 6 months after the offence comes to the complainant's knowledge.

350A Proceeding for offence against s 131A

(1) A charge of an offence against section 131A must be heard and decided summarily if the prosecution elects to have the charge heard and decided summarily.

(2) A Magistrates Court that summarily deals with the charge for the offence—

(a) must be constituted by a magistrate; and

(b) has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose; and

(c) may hear and decide the charge at any place appointed for holding a Magistrates Court within the district in which the accused person was arrested on the charge or served with the summons for the charge under the *Justices Act 1886*.

(3) However, a Magistrates Court must abstain from dealing summarily with the charge if satisfied, on an application made by the prosecution and the defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction.

(4) If the Magistrates Court abstains from jurisdiction—

(a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and

(b) the proceeding for the charge must be conducted as a committal proceeding; and

(c) a plea of the defendant at the start of the hearing must be disregarded; and

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(d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and

(e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.

350B Maximum penalty for offence against s 131A dealt with summarily

The maximum penalty that may be imposed on a summary conviction for an offence against section 131A is—

(a) if the Magistrates Court is a court constituted by a magistrate imposing a drug and alcohol treatment order under the *Penalties and Sentences Act 1992*, part 8A—100 penalty units or 4 years imprisonment; or

(b) otherwise—100 penalty units or 3 years imprisonment.

350C Appeal against decision to decide charge against s 131A summarily

(1) This section applies if a person is summarily convicted or sentenced for an offence against section 131A.

(2) The grounds on which the person may appeal include that the Magistrates Court erred by deciding the conviction or sentence summarily.

(3) The grounds on which the Attorney-General may appeal against the sentence include that the Magistrates Court erred by deciding the sentence summarily.

(4) On an appeal against the sentence relying on a ground that the Magistrates Court erred by proceeding summarily, the court deciding the appeal may, if it decides to vary the sentence, impose the sentence the court considers appropriate up to the maximum sentence that could have been imposed if the matter had been dealt with on indictment.

351 Evidentiary aids

(1) This section applies to a proceeding under an Act.

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(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;

(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 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, one of the repealed Acts or the *Prisons Act 1958*;

(g) the contents of a stated substance that was tested by a State analyst under the *Medicines and Poisons Act 2019*;

(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) approval was not given for a stated act or omission that is alleged to have happened;

(j) the chief executive, on a stated day or during a stated period, personally served a document on a person under section 348B.

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(4) A certificate signed by an officer of the secretariat recording a decision of the parole 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 corrective services officer; or

(c) a board member; or

(d) an official visitor; or

(e) the chief inspector; or

(f) an inspector; or

(g) a police officer; or

(h) a community service supervisor.

Part 16 Miscellaneous

352 Review of Act

The Minister must review the efficacy and efficiency of this Act within 7 years after its commencement.

353 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.

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354 Approved forms

(1) The chief executive may approve forms for use under this Act.

(2) If there is an approved form for an order or instrument made or granted under this Act, the order or instrument must be in the approved form.

355 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) Without limiting subsection (1), a regulation may—

(a) prescribe matters relating to the parole board and the secretariat; or

(b) prescribe offences for a contravention of a regulation and fix a maximum penalty of not more than 20 penalty units for a contravention; or

(c) prescribe fees payable under this Act.

Chapter 7 Transitional and other provisions for Corrective Services Act 2006

Part 1 Preliminary

356 Definitions for ch 7

In this chapter—

2000 Act means the *Corrective Services Act 2000*.

applied discipline procedure see section 406(2).

commencement means the commencement of this section.

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previous, if followed by a provision number, means the provision under the 2000 Act.

357 Continued actions or things to be read with necessary changes

(1) This section applies if—

(a) an action was done or something was brought into existence under a provision of the 2000 Act (the ***previous action or thing***); and

(b) a provision of this chapter provides that the previous action or thing continues in force or existence, or continues to have effect, and is taken to be an action or thing under this Act or a provision of this Act.

Examples—

- section 381(2)
- section 443(2)

(2) The previous action or thing is to be read with, or continued in force with, the changes necessary—

(a) to make it consistent with this Act; and

(b) to adapt its operation to this Act.

(3) Subsection (2) does not prevent the provision of this chapter providing for other matters in relation to the action or thing.

(4) Also, the previous action or thing may be amended, repealed or revoked under this Act.

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Part 2 Prisoners and other persons in custody

Division 1 Custody and admission

358 Where persons to be detained

(1) This section applies to a person who—

(a) before the commencement, was sentenced to a period of imprisonment or required by law to be detained for a period; and

(b) immediately before the commencement was detained in a corrective services facility.

(2) Subject to this Act, the person must continue to be detained.

(3) However, if the person was detained in a watch house under previous section 6(2)(b), subsection (2) does not prevent the person being taken to a corrective services facility.

(4) This section is also subject to the Acts, and provisions of Acts, mentioned in section 6(3).

359 When persons in chief executive's custody

(1) A person who, under the 2000 Act, was in the chief executive's custody immediately before the commencement continues to be in the chief executive's custody, subject to this Act.

Note—

See, for example, previous section 7.

(2) Subsection (1) does not prevent the application of a provision of this Act providing for when a person is in another person's custody.

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360 When persons in commissioner's custody

(1) A person who, under the 2000 Act, was in the commissioner's custody immediately before the commencement continues to be in the commissioner's custody, subject to this Act.

Note—

See, for example, previous section 8.

(2) Subsection (1) does not prevent the application of a provision of this Act providing for when a person is in another person's custody.

361 Authority for admission to corrective services facility

(1) This section applies to a person who—

(a) before the commencement, was validly admitted to a corrective services facility as mentioned in previous section 9(1); and

Note—

See section 475.

(b) immediately before the commencement was validly detained in a corrective services facility.

(2) Subject to this Act, the continued detention of the person in a corrective services facility is valid.

362 Continuation of record for identifying prisoners

(1) The record kept by the chief executive under previous section 10(1) and in existence immediately before the commencement (the ***previous record***) is taken to be part of the record required under section 10(1).

(2) The previous record may be dealt with under section 10, including by destroying photos and prints forming part of the previous record.

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363 Prisoner classifications

(1) This section applies to a prisoner who, immediately before the commencement, had a classification under previous section 12 (***previous classification***).

(2) If, immediately before the commencement, the prisoner's previous classification was maximum security, the chief executive is taken to have classified the prisoner under section 12(1) with the security classification of maximum.

(3) If, immediately before the commencement, the prisoner's previous classification was high security, medium security or low security, the chief executive is taken to have classified the prisoner under section 12(1) with the security classification of high.

(4) If, immediately before the commencement, the prisoner's previous classification was open security, the chief executive is taken to have classified the prisoner under section 12(1) with the security classification of low.

(5) For applying section 13 to a prisoner to whom this section applies, the end of the first interval is to be worked out on the basis of the decision about classification, or a review of a classification, under previous section 12.

Example for subsection (5)—

A prisoner was classified as maximum security on 1 October 2005. On 26 March 2006, the prisoner's classification was reviewed under previous section 12 as low security. No change is made to the classification before the commencement and, under subsection (3), the prisoner's security classification is high on the commencement. Under section 13(1)(b), a prisoner's security classification of high must be reviewed at intervals of not longer than 1 year. Therefore, under subsection (5), the prisoner's security classification must be reviewed before 26 March 2007.

364 Asking chief executive to reconsider decision about classification

(1) This section applies if, immediately before the commencement, a prisoner was entitled to apply under the

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2000 Act for a reconsideration of the chief executive's decision to change the prisoner's classification.

Note—

See the repealed *Corrective Services Regulation 2001*, section 4.

(2) The prisoner may apply for a reconsideration of the decision under the 2000 Act as if this Act had not been enacted.

(3) However, the chief executive must reconsider the decision, and may confirm, amend or cancel the decision, as mentioned in section 16(3).

(4) Also, the chief executive must give the prisoner an information notice about the reconsidered decision as mentioned in section 16(4).

Division 2 Management of prisoners

365 Direction given before commencement

A direction given under previous section 14(1) and in force immediately before the commencement is taken to be a direction given under section 20(1).

366 Order or direction for medical examination or treatment

(1) This section applies to an order given under previous section 15(2) (the ***previous order***), or a requirement made under previous section 15(3)(b) (the ***previous requirement***), if—

(a) the previous order or previous requirement was in force immediately before the commencement; and

(b) the medical examination mentioned in the order or requirement had not happened or been completed before the commencement.

(2) The previous order is taken to be an order given under section 21(3) requiring the medical examination stated in the previous order.

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(3) The previous requirement is taken to be a requirement given under section 21(4)(a)(ii) requiring the medical examination stated in the previous requirement.

(4) The previous order and the previous requirement may be amended or cancelled by the chief executive under section 21.

367 Authorisation for medical examination or treatment

(1) This section applies to an authorisation given under previous section 15(7) and in force immediately before the commencement (the ***previous authorisation***) if the medical examination or treatment mentioned in the authorisation has not happened or been completed before the commencement.

(2) The previous authorisation is taken to be an authorisation given under section 21(7) for the medical examination or treatment.

368 Application or approval for private medical examination or treatment

(1) This section applies to the following—

(a) an application made under previous section 16(1) if the application had not been approved or refused before the commencement (the ***previous application***);

(b) an approval given by the chief executive under previous section 16(2) if the examination or treatment the subject of the approval had not happened or been completed before the commencement (the ***previous approval***).

(2) The previous application is taken to be an application made under section 22(1).

(3) The previous approval is taken to be an approval given under section 22(3) and any conditions that applied under the 2000 Act, or as stated in the previous approval, continue to apply to the previous approval.

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369 Previous notice about lodging notice of intention to marry and approval and decision about marriage

(1) A notice given to the chief executive under previous section 23(1) about lodging a notice of intention to marry is taken to be the notice required under section 26(1) about lodging a notice of intention to marry.

(2) An approval, and any decision of the chief executive about the way a marriage is to be conducted, under previous section 23(2) is taken to be an approval or decision as mentioned in section 26(2).

370 Previous notice about change of name

Section 27 does not apply to a person who changes the person's name if the person gave notice to the chief executive about the change under previous section 24.

371 Carrying on a business

Section 28(1) does not apply, until the end of 21 days after the commencement, to a prisoner in a corrective services facility who was carrying on a business immediately before the commencement.

Division 3 Children accommodated with female prisoners

372 Application or approval for accommodation of child with prisoner

(1) This section applies if an application was made under previous section 20 to have a child accommodated with a prisoner (the ***previous application***).

(2) If the previous application was neither approved nor refused before the commencement, the previous application is taken to be an application made under section 29(3).

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(3) If the previous application was granted before the commencement, and the grant was not cancelled or the child was not removed before the commencement, the previous application is taken to have been granted under section 30(1).

(4) To remove any doubt, it is declared that, under section 31, the chief executive may remove a child being accommodated with a prisoner in a corrective services facility even though the chief executive did not originally grant the application allowing the child to be so accommodated.

373 Reviewing decisions about children

(1) This section applies if, immediately before the commencement, a female prisoner was entitled to apply under previous section 22 to the chief executive to review a decision mentioned in that section, but had not applied.

(2) The female prisoner may apply for a review of the decision under previous section 22, and the chief executive must review the decision, as if this Act had not been enacted.

374 Existing application for review of decision about accommodation of child with prisoner

(1) This section applies if, before the commencement—

(a) a person had applied under previous section 22 for a review of a decision mentioned in that section; and

(b) the application had not been dealt with by the chief executive giving the prisoner written notice of the decision.

(2) The chief executive must deal with the application under previous section 22 as if this Act had not been enacted.

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Division 4 Search of prisoners

375 Existing order for personal searching whenever prisoner leaves part of secure facility

(1) This section applies to an order given under previous section 26(1) in relation to a part of a secure facility if the order was in force immediately before the commencement.

(2) The order is taken to be an order given by the chief executive under section 34(1) in relation to the part of the secure facility.

376 Existing direction or order for strip searching of prisoner

(1) This section applies to a direction or order given under previous section 26A in relation to a prisoner if the direction or order was in force immediately before the commencement.

(2) A direction under previous section 26A(1) is taken to be a direction given under section 35(1) in relation to the prisoner.

(3) An order under previous section 26A(2)—

(a) is taken to be an order giving effect to a direction under section 35(1) in relation to the prisoner; and

(b) may be amended or cancelled by the chief executive.

377 Continuation of register of searches

The register kept for a corrective services facility under previous section 29 and in existence immediately before the commencement is taken to be part of the register required under section 40(1) for the facility.

378 Test samples

(1) A test sample given by a person under previous section 30 before the commencement is taken to have been given by the person under section 41.

(2) For section 43, a reference to a positive test sample includes—

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(a) a test sample for which test results obtained before the commencement showed the sample to be a positive test sample under the 2000 Act; or

(b) a test sample given before the commencement for which test results obtained after the commencement showed the sample to be a positive test sample under this Act.

379 Requirement for test sample before commencement but test sample not given

(1) This section applies if—

(a) a person was required to give a test sample as mentioned in previous section 30; and

(b) the person had not complied with the requirement before the commencement.

(2) The previous requirement is taken to be a requirement under section 41.

Division 5 Mail and phone calls

380 Phone calls

The approval of a person or number as mentioned in previous section 36(1)(b) and in force immediately before the commencement is taken to be an approval of the person or telephone number as mentioned in section 50(1)(b).

Division 6 Special treatment orders and crisis support orders

381 Special treatment order and crisis support order

(1) This section applies to each of the following (each of which is a ***previous order***) if the previous order was in force immediately before the commencement—

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(a) a special treatment order made under previous section 38;

(b) a crisis support order made under previous section 42.

(2) The previous order—

(a) continues in force according to its terms; and

(b) is taken to be a safety order made under section 53.

(3) A medical examination carried out on the prisoner the subject of the previous order under previous section 40 or 45 is taken to be a medical examination carried out on the prisoner under section 57.

382 Review of special treatment order

(1) If, immediately before the commencement, a prisoner had asked, under previous section 39(2), for a special treatment order to be referred to an official visitor for review, the chief executive must ensure the order was or is referred to an official visitor for review.

(2) The referral of the special treatment order to an official visitor before or after the commencement is taken to be a referral made under section 56.

383 Review of crisis support order

(1) If, immediately before the commencement, a prisoner had asked, under previous section 44(1), for a crisis support order to be reviewed, the chief executive must ensure the order was or is referred to a doctor or psychologist as required under previous section 44(2).

(2) The referral of the crisis support order to a doctor or psychologist before or after the commencement is taken to be a referral made under section 55(1).

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384 Continuation of records about special treatment orders and crisis support orders

(1) This section applies to each of the following records as in existence immediately before the commencement (each of which is a ***previous record***)—

(a) the record kept for a corrective services facility under previous section 41;

(b) the record kept for a corrective services facility under previous section 46.

(2) Each previous record kept for a corrective services facility is taken to be part of the record required under section 59(1) for the facility.

Division 7 Maximum security orders

385 Maximum security order

(1) This section applies to a maximum security order made under previous section 47 and in force immediately before the commencement (the ***previous order***).

(2) The previous order—

(a) continues in force according to its terms; and

(b) is taken to be a maximum security order made under section 60.

386 Medical examination

A medical examination carried out under previous section 51 on a prisoner the subject of an order made under previous section 47 is taken to be a medical examination carried out on the prisoner under section 64.

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387 Review of maximum security order

(1) If, immediately before the commencement, a prisoner had asked, under previous section 50(1) or (6), for an order under previous section 47 to be referred to an official visitor for review, the chief executive must ensure the order was or is referred to an official visitor for review.

(2) The referral of the order to an official visitor before or after the commencement is taken to be a referral made under section 63.

(3) If, immediately before the commencement, a prisoner was entitled under previous section 50(1) to ask for a maximum security order to be referred to an official visitor for review, but had not asked, the prisoner may apply under section 63 for the referral.

388 Continuation of record about maximum security orders

The record kept for a corrective services facility under previous section 52 and in existence immediately before the commencement is taken to be part of the record required under section 65 for the corrective services facility.

Division 8 Transfer and removal of prisoners

389 Transfer to another corrective services facility or health institution

(1) An order made under previous section 53(1) for a prisoner—

(a) continues in force according to its terms; and

(b) is taken to be an order made by the chief executive under section 68(1) for the prisoner.

(2) Subsection (3) applies if, immediately before the commencement—

(a) a prisoner had asked, under previous section 53(5), for a review of a decision transferring the prisoner; and

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(b) the chief executive had not confirmed, amended or cancelled the decision.

(3) The chief executive must reconsider the decision as if the prisoner had made an application for the reconsideration under section 71(2).

(4) If, immediately before the commencement, a prisoner was entitled under previous section 53(5) to ask for a review of a decision transferring the prisoner, but had not asked, the prisoner may apply under section 71(2) for a reconsideration of the decision.

(5) To remove any doubt, it is declared that section 68(5) applies to a person who, before the commencement, was a prisoner who was transferred to an authorised mental health service and became a classified patient under the *Mental Health Act 2000*.

390 Transfer to court

An order or attendance authority as mentioned in previous section 54(1) for producing a prisoner at a time after the commencement—

(a) continues in force according to its terms; and

(b) is taken to be an order or attendance authority as mentioned in section 69(1) for producing the prisoner.

391 Removal of prisoner for law enforcement purposes

(1) An authority given under previous section 55(2) for a prisoner to be removed from a corrective services facility at a time after the commencement—

(a) continues in force according to its terms; and

(b) is taken to be an authority given under section 70(2) relating to the prisoner.

(2) To remove any doubt, it is declared that section 70(5) applies to the prisoner.

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392 WORC and WCC programs

(1) This section applies to an order made under previous section 56 for a prisoner to participate in a WORC program or WCC program as mentioned in that section (the ***previous order***).

(2) If the previous order was in force immediately before the commencement, the previous order—

(a) continues in force according to its terms; and

(b) is taken to be a work order made under section 66 for the prisoner.

Division 9 Leave of absence

393 Existing order for leave other than resettlement leave

(1) This section applies to an order granting leave, other than resettlement leave, to a prisoner under previous section 58(1) (the ***previous order***) if the previous order was in force immediately before the commencement.

(2) The previous order continues in force according to its terms and is taken to be an order made under section 72.

(3) If previous section 58(1) included a term to describe the leave granted by the previous order and that term is used in section 72(1) to describe leave, the previous order is an order made under section 72(1) for leave with the same term.

394 Existing order for resettlement leave

(1) This section applies to an order granting resettlement leave to a prisoner under previous section 58(1)(e) (the ***previous order***) if the previous order was in force immediately before the commencement.

(2) The previous order—

(a) continues in force according to its terms; and

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(b) is taken to be an order made under section 72(1)(f).

(3) The resettlement leave program under the previous order is taken to be an approved resettlement leave program.

395 Existing authority for prisoner's expenses while on leave

An authority under previous section 63(1) that was in force immediately before the commencement—

(a) continues in force according to its terms; and

(b) is taken to be an authority under section 83(1).

396 Existing suspension of order for leave and requirement to return to corrective services facility

A suspension and requirement under previous section 64(4) that was in force immediately before the commencement—

(a) continues in force according to its terms; and

(b) is taken to be a suspension and requirement under section 85(1).

Division 10 Interstate leave of absence

397 Existing interstate leave permit

(1) This section applies to an interstate leave permit issued to a prisoner under previous section 67 (the ***previous permit***) if—

(a) the permit was in force immediately before the commencement; and

(b) the period stated in the permit had not expired before the commencement.

(2) The previous permit—

(a) continues in force according to its terms; and

(b) is taken to be an interstate leave permit issued under section 89.

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398 Existing warrant for return of interstate prisoner

(1) This section applies to a warrant issued for an interstate prisoner under previous section 72(4) (the ***previous warrant***) if, immediately before the commencement, the warrant was in effect and had not been executed.

(2) The previous warrant—

(a) continues to have effect according to its terms; and

(b) is taken to be a warrant issued under section 95(4).

399 Liability for damage because of interstate leave permit

Previous section 73 continues to apply in relation to an act done or omission made, or a right of action that existed, before the commencement, as if this Act had not been enacted.

Division 11 Remission and conditional release

Subdivision 1 Remission

400 Existing grant of remission

A grant of remission made under previous section 75(2) or (4) before the commencement is not affected by the enactment of this Act.

401 Eligibility for remission

(1) This section applies if, immediately before the commencement—

(a) a prisoner was eligible for remission of a term of imprisonment under previous section 75(1); and

(b) the prisoner had served at least two-thirds of the term of imprisonment; and

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(c) the chief executive had not made a decision about granting remission of the term of imprisonment.

(2) The chief executive must make a decision about granting the remission under previous section 75 as if this Act had not been enacted.

(3) For subsection (2), previous sections 77, 78 and 79 continue to apply as if this Act had not been enacted.

402 Court order for remaking decision about remission

(1) This section applies to a decision of the chief executive under previous section 75 or section 401 about a grant of remission if, after the commencement, a court orders the decision be set aside and remade.

(2) The chief executive must remake the decision about granting remission under previous section 75 as if this Act had not been enacted.

(3) For subsection (2), previous sections 77, 78 and 79 continue to apply as if this Act had not been enacted.

Subdivision 2 Conditional release

403 Existing conditional release order

(1) This section applies to a conditional release order for a prisoner made under previous section 76(3) before the commencement (the ***previous order***) if, immediately before the commencement, the previous order had not expired or had not been suspended or cancelled under previous section 80.

(2) The previous order as in force immediately before the commencement—

(a) continues in force according to its terms; and

(b) is taken to be a conditional release order for the prisoner made under section 98(1).

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(3) Subsection (4) applies if, immediately before the commencement, the previous order was suspended or cancelled under previous section 80 and matters in relation to the suspension or cancellation had not been fully dealt with under the 2000 Act.

Examples for subsection (3)—

1 If the chief executive had not issued a warrant under previous section 80(2), the chief executive may issue a warrant under section 104(1).

2 If the chief executive had not given the relevant prisoner an information notice under previous section 80(5), the chief executive must give the prisoner an information notice under section 105(1).

(4) Chapter 2, part 2, division 10, subdivision 3 of this Act applies in relation to the suspension or cancellation.

(5) However, if, because of a suspension or cancellation made before the commencement, the chief executive intends to make another order for the conditional release of the prisoner, it must be made under this Act and not under previous section 76.

404 Notice about considering to refuse to make conditional release order

(1) This section applies if, before the commencement, the chief executive—

(a) gave a prisoner a notice under previous section 79(2) about an order for the prisoner's conditional release (the ***previous notice***); and

(b) had not given a written notice under previous section 79(3) refusing the conditional release.

(2) The previous notice is taken to be a notice given to the prisoner under section 101(1).

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Division 12 Arrest of prisoners

405 Existing warrant for prisoner unlawfully at large

(1) A prisoner who, immediately before the commencement, was unlawfully at large as defined under previous section 85 is taken to be a prisoner who is unlawfully at large under section 112.

(2) For section 112(4), any period a prisoner is unlawfully at large includes any period before the commencement that the prisoner was unlawfully at large as defined under previous section 85.

(3) A warrant issued for a prisoner under previous section 85(2) that, immediately before the commencement, had effect and had not been executed—

(a) continues in force according to its terms; and

(b) is taken to be a warrant issued under section 112(2); and

(c) may be executed by any corrective services officer or any police officer.

Note—

See also the *Police Powers and Responsibilities Act 2000*, section 798.

Part 3 Breaches and offences

Division 1 Breaches of discipline by prisoners

406 Act or omission that is a breach of discipline before commencement

(1) This section applies to an act done or omission made by a prisoner before the commencement that—

(a) was a breach of discipline under the 2000 Act as in force immediately before the commencement; and

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(b) had not been finally dealt with under that Act before the commencement.

(2) Previous chapter 3, part 1 (the ***applied discipline procedure***) applies in relation to the act or omission as if this Act had not been enacted.

(3) For the applied discipline procedure—

(a) a reference in previous section 86(4) to the person in charge of a corrective services facility is taken to be a reference to the person the chief executive considers is the most appropriate person at the corrective services facility to whom the commissioner's advice should be given; and

(b) a reference in previous section 86(7) to an approved form is taken to be a reference to the relevant form approved under the 2000 Act.

(4) Despite subsection (2), previous section 90 does not apply, but the chief executive must comply with section 120 for a decision, and any review of a decision, in relation to the act or omission under the applied discipline procedure.

407 Existing order for separate confinement

Each of the following orders is taken to be an order made under section 118(2)(c)—

(a) an order for the separate confinement of a prisoner made under previous section 88, if the order was in force immediately before the commencement;

(b) an order for the separate confinement of a prisoner made after the commencement under the applied discipline procedure.

Note—

See section 406.

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408 Review of decision about breach of discipline

The applied discipline procedure applies to a decision that a prisoner has committed a breach of discipline, whether the decision was made—

(a) before the commencement, under previous section 88; or

(b) after the commencement, under the applied discipline procedure.

Note—

See section 406.

409 Continuation of disciplinary breach register

A register kept for a corrective services facility under previous section 90 and in existence immediately before the commencement is taken to be part of the register required under section 120 for the corrective services facility.

Division 2 Seizing property

410 Dealing with seized property

(1) This section applies to a thing seized under previous section 106 that has not been finally dealt with under previous chapter 3, part 4 before the commencement.

(2) The thing is taken to have been seized under—

(a) if it is a prisoner's privileged mail—section 46(1)(a)(i); or

(b) if it is a prisoner's ordinary mail—section 46(1)(a)(ii); or

(c) if it is something found in a prisoner's privileged mail—section 47; or

(d) if it is something else—section 138.

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(3) A receipt given for the thing under previous section 107 is taken to be a receipt given for the thing under section 139.

Note—

A thing to which this section applies may be forfeited under section 140 or returned under section 141.

411 Forfeiting seized thing

If, before the commencement, a notice was given under previous section 108(2) to the owner of a thing mentioned in previous section 106, the notice is taken to have been given by the chief executive under section 140(2).

412 Review of decision to forfeit

(1) This section applies to a person who, before the commencement, was entitled to apply for a review of a decision to forfeit a thing.

(2) If, before the commencement, the person had applied for the review, the application must be dealt with under previous section 109 as if this Act had not been enacted.

(3) If the person had not applied for the review before the commencement, the person may apply for the review after the commencement, but only within 28 days after the notice of the decision was given to the person.

(4) If the person applies for the review as mentioned in subsection (3), the application must be dealt with under previous section 109 as if this Act had not been enacted.

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Division 3 Use of lethal force

413 Continuation of authorisation for issue, handling and storage of weapons

An authorisation given to a corrective services officer under previous section 114 and in force immediately before the commencement—

(a) continues in force according to its terms; and

(b) is taken to be an authority given to the officer under section 145.

414 Continuation of record of use of lethal force

The record kept under previous section 117 and in existence immediately before the commencement is taken to be part of the record required under section 148.

Part 4 Corrective services facilities

Division 1 Existing corrective services facilities

415 Prisons

(1) The declaration of a place as a prison under previous section 118(1)(a) and in force immediately before the commencement is taken to be a declaration of the place as a prison under section 149(1)(a).

(2) The assignment of a name to a prison under previous section 118(1)(b) and in force immediately before the commencement is taken to be an assignment of the name to the prison under section 149(1)(b).

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(3) To remove any doubt, it is declared that the declaration and assignment continued in force under this section may be amended or repealed under section 149(1).

416 Community corrections centres

(1) The declaration of a place as a community corrections centre under previous section 120(1)(a)(i) and in force immediately before the commencement is taken to be a declaration of the place as a community corrections centre under section 151(1)(a)(i).

(2) The assignment of a name to a community corrections centre under previous section 120(1)(b)(i) and in force immediately before the commencement is taken to be an assignment of the name to the community corrections centre under section 151(1)(b)(i).

(3) To remove any doubt, it is declared that a declaration and assignment continued in force under this section may be amended or repealed under section 151(1).

417 WORC sites and WCC sites

(1) The declaration of a place as a WORC site or WCC site under previous section 120(1)(a) and in force immediately before the commencement is taken to be a declaration of the place as a work camp under section 151(1)(a)(ii).

(2) The assignment of a name to a WORC site or WCC site under previous section 120(1)(b) and in force immediately before the commencement is taken to be an assignment of the name to the work camp under section 151(1)(b)(ii).

(3) To remove any doubt, it is declared that a declaration and assignment continued in force under this section may be amended or repealed under section 151(1).

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Division 2 Visiting corrective services facilities

418 Approval for personal visit to be a contact visit

An approval given to a person under previous section 124(1) and in force immediately before the commencement is taken to be an approval given by the chief executive under section 154(1).

419 Existing application for approval to access corrective services facility

An application under previous section 125(1) for approval to access a corrective services facility that is neither granted nor refused before the commencement is taken to be an application under section 155 in relation to the facility.

420 Approval to access corrective services facility

An approval given to a person under previous section 125(2) and in force immediately before the commencement is taken to be an approval given by the chief executive under section 156(1).

421 Existing entitlement to apply for review of refusal for access approval

(1) This section applies if, immediately before the commencement, a person was entitled to apply under previous section 125(5) to the chief executive to review a decision refusing approval to access a corrective services facility.

(2) The person is taken to be a visitor who has been refused an access approval as mentioned in section 156(7).

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422 Proof of identity

A fingerprint, palm print, footprint, toeprint, eye print or voiceprint kept by the chief executive under previous section 127 is taken to be an identifying particular for section 162.

423 Existing suspension of approval to access corrective services facility

A suspension under previous section 128 in relation to a person that was in force immediately before the commencement is taken to be a suspension made by the chief executive under section 157.

424 Existing entitlement to apply for review of suspension of approval to access corrective services facility

(1) This section applies if, immediately before the commencement, a person was entitled to apply under previous section 128(3) to the chief executive to review a decision suspending the person from entering a corrective services facility.

(2) The person is taken to be a visitor whose access approval has been suspended as mentioned in section 157(6).

425 Monitoring personal visits

An audiovisual recording, or other monitoring record, made under previous section 129 and in existence immediately before the commencement is taken to be an audiovisual recording, visual recording or other monitoring record, under section 158.

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Part 5 Parole

Division 1 Existing post-prison community based release orders

426 Post-prison community based release order

A post-prison community based release order granted under the 2000 Act and in force immediately before the commencement (the ***previous order***)—

(a) continues in force according to its terms; and

(b) is taken to be a parole order granted under this Act.

427 Eligibility for post-prison community based release order

(1) This section applies to a prisoner who was eligible, immediately before the commencement, for a post-prison community based release order under previous section 134.

(2) The date the prisoner was eligible to apply for the post-prison community based release order under previous section 135 is taken to be the prisoner's parole eligibility date for a parole order under chapter 5, part 1, division 1, subdivision 2.

(3) Subsection (2) is subject to the *Penalties and Sentences Act 1992*, section 213.

428 Application for post-prison community based release order

(1) This section applies to an application for a post-prison community based release order made, but not decided, under previous section 133 or 134 before the commencement (the ***previous application***).

(2) The previous application is taken to be an application for a parole order—

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(a) if the previous application was made under previous section 133—under section 176; or

(b) if the previous application was made under previous section 134—under section 180.

(3) The previous application is taken to have been made to, or for a parole order to be granted by, the replacement board for the parole board that may, under the 2000 Act, have granted the parole order.

(4) This Act applies to the previous application in relation to the way the replacement board may deal with the previous application.

429 Existing authority for prisoner's expenses while on parole

An authority given under previous section 145(2) and in force immediately before the commencement—

(a) continues in force according to its terms; and

(b) may be amended or cancelled by the chief executive.

430 Travelling interstate or overseas while on parole

(1) This section applies to an order under previous section 147 or 148 (the ***previous order***) granting leave to a prisoner if any time for taking the leave as stated in the previous order has not expired.

(2) The leave is taken to have been granted by—

(a) if the leave was for the prisoner to travel interstate for not more than 7 days—the chief executive under section 212(1); or

(b) if the leave was for the prisoner to travel interstate for more than 7 days—the relevant replacement board under section 212(3); or

(c) if the leave was for the prisoner to travel overseas—the Queensland board under section 213.

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(3) In this section—

relevant replacement board means the replacement board for the parole board that granted the leave to the prisoner.

431 Suspension of parole order by chief executive

(1) This section applies to a post-prison community based release order (the ***previous order***) that was suspended by an order of the chief executive under previous section 149 if the suspension was in force immediately before the commencement.

(2) The previous order is taken to have been suspended under section 201(2).

(3) If, because of the suspension, the chief executive issued a warrant under previous section 149(2) and the warrant was in effect and had not been executed before the commencement, it—

(a) continues to have effect according to its terms; and

(b) is taken to be a warrant issued under section 202.

(4) If the chief executive had not issued a warrant under previous section 149(2), the chief executive may issue a warrant under section 202 for the prisoner the subject of the previous order.

432 Amendment, suspension or cancellation of parole order by corrections board

(1) This section applies to a post-prison community based release order (the ***previous order***) that was amended, suspended or cancelled by an order of a corrections board under previous section 150 if the amendment, suspension or cancellation was in force immediately before the commencement.

(2) The previous order is taken to have been amended, suspended or cancelled by the replacement board for the corrections board under section 205(2).

(3) If, because of the suspension or cancellation, a warrant was issued under previous section 150(2) and the warrant was in

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effect and had not been executed before the commencement, it—

(a) continues to have effect according to its terms; and

(b) is taken to be—

(i) for a warrant issued by the corrections board under previous section 150(2)(a)—a warrant issued by the replacement board for the corrections board under section 206(1)(a); or

(ii) for a warrant issued under previous section 150(2)(b)—a warrant issued under section 206(1)(b).

(4) If a warrant had not been issued under previous section 150(2) before the commencement, a warrant may be issued by the replacement board for the corrections board or a magistrate under section 206 for the prisoner the subject of the previous order.

(5) If an information notice was given to the prisoner under previous section 150(5) and written submissions given to the corrections board by the prisoner had not been finally dealt with under previous section 150(6) before the commencement, the information notice is taken to have been given by the replacement board for the corrections board under—

(a) for an information notice about the amendment of the previous order—section 205(3); or

(b) for an information notice about the suspension or cancellation of the previous order—section 208(1).

(6) If an information notice had not been given to the prisoner under previous section 150(5) before the commencement, an information notice may be given to the prisoner by the replacement board for the corrections board under—

(a) for an information notice about the amendment of the previous order—section 205(3); or

(b) for an information notice about the suspension or cancellation of the previous order—section 208(1).

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(7) If the replacement board changes the decision the subject of an information notice mentioned in subsection (5) or (6), the changed decision has effect despite section 426(a).

433 Reviewing existing regional board's decision to refuse application

(1) This section applies if, before the commencement—

(a) a prisoner applied under previous section 155 for a review of a refusal of an application by the prisoner; and

(b) the Queensland board established under the 2000 Act had not taken action mentioned in previous section 155(5)(a) or (b).

(2) The Queensland Parole Board must review the refusal under chapter 5, part 1, division 2, subdivision 3.

Division 2 Existing community corrections boards

Subdivision 1 Queensland Community Corrections Board

434 Queensland Community Corrections Board

(1) The Queensland Community Corrections Board established under the 2000 Act continues in existence as the Queensland Parole Board until whichever of the following happens first—

(a) the appointment day of the Queensland Parole Board;

(b) 1 year after the commencement.

(2) The person who, immediately before the commencement, holds appointment as the president, or deputy president, of the Queensland Community Corrections Board holds office as the president, or deputy president, of the Queensland Parole Board until its appointment day.

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(3) In this section—

appointment day, of the Queensland Parole Board, means the day on which each of the appointments mentioned in section 218(1)(a) and (b) is published in the gazette for the first time under that section.

435 Secretary of Queensland Community Corrections Board

(1) This section applies to the person who was the secretary of the Queensland Community Corrections Board immediately before the commencement.

(2) The person is taken to have been appointed as secretary of the Queensland board under section 223.

436 Existing guidelines

Guidelines made under previous section 167 and in force immediately before the commencement are taken to be—

(a) for guidelines made under previous section 167(1)—guidelines made under section 227(1); or

(b) for guidelines made under previous section 167(2)—guidelines made under section 227(2).

437 Annual report

(1) This section applies if the annual report for the financial year ending 30 June 2006 as required under previous section 168 has not been given under that section before the commencement.

(2) The Queensland Parole Board must give the report to the Minister under previous section 168 as if this Act had not been enacted.

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Subdivision 2 Regional community corrections boards

438 Existing regional boards

(1) The following existing regional boards are taken to have been established under this Act as the Central and Northern Queensland Regional Parole Board for the area north of latitude 26º south—

(a) the North Queensland Regional Community Corrections Board;

(b) the Townsville Regional Community Corrections Board;

(c) the Central Queensland Regional Community Corrections Board.

(2) The following existing regional boards are taken to have been established under this Act as the Southern Queensland Regional Parole Board for the area south of latitude 26º south—

(a) the Brisbane Regional Community Corrections Board;

(b) the South Queensland Regional Community Corrections Board;

(c) the West Moreton Regional Community Corrections Board.

(3) Subsections (1) and (2) do not affect section 230 and a regulation under that section may abolish a regional board mentioned in subsection (1) or (2) or assign a different name to a regional board mentioned in subsection (1) or (2).

439 Continuation of member's appointment

(1) A person who, immediately before the commencement, holds appointment as a member of an existing regional board mentioned in section 438(1) is taken to be a member of the Central and Northern Queensland Regional Parole Board until the member's office is vacated under section 236.

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(2) A person who, immediately before the commencement, holds appointment as a member of an existing regional board mentioned in section 438(2) is taken to be a member of the Southern Queensland Regional Parole Board until the member's office is vacated under section 236.

(3) A person who, immediately before the commencement, holds appointment as the president, or deputy president, of an existing regional board goes out of office as the president, or deputy president, on the commencement and is not entitled to compensation because of the operation of this subsection.

440 Secretary of existing regional board

A person who, immediately before the commencement, holds appointment as the secretary of an existing regional board goes out of office as the secretary on the commencement.

441 Annual report of existing regional board

(1) This section applies if the annual report for an existing regional board for the financial year ending 30 June 2006 has not been given under previous section 180 before the commencement.

(2) The replacement board must give the report to the Queensland board on or before 30 September 2006.

(3) For subsection (2), the person who was the president of the existing regional board must give help to the replacement board.

Subdivision 3 Powers of corrections boards

442 Powers of corrections board to require attendance

(1) This section applies if, before the commencement—

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(a) a corrections board issued an attendance notice under previous section 182 (the ***previous attendance notice***); and

(b) the time stated in the previous attendance notice as the stated time for a person to attend a board meeting to give relevant information, or to produce a stated document, has not ended.

(2) The previous attendance notice—

(a) continues in force according to its terms; and

(b) is taken to be an attendance notice given by the replacement board under section 242.

Part 6 Administration

Division 1 Chief executive

443 Functions and powers of chief executive

(1) This section applies if—

(a) the chief executive exercised a power under previous section 188 (the ***previous power***) and the power may be exercised by the chief executive under this Act; and

(b) the previous power, as exercised, continued to have effect immediately before the commencement.

(2) The previous power, as exercised—

(a) continues to have effect; and

(b) is taken to have been exercised under section 263.

444 Existing administrative policies and procedures

(1) An administrative policy made under previous section 189(1) and in force immediately before the commencement continues in force according to its terms.

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(2) An administrative procedure made under previous section 189(1) and in force immediately before the commencement—

(a) continues in force according to its terms; and

(b) is taken to have been made under section 265(1).

445 Existing services and programs

A service or program established under previous section 190(1) and in existence immediately before the commencement is taken to have been established under section 266(1).

446 Monitoring devices

If, before the commencement, the chief executive required an offender to wear a device under previous section 191 and the requirement continued to have effect immediately before the commencement, the requirement—

(a) continues in force according to its terms; and

(b) is taken to have been made under section 267.

447 Declaration of emergency

(1) This section applies if, before the commencement—

(a) the chief executive declared an emergency exists in relation to a prison under previous section 192 (the ***previous declaration***); and

(b) the previous declaration had not lapsed or been revoked.

(2) The previous declaration—

(a) continues in force according to its terms; and

(b) is taken to have been made under section 268.

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448 Commissioner to provide police

If, before the commencement, the chief executive asked the commissioner to provide police officers under previous section 193, the request is taken to have been made under section 269.

Division 2 Engaged service providers

449 Existing authorisation for engaged service provider

An authorisation of an entity as an engaged service provider under previous section 196 and in force immediately before the commencement (the ***previous authorisation***)—

(a) continues in force according to its terms; and

(b) is taken to be an authorisation of the entity as an engaged service provider under section 272.

450 Review of engaged service provider's performance

(1) This section applies to the appointment of a person under previous section 198(1) to review an engaged service provider's performance of authorised functions (the ***previous appointment***) if, before the commencement, the person had not finished preparing the report on the review for the chief executive.

(2) The previous appointment—

(a) continues in force according to its terms; and

(b) is taken to be an appointment under section 274 to review the engaged service provider's performance of the authorised functions.

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Division 3 Continuing appointments

451 General provision about appointments or authorisations continued under div 3

An appointment or authorisation made before the commencement that is, under this division, taken to be an appointment or authorisation under a provision of this Act, continues—

(a) until the end of the term of appointment or authorisation, if any; and

(b) on the conditions of the appointment or authorisation that are consistent with this Act.

452 Corrective services officers

A person who, immediately before the commencement, was a corrective services officer under previous section 201 is taken to be appointed as a corrective services officer under section 275.

453 Corrective services dogs

A dog that, immediately before the commencement, was a corrective services dog under previous section 205(b) is taken to be certified as a corrective services dog under section 279.

454 Doctors

A person who, immediately before the commencement, was a doctor for a prison under previous section 209(1)(a) is taken to be appointed as a doctor for the prison under section 283(1).

Note—

There is no longer to be an appointment of a doctor for a corrective services facility that is not a prison.

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455 Official visitors

(1) A person who, immediately before the commencement, was an official visitor for a corrective services facility under previous section 211 is taken to be appointed as an official visitor under section 285.

(2) Section 285(2) does not apply to the person if the person has been appointed as an official visitor for more than 6 years, including any period before the commencement.

456 Elders, respected persons and indigenous spiritual healers

(1) This section applies to a person who, immediately before the commencement, was an Aboriginal or Torres Strait Islander elder, respected person or indigenous spiritual healer for a corrective services facility under previous section 218.

(2) The person is taken to be appointed as an Aboriginal or Torres Strait Islander elder, respected person or indigenous spiritual healer for the facility under section 293.

457 Inspectors

A person who, immediately before the commencement, was an inspector under previous section 219 is taken to be appointed as an inspector under section 294.

458 Inspector's reports

(1) This section applies if, before the commencement, inspectors appointed under previous section 219(3) to investigate an incident had not given the chief executive a report as required under previous section 223.

(2) The inspectors are taken to have been appointed under section 295(1) for the incident.

Note—

Section 305 provides for the inspectors' report.

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(3) To remove any doubt, it is declared that section 295(2) does not apply to the appointment.

459 Volunteers

A person who immediately before the commencement was a volunteer under previous section 224 is taken to be authorised as a volunteer under section 306.

460 Prisoner in proper officer of the court's custody

(1) A person who, under previous section 231, was in the custody of the proper officer of a court immediately before the commencement continues in the custody of the proper officer of the court under section 307(2).

(2) Subsection (1) does not prevent the application of a provision of this Act providing for when a person is in another person's custody.

Division 4 Property

461 Prisoners trust fund

(1) The prisoners trust fund kept under previous section 233 is continued in existence as the prisoners trust fund (the ***new fund***) required to be kept by the chief executive under section 311(1).

(2) An amount in the prisoners trust fund to the credit of a prisoner immediately before the commencement is the amount in the prisoner's account in the new fund.

(3) If the chief executive was authorised under previous section 236 to deduct an amount from a prisoner's account but had not deducted the amount before the commencement, the deduction may be made under section 314.

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462 Trust account records

The records kept under previous section 234 and in existence immediately before the commencement are taken to be part of the records required to be kept under section 312.

463 Investment of prisoners trust fund

Section 315(2) applies in relation to any investment made under previous section 237(1) if the investment matures after the commencement.

464 Remuneration of prisoners

(1) An approval of an activity or program under previous section 238 and in force immediately before the commencement—

(a) continues in force according to its terms; and

(b) is taken to have been given under section 316.

(2) The rates set by the chief executive under previous section 238 and in force immediately before the commencement—

(a) continue in force according to the terms of setting the rates; and

(b) are taken to have been set under section 316.

Division 5 Compensation

465 Compensation for loss or damage to property

(1) This section applies if, immediately before the commencement, a person was entitled to apply under previous section 241(2) for compensation for loss or damage mentioned in the section.

(2) The person may apply for the compensation under previous section 241(2) as if this Act had not been enacted.

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Division 6 Information

466 Concerned persons

(1) The register of concerned persons established under previous section 242 and in existence immediately before the commencement is taken to be part of the eligible persons register.

(2) An application under previous section 242(2) that has neither been granted nor refused before the commencement is taken to be an application under section 320(2).

(3) A notice under previous section 242(3) is taken to be the nomination of an entity under section 320(4).

467 Commissioner to provide criminal history

(1) This section applies if, before the commencement—

(a) the chief executive asked the commissioner for a report about the criminal history of a person under previous section 244 (the ***previous request***); and

(b) the commissioner had not given the report.

(2) The previous request is taken to be a request under—

(a) for a previous request about an offender mentioned in previous section 244(1)(a)—section 342(1); or

(b) otherwise—section 334(2).

468 Traffic history

(1) This section applies if, before the commencement—

(a) the chief executive asked the transport chief executive for a report about an offender's traffic history under previous section 244A (the ***previous request***); and

(b) the transport chief executive had not given the report.

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(2) The previous request is taken to be a request under section 343.

Division 7 Legal provisions

469 Proceedings

(1) A proceeding started before the commencement under a provision of any of the repealed Acts, and pending at the commencement, may be continued as if this Act had not been enacted.

(2) In this section—

proceeding means a proceeding—

(a) under the *Judicial Review Act 1991* in relation to a decision made under any of the repealed Acts; or

(b) for an offence against a provision of any of the repealed Acts.

Part 7 Other transitional provisions

470 References in Acts or documents

In an Act or document, if the context permits—

(a) a reference to the *Corrective Services Act 2000* is taken to be a reference to this Act; and

Example of document for paragraph (a)—

an industrial instrument within the meaning of the *Industrial Relations Act 1999*

(b) a reference to the *Corrective Services Regulation 2001* is taken to be a reference to a regulation made under this Act; and

(c) a reference to a WORC site or WCC site is taken to be a reference to a work camp; and

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(d) a reference to the person in charge of a corrective services facility, or a particular type of corrective services facility, within the meaning of the 2000 Act is taken to be a reference to the chief executive; and

(e) a reference to a special treatment order or crisis support order is taken to be a reference to a safety order; and

(f) a reference to a community work order is taken to be a reference to a work order; and

(g) a reference to a post-prison community based release order is taken to be a reference to a parole order; and

(h) a reference to post-prison community based release is taken to be a reference to parole; and

(i) a reference to the Queensland Community Corrections Board is taken to be a reference to the Queensland Parole Board; and

(j) a reference to a regional community corrections board is taken to be a reference to—

(i) generally, a regional parole board; or

(ii) if the reference is to the North Queensland Regional Community Corrections Board, the Townsville Regional Community Corrections Board or the Central Queensland Regional Community Corrections Board—the Central and Northern Queensland Regional Parole Board; or

(iii) if the reference is to the Brisbane Regional Community Corrections Board, the South Queensland Regional Community Corrections Board or the West Moreton Regional Community Corrections Board—the Southern Queensland Regional Parole Board.

471 Authorities and actions

(1) This section applies to an authority made, or an action taken, under a previous provision, if the authority was in force or the

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action continued to have effect immediately before the commencement.

(2) If there is a corresponding provision of this Act for the previous provision, the authority or action—

(a) continues in force, or continues to have effect, according to its terms; and

(b) is taken to have been made or taken under the corresponding provision of this Act.

(3) This section is subject to a specific provision of this chapter in relation to the authority or action.

(4) In this section—

authority means an approval, authorisation, certificate, classification, decision, declaration, determination, direction, guideline, instrument, order, parole order, permit, policy, procedure, recommendation, transfer instrument or other authority.

corresponding provision of this Act, for an authority or action, includes a provision of this Act that provides for the authority to be made, or action to be taken, by the chief executive even if the person who made the authority or took the action under the previous provision was not the chief executive.

made includes given and issued.

order includes an order given orally or in writing, but does not include a parole order.

previous provision, for an authority made or action taken, means a provision of one of the repealed Acts under which the authority may be made or action taken.

472 Corrective Services Rules

(1) To remove any doubt, it is declared that, to the extent the corrective services rules were in force immediately before the expiry of the 2000 Act, section 272, the corrective services rules expired on the expiry of that section.

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Note—

The 2000 Act, section 272 expired on 1 July 2002.

(2) It is declared that there is not, and never has been, a requirement to publish any of the following rules of the corrective services rules—

- rule 32 (Prisoner construction of electronic or electromechanical devices)
- rule 111 (Prescription of Industrial and Community Work Centre, Wacol, as a place for the transfer of prisoners)
- rule 172 (Prisoner protection)
- rule 223 (Security related training weapons and munition standards)
- rule 226 (Standard operational procedures for the establishment of an incident management centre (IMC))
- rule 230 (Management of hostage incidents in custodial correctional centres)
- rule 232 (Operation of Barringer Ionscan narcotics and explosives detection unit)
- rule 233 (Maximum security unit)
- rule 236 (Risk management)
- rule 239 (Prisoner escort)
- rule 240 (Incident management).

(3) In this section—

corrective services rules means the corrective services rules—

(a) made under the *Corrective Services (Administration) Act 1988*; and

(b) under the 2000 Act, section 272, continued in force as regulations under the 2000 Act.

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473 Previous expectations of prisoner

(1) This section applies to a prisoner sentenced for an offence committed before the commencement, whether or not the prisoner was sentenced for the offence after the commencement.

(2) From the commencement, this chapter and chapters 2 and 5 are the only provisions dealing with the previous expectations of the prisoner.

(3) If, before the commencement, the prisoner had a previous expectation, it is extinguished to the extent it is not provided for under subsection (2).

(4) Subsections (2) and (3) apply in relation to an application made by the prisoner and dealt with after the commencement even if the application was made before the commencement.

(5) This section has no effect in relation to a proceeding mentioned in section 469.

(6) However, this section prevails to the extent it is inconsistent with—

(a) section 471; or

(b) the *Acts Interpretation Act 1954*, sections 20 and 20C(3), the Criminal Code, section 11(2), the *Penalties and Sentences Act 1992*, section 180 or any other law of similar effect.

Note—

The *Acts Interpretation Act 1954*, section 20 deals with the saving of the operation of a repealed Act etc., and section 20C of that Act deals with the creation of offences and changes in penalties.

The Criminal Code, section 11(2) deals with the effect of changes in a law.

The *Penalties and Sentences Act 1992*, section 180 deals with the effect of alterations in sentences.

(7) In this section—

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previous expectation, for a prisoner, means any expectation the prisoner may have had in relation to a matter under the 2000 Act, including, for example, any of the following—

(a) an expectation to have a review of a classification as mentioned in previous section 12(4);

(b) an expectation to be transferred under previous section 53(1);

(c) an expectation to be granted approval as mentioned in previous section 56(2);

(d) an expectation to be eligible to participate in a WORC program or WCC program as mentioned in previous section 57;

(e) an expectation to be granted leave of absence under previous chapter 2, part 2, division 9;

(f) an expectation to be granted remission under previous section 75;

(g) an expectation to be granted conditional release under previous section 76;

(h) an expectation to be discharged or released on a particular day, as mentioned in previous section 82 or 83.

474 All release to be dealt with under this Act

(1) This section applies to a prisoner sentenced for an offence committed before the commencement, whether or not the prisoner was sentenced for the offence after the commencement.

(2) From the commencement—

(a) this chapter and 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 has been sentenced; and

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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 the commencement, the prisoner had any expectation to be able, after the commencement, 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 has been sentenced, the expectation is extinguished to the extent that the release is not provided for under subsection (2).

(4) Subsections (2) and (3) apply in relation to an application made by the prisoner and dealt with after the commencement even if the application was made before the commencement.

(5) If a form of release for which the prisoner made an application before the commencement corresponds to a form of release that, after the commencement, 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 the prisoner's parole eligibility date.

(6) This section has no effect in relation to a proceeding mentioned in section 469.

(7) However, this section prevails to the extent it is inconsistent with—

(a) section 470; or

(b) the *Acts Interpretation Act 1954*, sections 20 and 20C(3), the Criminal Code, section 11(2), the *Penalties and Sentences Act 1992*, section 180 or any other law of similar effect.

(8) In this section—

expectation includes right, privilege, entitlement and eligibility.

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Part 8 Declaration and validation provisions

475 Declaration and validation about particular warrants issued under Penalties and Sentences Act 1992

(1) It is declared that—

(a) a Magistrates Court has and always has had, including before the commencement of this section, power to issue a warrant for a person's detention for the purposes of a relevant Corrective Services Act provision; and

(b) a warrant for a person's detention issued or purported to have been issued by a Magistrates Court for a relevant Corrective Services Act provision was sufficient for its purpose.

Note—

See the definition *warrant* in schedule 4.

(2) In this section—

relevant Corrective Services Act provision means—

(a) the 2000 Act, section 9(1)(a); or

(b) a provision of one of the other repealed Acts that corresponded to the provision mentioned in paragraph (a).

476 Declaration about prisoner for 2000 Act, ch 5, pt 1

(1) It is declared that a person, including a person who was the subject of a post-prison community based release order within the meaning of the 2000 Act, was and always was a prisoner for that Act, chapter 5, part 1 (the ***relevant provisions***) during the period starting on 1 October 2003 and ending on the commencement of this section, if, during the period, the person was in the custody of the chief executive of the department in which that Act was administered.

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(2) To remove any doubt, it is declared that a decision made or purportedly made, or an action taken or purportedly taken, in relation to the person under the relevant provisions is, and always has been, as valid as it would have been if the person were a prisoner for the relevant provisions when the decision was made or the action was taken.

Part 9 Saving, transitional and validating provisions for Corrective Services Act 2000

477 Purpose of pt 9

(1) The purpose of this part is to provide for the continuing effect of particular provisions of the 2000 Act to the extent the provisions have effect immediately before the commencement.

(2) However, this part does not limit the application of the *Acts Interpretation Act 1954*, section 20A to a declaration of a thing for a saving or transitional purpose under the 2000 Act as mentioned in that section for a matter not dealt with in this part.

478 Provisions for sch 2

(1) The provisions set out in schedule 2 (the ***continuing provisions***) continue to apply in relation to matters before the commencement to which they would have applied under the 2000 Act.

(2) For subsection (1), the continuing provisions—

(a) are numbered with the section numbers of the 2000 Act; and

(b) are to be read in the context of the 2000 Act.

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Examples for paragraph (b)—

1 A reference in a continuing provision to 'the commencement of this section' is a reference to when the section commenced as part of the 2000 Act.

2 A term used in a continuing provision (for example, 'post-prison community based release order') is the term as defined in the 2000 Act.

Chapter 7A Other transitional and validation provisions

Part 1 Transitional provisions for Criminal Code (Drink Spiking) and Other Acts Amendment Act 2006

478A Previous expectations of sexual offenders about leave of absence

(1) This section applies to a prisoner sentenced for a sexual offence committed before the commencement of this section (the ***commencement***), whether or not the prisoner was sentenced for the offence after the commencement.

(2) If, before the commencement, the prisoner had an expectation to be granted prohibited leave after the commencement, it is extinguished.

(3) An application for prohibited leave made by the prisoner, but not decided, before the commencement is of no effect.

(4) If this section is inconsistent with section 473, this section prevails to the extent of the inconsistency.

(5) In this section—

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expectation includes right, privilege, entitlement and eligibility.

prohibited leave means leave of absence other than compassionate leave or health leave.

478B Previous expectations of sexual offenders about resettlement leave

(1) This section applies to a prisoner to whom section 478A(1) applies if—

(a) the prisoner was granted resettlement leave before the commencement of section 82(1)(e) (the ***commencement***); and

(b) the chief executive cancels the operation of the order for the prisoner's resettlement leave under section 85(2) because the Queensland board suspended or cancelled the prisoner's resettlement leave program, whether before or after the commencement.

(2) The pre-amended Act applies for the purpose of the following—

(a) section 80;

(b) an amendment of the resettlement leave program;

(c) an application made under the *Judicial Review Act 1991* in relation to the Queensland board's decision to suspend or cancel the resettlement leave program.

(3) If the Queensland board, whether before or after the commencement, changes its decision to suspend or cancel its approval of the resettlement leave program for the prisoner, the chief executive must act under section 74 to give effect to the changed decision as if section 9 of the amending Act had not been enacted.

(4) If the Queensland board, whether before or after the commencement approves a resettlement leave program for the prisoner following an order made under the *Judicial Review Act 1991*, section 30, the chief executive must act under

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section 74 in relation to the approved resettlement leave program as if section 9 of the amending Act had not been enacted.

(5) If, in accordance with subsection (3) or (4), the chief executive grants the prisoner resettlement leave, the pre-amended Act applies to the prisoner for the resettlement leave.

(6) In this section—

amending Act means the *Criminal Code (Drink Spiking) and Other Acts Amendment Act 2006*.

pre-amended Act means this Act as in force immediately before the commencement of section 9 of the amending Act.

Part 2 Transitional provisions for Corrective Services and Other Legislation Amendment Act 2008

478C Definitions for pt 2

In this part—

commencement means the commencement of this section.

relevant person see section 319A.

478D Discrimination complaints not decided before commencement

(1) This section applies to a complaint by a relevant person to the anti-discrimination commissioner under the Anti-Discrimination Act, section 134 about an alleged contravention of that Act committed by a protected defendant against an offender that was made but not decided before the commencement.

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(2) Chapter 6, part 12A, other than sections 319D and 319I(1), (4) and (5), does not apply to the complaint.

478E Relevant money awarded after commencement

(1) This section applies to relevant money awarded in relation to a person after the commencement.

(2) Chapter 6, part 12B applies to the relevant money even if—

(a) the award of damages forming the relevant money was for a civil wrong committed by a protected defendant against the person before the commencement; or

(b) the award of compensation forming the relevant money was for a contravention of the Anti-Discrimination Act committed by a protected defendant against the person before the commencement.

478F Legal costs of victim claims brought before commencement

Section 319ZL only applies to the legal costs of a victim claim started after the commencement.

Part 3 Transitional provision for Criminal Code and Other Acts Amendment Act 2008

479 Reference in sch 1 to Criminal Code provision

Schedule 1 applies as if the reference to the Criminal Code, section 208 included a reference to the Criminal Code, section 209 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.

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Part 4 Transitional provisions for Corrective Services and Other Legislation Amendment Act 2009

480 Definitions for pt 4

In this part—

amending Act means the *Corrective Services and Other Legislation Amendment Act 2009*.

commencement means the commencement of this part.

previous, if followed by a provision number, means the provision of that number as in force immediately before the commencement.

481 Existing order for reintegration leave

(1) This section applies to an order granting reintegration leave to a prisoner under previous section 72(1)(e) if the order was in force immediately before the commencement.

(2) The order continues in force according to its terms.

(3) This Act continues to apply for the reintegration leave as if the amending Act had not been enacted.

482 Existing order for resettlement leave

(1) This section applies to an order granting resettlement leave to a prisoner under previous section 72(1)(f) if the order was in force immediately before the commencement.

(2) The order continues in force according to its terms.

(3) This Act continues to apply for the resettlement leave as if the amending Act had not been enacted.

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483 Existing approved resettlement leave programs

(1) This section applies if, before the commencement—

(a) a resettlement leave program for a prisoner was approved under previous section 76(1) or 77(1); and

(b) the resettlement leave program had not ended.

(2) This Act continues to apply for the resettlement leave program and the prisoner's resettlement leave as if the amending Act had not been enacted.

Example—

Previous section 72(1)(f) continues to apply for leave for the prisoner to participate in the resettlement leave program.

484 Existing applications for approval of resettlement leave programs

(1) This section applies if, before the commencement—

(a) a prisoner applied for approval of a resettlement leave program under previous section 75(1); and

(b) the application had not been decided.

(2) This Act continues to apply as if the amending Act had not been enacted for—

(a) deciding the application; and

(b) if the approval is granted—any resettlement leave program and the prisoner's resettlement leave under the program.

485 Previous expectations of prisoner about reintegration leave or resettlement leave

(1) This section applies if, before the commencement, a prescribed prisoner had an expectation to be granted—

(a) reintegration leave under previous section 72(1)(e); or

(b) resettlement leave under previous section 72(1)(f).

(2) Subject to subsection (3), the expectation is extinguished.

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(3) A proceeding started before the commencement, and pending at the commencement, may be continued as if the amending Act had not been enacted.

(4) If the outcome of the proceeding is that the prescribed prisoner is to be granted leave mentioned in subsection (1), this Act applies for the leave as if the amending Act had not been enacted.

(5) In this section—

prescribed prisoner means a prisoner other than a prisoner to whom any of the following applies—

(a) an order mentioned in section 481 or 482;

(b) a resettlement leave program mentioned in section 483;

(c) section 484.

proceeding means a proceeding—

(a) under the *Judicial Review Act 1991* in relation to a decision made under this Act; or

(b) for an offence against a provision of this Act.

486 Application of ss 185A and 199(5)

(1) Despite sections 185A and 199(5), a proceeding started before the commencement, and pending at the commencement, in relation to the issue of a court ordered parole order under section 199(1) for a prescribed prisoner may be continued as if the amending Act had not been enacted.

(2) If the outcome of the proceeding is that the court ordered parole order must be issued for the prescribed prisoner, this Act applies for the prescribed prisoner's court ordered parole as if the amending Act had not been enacted.

(3) In this section—

prescribed prisoner means a prisoner to whom section 185A applies.

proceeding means a proceeding under the *Judicial Review Act 1991*.

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487 Application of previous s 193(5)

(1) Subject to subsections (3) and (4), previous section 193(5) does not apply, and is taken never to have applied, to a prisoner's application for a parole order made on or after 1 July 2001.

(2) Subject to subsections (3) and (4) if, before the commencement, a prisoner had any entitlement or expectation in relation to a parole board's failure to make a decision in accordance with previous section 193(5), the entitlement or expectation is extinguished.

(3) Subsections (1) and (2) do not affect a decision of a court made before the commencement in relation to the validity of a parole board's decision on a prisoner's application for a parole order.

(4) Also, subsections (1) and (2) do not affect a decision of the Queensland board under section 198, made before the commencement, in relation to a decision a regional board was taken to have made under previous section 193(5).

488 Declarations for s 209

(1) On and from 28 August 2006, a prisoner's parole order is taken not to have been automatically cancelled under a previous automatic cancellation provision if—

(a) the prisoner was sentenced to another term or period of imprisonment as mentioned in the provision; and

(b) the term or period was limited to a term or period of imprisonment until the court rises.

(2) Subsection (3) applies if, before the commencement, a prisoner subject to a parole order was sentenced to a term or period of imprisonment ordered by a court to be served until the court rises.

(3) To remove any doubt, it is declared that anything done or purportedly done, or any omission made or purportedly made, under this Act or the repealed *Corrective Services Act 2000* in reliance on the automatic cancellation of the parole order,

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before the commencement, under a previous automatic cancellation provision is and always was valid.

(4) Subsection (3) does not affect a decision of a court made before the commencement in relation to, or based on, a previous automatic cancellation provision.

(5) In this section—

previous automatic cancellation provision means—

(a) previous section 209; or

(b) the repealed *Corrective Services Act 2000*, section 151.

489 Application of s 245

For applying section 245 after the commencement, a reference in the section to—

(a) an approval of a resettlement leave program; or

(b) an approved resettlement leave program;

is taken to be a reference to an approval of a resettlement leave program, or to an approved resettlement leave program, under this Act as in force before the commencement.

490 Declarations for ss 311 and 311A

(1) This section applies to anything done or any omission made by the chief executive in relation to a prisoner's money on or after 20 June 2008 but before the commencement (the ***previous dealing***).

(2) It is declared that the previous dealing is as valid, and is taken always to have been as valid, as it would be if it were done or made under section 311 or 311A after the commencement.

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Part 5 Transitional provision for Criminal Law Amendment Act 2012

490A Application of amendment Act

(1) For section 181(2)(a) as inserted by the amendment Act, a prisoner's parole eligibility day continues to be the day after the day on which the prisoner has served 20 years or the longer time ordered under the Criminal Code, section 305(2) if—

(a) the Criminal Code, section 305(2) as amended by the amendment Act did not apply on sentence; but

(b) that section as it existed before the commencement applied on sentence.

(2) Section 181(2)(c) as inserted by the amendment Act only applies to a prisoner who is serving a term of imprisonment for life for an offence of murder committed after the commencement.

(3) In this section—

amendment Act means the *Criminal Law Amendment Act 2012*.

commencement means the commencement of the amendment Act, section 7.

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Part 6 Transitional provision for Police Powers and Responsibilities (Motor Vehicle Impoundment) and Other Legislation Amendment Act 2013

490B Application of amendment Act

(1) Section 13(1A) as inserted by the amendment Act applies to a prisoner with a high security classification—

(a) who is being detained on remand for an offence; and

(b) is not serving a term of imprisonment for another offence; and

(c) regardless of whether the prisoner was admitted for detention before the commencement.

(2) In this section—

amendment Act means the *Police Powers and Responsibilities (Motor Vehicle Impoundment) and Other Legislation Amendment Act 2013*.

commencement means the commencement of this part.

Part 7 Transitional provision for Criminal Law and Other Legislation Amendment Act 2013

490C Application of amendment Act

Section 182A applies only to a prisoner who is serving a term of imprisonment for a drug trafficking offence committed after the commencement of that section.

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Part 8 Transitional provision for Safe Night Out Legislation Amendment Act 2014

490D Application of s 182A

Section 182A applies to a prisoner who is serving a term of imprisonment for a drug trafficking offence only if the act or omission constituting the offence occurred wholly on or after 13 August 2013.

Part 9 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016

490E Definition for part

In this part—

pre-amended Act means this Act as in force before the commencement.

490F Prisoner classifications

(1) This section applies in relation to a prisoner who, immediately before the commencement, was subject to a criminal organisation segregation order under the pre-amended Act.

(2) On the commencement, the prisoner's security classification under the pre-amended Act, section 12(1B), is the prisoner's security classification under section 12(1).

(3) The chief executive must, as soon as practicable after the commencement, review the prisoner's security classification under section 13.

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490G Keeping records

(1) The chief executive must continue to keep the record of relevant information about a prisoner.

(2) In this section—

record of relevant information, about a prisoner, means the record under the pre-amended Act, section 65D, and copies of any advices mentioned in the pre-amended Act, section 65D(3), kept in relation to the prisoner immediately before the commencement.

490H Criminal organisation segregation orders

(1) On the commencement, a criminal organisation segregation order in effect under the pre-amended Act immediately before the commencement is cancelled.

(2) A doctor or nurse must, as soon as practicable after the commencement, examine the prisoner who was subject to the order.

(3) The chief executive must record, for each corrective services facility, the following details for each prisoner who was subject to an order mentioned in subsection (1)—

(a) the date on which it was cancelled;

(b) the date on which the prisoner was examined under subsection (2).

(4) The chief executive must record the information mentioned in subsection (3) in the record kept under section 490G.

490I Requirement for test sample before commencement

On the commencement, any requirement made of a person under the pre-amended Act, section 41(1)(c), ends.

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490J Directions to identified participant

(1) On the commencement, a direction given under the pre-amended Act, section 267A(3)(a) or (c), and in place immediately before the commencement ends.

(2) The chief executive must tell the offender subject to the direction that the direction is no longer in place.

490K Monitoring devices

(1) If immediately before the commencement an offender was subject to a direction under the pre-amended Act, section 267A(3)(b), the direction continues in force according to its terms.

(2) The chief executive must review the direction as soon as practicable after the commencement.

(3) If the chief executive does not consider it reasonably necessary for the offender to wear a device for monitoring the offender's location, the chief executive must—

(a) cancel the direction; and

(b) tell the offender that the direction given to the offender is no longer in place.

Part 10 Transitional provision for Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Act 2016

490L Continued application of repealed s 18(2)

(1) Repealed section 18(2) continues to apply to a person under 18 years who—

(a) is a prisoner in a corrective services facility on the commencement; or

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(b) becomes a prisoner in a corrective services facility after the commencement in relation to a proceeding for an offence—

(i) decided before the commencement; or

(ii) started, but not finally dealt with, before the commencement.

(2) In this section—

repealed section 18(2) means section 18(2) as in force immediately before the commencement.

Part 11 Transitional provisions for Corrective Services (Parole Board) and Other Legislation Amendment Act 2017

490M Definitions for part

In this part—

amended Act means this Act as in force after the commencement.

amendment Act means the *Corrective Services (Parole Board) and Other Legislation Amendment Act 2017*.

former, in relation to a provision, means the provision as in force immediately before the provision was amended or repealed under the amendment Act.

former board means—

(a) the Queensland Parole Board; or

(b) a regional board.

Queensland Parole Board means the Queensland Parole Board established under former section 216.

regional board means a regional board established under former section 230.

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490N Dissolution of Queensland Parole Board and regional boards

(1) On the commencement—

(a) the Queensland Parole Board is dissolved; and

(b) each regional board is dissolved; and

(c) the members of the boards mentioned in paragraphs (a) and (b) go out of office.

(2) No compensation is payable to a member because of subsection (1).

490O Secretary of former board

(1) On the commencement, a person who, immediately before the commencement, held appointment as the secretary of a former board goes out of office.

(2) No compensation is payable to a person because of subsection (1).

490P Existing instruments and decisions made by a former board

(1) This section applies to the following instruments made by a former board and in force immediately before the commencement—

(a) an order under former section 96A(1);

(b) a notice to a prisoner under section 96B;

(c) a warrant issued under former section 112(2), 206 or 210;

(d) a parole order, including an exceptional circumstances parole order;

(e) a notice given to the chief executive under former section 188(1);

(f) reasons for a refusal given to a prisoner under former section 193(5)(a);

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(g) an order under former section 205 to amend, suspend or cancel a parole order;

(h) an information notice given to a prisoner under former section 205(3) or 208(1);

(i) a notice given to a prisoner under former section 208(2);

(j) an order under former section 211(3);

(k) an order under former section 212(3) or 213(1) granting leave to a prisoner.

(2) This section also applies to the following decisions made by a former board and in force immediately before the commencement—

(a) a decision to consent to a prisoner applying for a parole order, mentioned in former section 180(2)(a)(ii);

(b) a decision under former section 190 to grant leave to a prisoner or prisoner's agent to appear before a former board;

(c) a decision under former section 193(1) to grant or refuse an application for a parole order;

(d) a decision under former section 193(5)(b) about a period of time within which a further application for a parole order must not be made;

(e) a decision under former section 198 to confirm or set aside the decision of a regional board;

(f) a decision under former section 203(3) to cancel an order given by the chief executive and to require the chief executive to withdraw a warrant.

(3) From the commencement, the instrument or decision has effect as if it had been made by the parole board.

(4) To remove any doubt, it is declared that the instrument or decision is taken to have been made by the parole board on the day it was made by the former board.

(5) A decision under former section 190 to grant leave to a prisoner or prisoner's agent to appear before a former board is

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taken to be a decision to grant leave to the prisoner or prisoner's agent to appear before the parole board.

490Q Existing applications made to a former board

(1) This section applies to the following applications made to a former board, but not decided, before the commencement—

(a) an application under former section 112(1)(b) for the issue of a warrant;

(b) an application under former section 176 for an exceptional circumstances parole order;

(c) an application under former section 180 for a parole order;

(d) an application under former section 190 for leave to appear before a former board.

(2) The application—

(a) is taken to have been made to the parole board; and

(b) must be dealt with and decided by the parole board under the amended Act.

(3) However, former section 193(3) continues to apply to an application for a parole order made under former section 176 or 180 as if the amendment Act had not commenced.

(4) In deciding an application for a parole order made under former section 180, the parole board must consider any submissions relating to the application made to a former board under former section 188.

(5) An application made under former section 190 for leave to appear before a former board is taken to be an application for leave to appear before the parole board.

490R Review of a regional board's decision

(1) Subsection (2) applies to an application made under former section 196, but not decided, before the commencement.

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(2) The parole board must—

(a) confirm the decision the subject of the application; or

(b) set aside the decision and make any decision the parole board may make on an application for a parole order.

(3) Subsection (4) applies if—

(a) immediately before the commencement, a prisoner could have applied to the Queensland Parole Board under former section 196 for a review of a regional board's decision; and

(b) the prisoner has not made the application before the commencement.

(4) The prisoner may apply to the parole board for a review of the regional board's decision.

(5) If the prisoner makes an application under subsection (4), the parole board must comply with subsection (2).

490S Particular orders made by chief executive

(1) Subsection (2) applies to a written order made by the chief executive under former section 201 that is in force immediately before the commencement.

(2) The order continues in effect.

(3) Subsection (4) applies to a warrant issued by the chief executive under former section 202 that is in force immediately before the commencement.

(4) The warrant continues in effect.

(5) Former section 203(3) continues to apply in relation to an order mentioned in subsection (1), and a warrant mentioned in subsection (3)—

(a) as if the amendment Act had not commenced; and

(b) as if a reference in former section 203(3) to the parole board were a reference to the Parole Board Queensland.

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490SA Steps before appointing particular board members

A reference in section 223(2)(c)(i) to the Minister consulting with the president includes a reference to the Minister consulting, before the commencement, with the person whose appointment as the first president takes effect on or after the commencement.

Part 12 Transitional provisions for Corrective Services (No Body, No Parole) Amendment Act 2017

490U Application of s 193A

Section 193A applies to a prisoner's application for a parole order whether the prisoner was convicted of, or sentenced for, the offence before or after the commencement.

490V Existing applications for parole order or applications under s 490R

(1) Section 193A applies to the following applications made to the parole board, but not decided, before the commencement—

(a) an application under section 176 for an exceptional circumstances parole order;

(b) an application under section 180 for a parole order.

(2) If the parole board is required to ask the commissioner for a report under section 193A in relation to an application mentioned in subsection (1), the parole board may extend the period under section 193(3) within which the application must be decided by not more than 50 days.

(3) Section 193A also applies to the following applications—

(a) an application mentioned in section 490R(1) that has not been decided before the commencement;

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(b) an application under section 490R(4)—

(i) made to the parole board, but not decided, before the commencement; or

(ii) made to the parole board on or after the commencement.

Part 13 Transitional provisions for Justice Legislation (Links to Terrorist Activity) Amendment Act 2019

490W Definition for part

In this part—

amending Act means the *Justice Legislation (Links to Terrorist Activity) Amendment Act 2019*.

490X Existing applications for parole orders or applications under s 490R

Sections 193B to 193E, 234 and 247A and schedule 4, as amended or inserted by the amending Act, apply in relation to the following applications—

(a) an application under section 176, 180 or 490R(4) made to the parole board, but not decided, before the commencement;

(b) an application mentioned in section 490R(1) that has not been decided before the commencement.

490Y Application of particular provisions to parole orders

The following provisions, as amended or inserted by the amending Act, apply in relation to a parole order whether made before or after the commencement—

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(a) section 193D;

(b) section 193E;

(c) section 205;

(d) section 208A;

(e) section 208B;

(f) section 234;

(g) section 247A;

(h) schedule 4.

Part 14 Transitional provisions for Corrective Services and Other Legislation Amendment Act 2020

490Z Definition for part

In this part—

amending Act means the *Corrective Services and Other Legislation Amendment Act 2020*.

490ZA Extending period for submissions from eligible person

(1) This section applies if—

(a) the chief executive gave each eligible person in relation to a prisoner written notice under section 188(2) of the prisoner's application for a parole order; and

(b) the decision on the application had not been made under section 193 before the commencement.

(2) Section 188, as amended by the amending Act, applies to the application.

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490ZB Deciding particular applications made before the commencement where victim's body or remains have not been located

(1) This section applies if a prisoner made an application under section 193A for a parole order but the decision on the application had not been made before the commencement.

(2) Sections 193A and 234, as amended by the amending Act, apply to the application.

490ZC Meetings about particular matters relating to parole orders

(1) This section applies to a meeting of the parole board under section 234 to consider an application for a parole order made but not decided before the commencement.

(2) Section 234, as amended by the amending Act, applies to the meeting.

Part 15 Transitional provisions for Police Powers and Responsibilities and Other Legislation Amendment Act 2021

490ZC Definition for part

In this part—

amending Act means the *Police Powers and Responsibilities and Other Legislation Amendment Act 2021*.

490ZD Application of ch 5, pts 1AA and 1AB

Chapter 5, parts 1AA and 1AB apply to a prisoner whether the prisoner was convicted of, or sentenced for, an offence before or after the commencement.

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490ZE Existing applications for parole order

(1) This section applies to an application for a parole order under section 176 or 180 made, but not decided, before the commencement.

(2) From the commencement, the following sections and schedule 4, as amended or inserted by the amending Act, apply in relation to the application—

(a) chapter 5, parts 1AA and 1AB;

(b) sections 176A and 176B;

(c) section 180;

(d) sections 193 to 193AA;

(e) sections 229A to 229C;

(f) section 234;

(g) section 324A.

Part 16 Transitional provisions for Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Act 2023

490ZF Changes to prisoner security classification

(1) If, immediately before the commencement, a prisoner's security classification was maximum, from the commencement the prisoner's security classification is high.

(2) If, immediately before the commencement, a prisoner mentioned in subsection (1) was subject to a maximum security order, the maximum security order continues unaffected by the change under subsection (1).

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(3) Nothing in this section prevents the chief executive changing or reviewing the prisoner's security classification or maximum security order under this Act.

490ZG Application of amended section 112

Section 112, as amended by the *Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Act 2023*—

(a) applies to a prisoner sentenced or detained before or after the commencement; but

(b) does not apply to a prisoner who was unlawfully absent before the commencement.

490ZH Electronic surveillance of corrective services facilities

(1) This section applies if, immediately before the commencement, a prescribed surveillance device was in use at a corrective services facility to monitor and record activity in and around the facility.

(2) From the commencement, the use of the prescribed surveillance device at the corrective services facility is taken to be authorised by the chief executive under section 173A.

(3) Nothing in subsection (2) prevents the chief executive revoking the authorisation or imposing or changing requirements about the use, storage or destruction of recordings made by the prescribed surveillance device.

(4) In this section—

prescribed surveillance device means a surveillance device prescribed for section 173A.

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Part 17 Validation provisions for Corrective Services (Promoting Safety) and Other Legislation Amendment Act 2024

490ZI Validation of certain decisions

(1) This section applies to a decision of an entity made under this Act or a repealed Act before the commencement.

(2) The decision is, and is taken to have always been, as valid as it would have been if, at the time the decision was made, new section 340AA had applied to the decision.

(3) Anything done as a result of the decision is, and is taken to have always been, as valid and lawful as it would have been if, at the time the decision was made, new section 340AA had applied to the decision.

(3A) For subsections (2) and (3), any non-compliance with new section 340AA(1A) or (1B) is to be disregarded.

(4) However, if a decision to which this section applies has, before the commencement, been found by a court to be invalid or has been set aside by court order—

(a) the finding or order stands; but

(b) if the decision is remade after the commencement, new section 340AA applies to the decision as remade.

(5) In this section—

new section 340AA means section 340AA as in force from the commencement.

490ZJ Validation of certain decisions of parole board

(1) This section applies to a conditional parole decision made by the parole board on or after 26 May 2017 and before the commencement.

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(2) A decision made before the commencement by the parole board, or 1 or more members of the parole board, that the conditions referred to in a conditional parole decision have or have not been fulfilled is taken to be a parole decision of the parole board.

(3) A decision made after the commencement by the parole board (properly constituted for a parole decision) that the conditions referred to in a conditional parole decision have or have not been fulfilled is also taken to be a parole decision of the parole board.

(4) If a decision under subsection (2) or (3) is that the conditions have been fulfilled, the parole decision is a decision to release the prisoner on parole.

(5) If the decision under subsection (2) or (3) is that the conditions have not been fulfilled, the parole decision is a decision not to release the prisoner on parole.

(6) The parole decision is, and is taken to have always been, as valid as it would have been if the decision had been made by the parole board as a parole decision without a conditional parole decision having been made.

(7) To avoid any doubt, it is declared that, if subsection (6) applies, anything done or purported to have been done by an entity relying on the decision or the conditional parole decision is, and is taken to have always been, as valid as it would have been if the entity had relied on a valid decision of the parole board.

(8) This section applies despite—

(a) any lack of power for the making of—

(i) the conditional parole decision; or

(ii) the decision mentioned in subsection (2) or (3); and

(b) any defect in the constitution of the parole board, lack of quorum, or other procedural defect, for the making of the decision mentioned in subsection (2).

(9) In this section—

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conditional parole decision means a decision, however expressed, that is—

(a) a parole decision that will have effect if a condition is fulfilled; or

(b) a decision to make a parole decision if a condition is fulfilled.

parole decision means a decision to release or not to release a prisoner on parole by—

(a) making or refusing to make a parole order; or

(b) changing or not changing a decision suspending a prisoner's parole order.

Part 18 Transitional and validation provisions for Police Powers and Responsibilities and Other Legislation Amendment Act 2024

490ZJA Existing applications for parole orders

(1) This section applies to an application for a parole order made under section 180, but not decided, before the commencement.

(2) Section 193, as amended by the *Police Powers and Responsibilities and Other Legislation Amendment Act 2024*, applies in relation to the application.

490ZK Validation of particular development

(1) This section applies to development carried out before the commencement if—

(a) the development was carried out by or on behalf of the State on the following lots—

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(i) lot 2 on SP257634;

(ii) lot 57 on SP277218;

(iii) lots 74 to 78 on Crown Plan E124236;

(iv) lot 145 on Crown Plan LN2427; and

(b) the development is for infrastructure mentioned in section 267A(1); and

(c) when the development was carried out—

(i) the development was assessable development under a planning Act; and

(ii) no development permit was in effect for the development.

(2) The carrying out of the development without a development permit is, and is taken to have always been, valid and lawful.

(3) In this section—

development see the *Planning Act 2016*, schedule 2.

development permit means a development permit under a planning Act.

planning Act means—

(a) the *Planning Act 2016*; or

(b) the repealed *Sustainable Planning Act 2009*; or

(c) the repealed *Integrated Planning Act 1997*.

490ZL Advice and recommendations relating to safety orders and temporary safety orders

(1) This section applies if, before the commencement, a doctor or psychologist—

(a) gave advice to the chief executive as mentioned in section 53(1) or 54(2); or

(b) made a recommendation to the chief executive under section 55(4) or 58(5).

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(2) For applying chapter 2, part 2, division 5 in relation to a prisoner after the commencement, the advice or recommendation is taken to have been given or made by an authorised practitioner.

490ZM Transitional regulation-making power

(1) A regulation (a ***transitional regulation***) may make provision about a matter for which—

(a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of former chapter 2, part 2, division 5 to the operation of this Act as in force from the commencement; and

(b) this Act does not provide or sufficiently provide.

(2) A transitional regulation may have retrospective operation to a day not earlier than the day this section commences.

(3) A transitional regulation must declare it is a transitional regulation.

(4) A transitional regulation may only be made within 1 year after the day this section commences.

(5) This section and a transitional regulation expire on the day that is 2 years after the day this section commences.

(6) In this section—

former chapter 2, part 2, division 5 means chapter 2, part 2, division 5 as in force before its amendment by the *Police Powers and Responsibilities and Other Legislation Amendment Act 2024*.

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Part 19 Declaratory and validation provisions for Mineral and Energy Resources and Other Legislation Amendment Act 2024

490ZN Start of parole orders

(1) This section applies to a decision of the parole board under section 193, made before the commencement, that—

(a) granted an application for a parole order; and

(b) stated a day on which the order started.

(2) The decision is not to be taken to be invalid only because the stated day on which the order started was later than the day the decision was made.

490ZO Particular parole board appointments

(1) This section applies in relation to a person who, during the relevant period, was appointed under former section 228 to act in the office of a professional board member.

(2) It is declared that—

(a) despite former section 228 and the terms of the person's appointment, the person is taken to have been validly appointed to act in the office at all times during the relevant period; and

(b) each relevant exercise of power by the person is, and always has been, as valid as it would be or would have been had the person been validly appointed to act in the office at all times during the relevant period; and

(c) anything done by an entity relying on a decision made, or other thing done, during the relevant period by the parole board is, and always has been, as valid as it would be or would have been had the person been

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validly appointed to act in the office when the decision was made or other thing done.

Example of a thing done by an entity—

executing a warrant

(3) In this section—

done includes purportedly done.

exercise or performance includes purported exercise or performance.

former section 228, in relation to an appointment, means section 228 as in force at the time of the appointment.

made includes purportedly made.

relevant exercise of power means an exercise or performance, during the relevant period, of a power or function conferred on a board member by this Act (including the making of a decision).

relevant period means the period from 3 July 2017 to 5 June 2024.

Part 20 Validation provision for Corrective Services (Parole Board) and Other Legislation Amendment Act 2025

490ZP Particular suspension of parole orders

(1) This section applies if, during the period starting on 3 July 2017 and ending on the commencement—

(a) a prescribed board member decided, under section 208B—

(i) not to suspend a parole order; or

(ii) to suspend a parole order but not issue a warrant for the prisoner's arrest; and

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(b) the parole board purported to review the prescribed board member's decision and decide to do any 1 or more of the following—

(i) confirm the member's decision;

(ii) set aside the member's decision;

(iii) substitute its own decision to suspend or cancel the parole order.

(2) The decision of the parole board is, and is taken to have always been, as valid as it would have been if the decision were made under new section 208C.

(3) Anything done or purported to have been done as a result of, or in reliance on, the decision of the parole board is, and is taken to have always been, as valid and lawful as it would have been if the decision were made under new section 208C.

(4) This section applies even if a proceeding relating to the decision of the parole board has been commenced in a court.

(5) In this section—

new section 208C means section 208C as in force from the commencement.

Chapter 8 Repeal

491 Repeal

The Corrective Services Act 2000 No. 63 is repealed.

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Schedule 1 Sexual offences

schedule 4, definition *sexual offence*

Classification of Computer Games and Images Act 1995

section 23 (Demonstration of an objectionable computer game before a minor)

section 26(3) (Possession of objectionable computer game)

section 27(3) (Making objectionable computer game)

section 27(4) (Making objectionable computer game)

section 28 (Obtaining minor for objectionable computer game)

Classification of Films Act 1991

section 41(3) (Possession of objectionable film)

section 42(3) (Making objectionable film)

section 42(4) (Making objectionable film)

section 43 (Procurement of minor for objectionable film)

Classification of Publications Act 1991

section 12 (Sale etc. of prohibited publication)

section 13 (Possession of prohibited publication)

section 14 (Possession of child abuse publication)

section 15 (Exhibition or display of prohibited publication)

section 16 (Leaving prohibited publication in or on public place)

section 17 (Producing prohibited publication)

section 18 (Procurement of minor for RC publication)

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section 20 (Leaving prohibited publication in or on private premises)

Crimes Act 1914 (Cwlth)

section 50BA (Sexual intercourse with child under 16)

section 50BB (Inducing child under 16 to engage in sexual intercourse)

section 50BC (Sexual conduct involving child under 16)

section 50BD (Inducing child under 16 to be involved in sexual conduct)

section 50DA (Benefiting from offence against this Part)

section 50DB (Encouraging offence against this Part)

Criminal Code

section 210 (Indecent treatment of children under 16)

section 210A (Sexual acts with a child aged 16 or 17 under one's care, supervision or authority)

section 211 (Bestiality)

section 213 (Owner etc. permitting abuse of children on premises)

section 215 (Engaging in penile intercourse with child under 16)

section 216 (Abuse of persons with an impairment of the mind)

section 217 (Procuring young person etc. for penile intercourse)

section 217A (Obtaining commercial sexual services from person who is not an adult)

section 217B (Allowing person who is not an adult to take part in commercial sexual services)

section 217C (Conduct relating to provision of commercial sexual services by person who is not an adult)

section 218 (Procuring sexual acts by coercion etc.)

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section 218A (Using internet etc. to procure children under 16)

section 218B (Grooming child under 16 years or parent or carer of child under 16 years)

section 219 (Taking child for immoral purposes)

section 221 (Conspiracy to defile)

section 222 (Incest)

section 228 (Obscene publications and exhibitions)

section 228A (Involving child in making child exploitation material)

section 228B (Making child exploitation material)

section 228C (Distributing child exploitation material)

section 228D (Possessing child exploitation material)

section 228DA (Administering child exploitation material website)

section 228DB (Encouraging use of child exploitation material website)

section 228DC (Distributing information about avoiding detection)

section 229B (Repeated sexual conduct with a child)

section 349 (Rape)

section 350 (Attempt to commit rape)

section 351 (Assault with intent to commit rape)

section 352 (Sexual assaults)

Criminal Code provision repealed by Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Act 2024

section 229L (Permitting young person etc. to be at place used for prostitution)

Criminal Code provision repealed by Health and Other Legislation Amendment Act 2016

section 208 (Unlawful sodomy)

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)

Criminal Code (Cwlth)

section 270.6 (Sexual servitude offences)

section 270.7 (Deceptive recruiting for sexual services)

Customs Act 1901 (Cwlth)

section 233BAB (Special offence relating to tier 2 goods)

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Schedule 2 Continuing provisions of Corrective Services Act 2000

section 478

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

(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 on 1 December 2001, having regard to the requirements of section 135(2). 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)

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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.

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

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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), the Criminal Code, section 11(2), the *Penalties and Sentences Act 1992*, section 180(1) or any other law of similar effect.

(5) In this section—

expectation includes right, privilege, entitlement and eligibility.

release instrument means an instrument under which a prisoner was released.

268C Counting time if parole cancelled before 1 July 2001

(1) This section applies if, before 1 July 2001—

(a) a person was sentenced to imprisonment and subsequently was released on parole as provided for under a previous Act; and

(b) the person's parole was cancelled as provided for under a previous Act, whether by order or otherwise.

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(2) It is declared that no part of the time, including any time on or after 1 July 2001, between the person's release on parole and the person recommencing to serve the unexpired portion of the person's period of imprisonment is to be regarded as time served in respect of that period of imprisonment (other than any period during which the person was kept in custody consequent upon the person's parole being suspended under a previous Act).

(3) For subsection (2), the following are irrelevant—

(a) whether any relevant warrant is or was issued or executed in relation to the person before, on or after 1 July 2001;

(b) whether any relevant warrant is or was executed in Queensland or elsewhere;

(c) whether particular provisions of this Act were applied to the person for a particular matter, including, for example, giving an information notice under section 150.

(4) Further, it is declared that subsection (2) is, and has always been, the law about the matters it deals with, and that law was unaffected by the enactment of sections 152(2), 268 and 268A.

(5) In this section—

previous Act means—

(a) the *Corrective Services Act 1988*; or

(b) the *Offenders Probation and Parole Act 1980*; or

(c) the *Offenders Probation and Parole Act 1959*.

274E Classified patient taken to be prisoner

A person is taken to have been a prisoner for chapter 5, part 1 if, during the period starting on 28 February 2002 and ending on the commencement of this section, the person was—

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(a) a classified patient being detained in an authorised mental health service under the *Mental Health Act 2000*; and

(b) serving a period of imprisonment.

Schedule 4 Dictionary

section 4

2000 Act see section 356.

access approval, for a visitor, see section 155(1).

accredited visitor means—

(a) the Minister; or

(b) a member of the Legislative Assembly; or

(c) a judicial officer; or

(d) a board member; or

(e) the ombudsman; or

(f) an inspector, including the chief inspector; or

(g) the inspector of detention services; or

(h) an official visitor; or

(i) a community visitor (child) under the *Public Guardian Act 2014*; or

(j) a child advocacy officer under the *Public Guardian Act 2014*; or

(k) any of the following persons—

(i) a member of the UN subcommittee;

(ii) a UN expert accompanying the UN subcommittee;

(iii) an interpreter or other person assisting the UN subcommittee accompanying the subcommittee.

additional information, for chapter 5, see section 175R(5).

agency arrangement, for chapter 6, part 13A, see section 344B.

alcohol test, for chapter 6, part 9A, see section 306A.

amending Act, for chapter 7A, part 4, see section 480.

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Anti-Discrimination Act means the *Anti-Discrimination Act 1991*.

applied discipline procedure see section 406(2).

appointed board member see section 221(2).

appropriately qualified, for a person appointed to a position or to whom functions or 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 perform the delegated functions or exercise the delegated powers.

Example of standing—

a person's classification level in the public service

approved, other than for an approved resettlement leave program, means approved by the chief executive.

approved form means a form approved under section 354.

approved resettlement leave program means a resettlement leave program approved under section 76(1) or 77(1) as in force before the commencement of the *Corrective Services and Other Legislation Amendment Act 2009*, section 11.

attendance notice see section 219(1).

authorised functions, for an engaged service provider, see section 272(1).

authorised mental health service means an authorised mental health service under the *Mental Health Act 2016*.

authorised practitioner means a person appointed as an authorised practitioner under section 305B.

award of compensation, for chapter 6, part 12B, see section 319J.

award of damages, for chapter 6, part 12B, see section 319J.

biometric identification system means an electronic system used to collect and store data about an individual's biometric

information in a way that enables the data to be used to identify the individual.

biometric information, for an individual, means the following information—

(a) a photograph of the individual;

(b) information taken from the individual's hands, feet, eyes or voice by way of a scan or print, including, for example, fingerprints, vein patterns, footprints or toeprints.

board member see section 221(1).

body search, of a prisoner, means a search of the prisoner's body, including an examination of an orifice or cavity of the prisoner's body.

breach of discipline means an act or omission prescribed under section 113(1) as a breach of discipline.

charge, for chapter 6, part 13, division 2, see section 327.

chief inspector means the person who holds appointment as chief inspector under section 296.

Chief Judge see the *Judicial Remuneration Act 2007*, schedule 2.

Chief Justice see the *Judicial Remuneration Act 2007*, schedule 2.

child in care means a child—

(a) who is in the custody or guardianship of the child protection chief executive; or

(b) who, under an agreement entered into by the child protection chief executive and a parent of the child, has been placed in the care of someone other than a parent of the child.

child protection chief executive means the chief executive of the department in which the *Child Protection Act 1999* is administered.

child support registrar, for chapter 6, part 12B, see section 319J.

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collection entity, for chapter 6, part 12B, see section 319J.

commencement—

(a) for chapter 7, see section 356; or

(b) for chapter 7A, see section 480.

commissioner means the commissioner of the police service.

commissioner's report, for chapter 5, see section 175B.

Commonwealth control order means a control order as defined in the Criminal Code (Cwlth), section 100.1(1).

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 board member see section 221(1)(f).

community corrections centre means a place declared to be a community corrections centre under section 151(1)(a)(i).

community corrections office means an office where an offender subject to a parole order or community based order may be required to report to a corrective services officer.

community corrective services means services—

(a) for offenders who are not prisoners; or

(b) provided at a community corrections office.

community service means an activity declared to be community service under section 270(1).

community service leave see section 72(1)(a).

community service order means a community service order under the *Penalties and Sentences Act 1992*.

community service supervisor see section 270(2).

compassionate leave see section 72(1)(b).

confidential information see section 341(5).

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constable, for chapter 2, part 1A, see section 18A.

contact visit means a personal visit during which there is direct contact between the prisoner and personal visitor.

contemporaneous communication link means a link using technology that allows persons using the link to hear and take part in discussions as they happen.

Example of technology—

videoconferencing

conviction, for a prescribed provision, means a finding of guilt, or the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

cooperation, for chapter 5, see section 175B.

corrections board, for sections 432(1) and 442(1)(a), means a corrections board within the meaning of the 2000 Act.

corrective services means—

(a) community corrective services; or

(b) custodial corrective services.

corrective services dog means a dog certified under section 279 as a corrective services dog.

corrective services facility—

(a) generally, means—

(i) a prison; or

(ii) a community corrections centre; or

(iii) a work camp; and

(b) for chapter 6, part 2, division 3—see section 271A.

corrective services officer means a person who holds appointment as a corrective services officer under section 275.

corrective services officer recruit, for chapter 6, part 9A, see section 306A.

corrective services person, for chapter 6, part 9A, see section 306B.

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corresponding interstate leave permit means a permit, issued under a corresponding law, that corresponds to an interstate leave permit.

corresponding law means a law declared under section 96 to be a corresponding law for chapter 2, part 2, division 9.

corrupt conduct see the *Crime and Corruption Act 2001*, section 15.

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.

court ordered parole order means an order issued by the chief executive under section 199 in accordance with a court order under the *Penalties and Sentences Act 1992*, section 160B(3) fixing the date for the prisoner to be released on parole.

criminal history, of a person, means all of the following—

(a) every conviction of the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this section;

(b) every charge made against the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this section;

(c) the court briefs for the offences.

current declaration see section 175G(2).

custodial corrective services means services for prisoners in a corrective services facility.

dangerous drug means a dangerous drug under the *Drugs Misuse Act 1986*.

deciding officer means—

(a) for a minor breach of discipline—a corrective services officer, whether or not the officer is the same officer

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who decided under section 113 to start proceedings for the breach; or

(b) for a major breach of discipline—a corrective services officer who holds a more senior position than the corrective services officer who decided under section 113 to start proceedings for the breach.

deputy president means a deputy president of the parole board.

detained means detained in custody.

detained dangerous prisoner (sexual offender) means a prisoner subject to a continuing detention order or interim detention order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

disbursements, for chapter 6, part 12B, see section 319J.

discharge, for either of the following persons, means release the person from lawful custody, other than on parole—

(a) a prisoner;

(b) a person mentioned in section 110(1)(a)(ii).

discharge day, for either of the following persons, means the day on which the person is eligible to be discharged—

(a) a prisoner;

(b) a person mentioned in section 110(1)(a)(ii).

domestic violence see the *Domestic and Family Violence Protection Act 2012*, section 8.

domestic violence order or notice means an order or notice that would be included in a person's domestic violence history under the *Domestic and Family Violence Protection Act 2012*.

drug control direction, for chapter 6, part 13A, see section 344B.

drug control officer, for chapter 6, part 13A, see section 344B.

drug trafficking offence means—

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(a) an offence against the *Drugs Misuse Act 1986*, section 5; or

(b) an offence of counselling or procuring the commission of, or attempting or conspiring to commit, an offence mentioned in paragraph (a).

drug vault, for chapter 6, part 13A, see section 344B.

early discharge means discharge under section 108(3) or 110.

educational leave see section 72(1)(c).

eligible entity claim, for chapter 6, part 12B, see section 319ZC(3).

eligible person, in relation to a prisoner, means a person included on the eligible persons register as an eligible person in relation to the prisoner.

eligible persons register means the register kept under section 320(1).

eligible victim claim, for chapter 6, part 12B, see section 319X(3).

engaged by the department means each of the following persons—

(a) a public service employee in the department;

(b) an honorary officer;

(c) an agent;

(d) a person working in the department as a volunteer or as a student on work experience.

engaged service provider see section 272(1).

entity claim, for chapter 6, part 12B, see section 319Z.

escape includes being unlawfully at large.

exceptional circumstances parole order means a parole order mentioned in section 194(2).

existing regional board means a regional community corrections board in existence under the 2000 Act immediately before the commencement of section 438.

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expectation includes right, privilege, entitlement and eligibility.

finally decided, for chapter 6, part 12B, see section 319J.

financial assistance agreement see section 252(1).

fine option order means a fine option order under the *Penalties and Sentences Act 1992*.

former senior board member means a person who has held office as the president or a deputy president.

general clothes means clothes that are not an inner garment or outer garment.

general search, of a person, means a search to reveal the contents of the person's outer garments or general clothes or of a thing in the person's possession.

grantee means the grantee of a grant of financial assistance under chapter 6, part 1.

grievous bodily harm see the Criminal Code, section 1.

health leave see section 72(1)(d).

health practitioner means a registered health practitioner under the Health Practitioner Regulation National Law (Queensland), section 5.

health service, for chapter 6, part 8A, see section 305A.

homicide offence means any of the following offences—

(a) an offence against any of the following provisions of the Criminal Code—

(i) section 236(2);

(ii) sections 302 and 305;

(iii) sections 303 and 310;

(iv) section 307;

(v) section 309;

(vi) section 314A;

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(b) an offence of becoming an accessory after the fact to an offence mentioned in paragraph (a)(i), (iii), (v) or (vi);

(c) an offence of counselling or procuring the commission of, or conspiring to commit, an offence mentioned in paragraph (a) or (b);

(d) an offence against a law of another jurisdiction that substantially corresponds to an offence mentioned in paragraph (a), (b) or (c).

homicide offender means a person who has been found guilty of a homicide offence.

imaging search, of a person, means a search of the person using electronic imaging produced by a method of scanning the person, including, for example, using ionising or non-ionising radiation.

immediate family member, of a person, means—

(a) the person's spouse, child, stepchild, parent, step-parent, brother, sister, stepbrother, stepsister or grandparent; or

(b) the person's legal guardian; or

(c) if the person is an Aboriginal or Torres Strait Islander person—a person who, under Aboriginal tradition or Island custom is regarded as an immediate family member of the person.

impaired capacity see the *Guardianship and Administration Act 2000*, schedule 4.

in, a corrective services facility, includes at or on the facility.

incident means—

(a) the death (other than by natural causes), or the serious injury, of someone who is—

(i) in a corrective services facility; or

(ii) subject to a community based order or parole order and under the direct personal supervision of a corrective services officer; or

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Example—

A prisoner is one of a group of prisoners repairing a hall as part of community service performed under the direct personal supervision of a corrective services officer. If the prisoner cuts off a finger with a power saw, the injury is an incident even though the officer was helping another prisoner at the time of the incident.

However, if a prisoner cuts off a finger with a power saw while doing home renovations while on parole, and a corrective services officer is not at the home at the time, the injury is not an incident.

(b) an escape or attempted escape from secure custody; or

(c) a riot or mutiny involving prisoners while in custody; or

(d) another event involving prisoners that the chief executive considers requires being investigated by inspectors.

information notice, about a decision of the chief executive, means a written notice that includes the following—

(a) the decision;

(b) the chief executive's reasons for the decision;

(c) the date the decision has effect.

inner garment means a garment worn underneath general clothes, including, for example, underwear.

inspector means a person who holds an appointment as an inspector under section 294.

inspector of detention services means the inspector of detention services under the *Inspector of Detention Services Act 2022*.

intensive correction order means an intensive correction order under the *Penalties and Sentences Act 1992*.

interstate escort see section 94(1).

interstate leave permit see section 89(1).

interstate prisoner means a person who, under a corresponding law, is a prisoner.

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judge, for chapter 5, part 2, division 6, means a Supreme Court judge or District Court judge.

Judges Pensions Act means the *Judges (Pensions and Long Leave) Act 1957*.

law enforcement agency means—

(a) the Crime and Corruption Commission, a commission of inquiry under the *Commissions of Inquiry Act 1950*, or the police service; or

(b) the Australian Federal Police; or

(c) the Australian Crime Commission established under the *Australian Crime Commission Act 2002* (Cwlth), section 7; or

(d) a police service of another State or of a foreign country; or

(e) an entity established under the law of the Commonwealth or a State to investigate corruption or crime; or

(f) the Australian Security Intelligence Organisation under the *Australian Security Intelligence Organisation Act 1979* (Cwlth); or

(g) a Commonwealth department in which any of the following laws is administered—

(i) the *Australian Border Force Act 2015* (Cwlth);

(ii) the *Customs Act 1901* (Cwlth), other than parts XVB and XVC;

(iii) the *Migration Act 1958* (Cwlth); or

(h) another entity declared by regulation to be a law enforcement agency.

leave of absence, other than for section 227, means any of the following—

(a) community service leave;

(b) compassionate leave;

(c) educational leave;

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(d) health leave;

(e) reintegration leave granted under section 72(1)(e) as in force before the commencement of the *Corrective Services and Other Legislation Amendment Act 2009*, section 10(1);

(f) resettlement leave granted under section 72(1)(f) as in force before the commencement of the *Corrective Services and Other Legislation Amendment Act 2009*, section 10(1);

(g) leave mentioned in section 72(1)(e).

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 for the lawyer.

lethal force means force that is likely to cause death or grievous bodily harm.

low alcohol limit, for chapter 6, part 9A, see section 306C(b).

mail includes documents received at or sent from a corrective services facility, including, for example, by fax or another apparatus.

major breach of discipline means a breach of discipline decided under section 113 to be proceeded with as a major breach of discipline.

maximum security order see section 60(1).

maximum security unit 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 be totally separated from all other prisoners accommodated in the facility.

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medical examination or treatment includes psychiatric examination or treatment.

minor breach of discipline means a breach of discipline decided under section 113 to be proceeded with as a minor breach of discipline.

misconduct, for a staff member, means conduct that would constitute a disciplinary ground under the *Public Sector Act 2022*, section 91 if the staff member were a public service employee under that Act.

no alcohol limit, for chapter 6, part 9A, see section 306C(a).

no body-no parole prisoner, for chapter 5, see section 175C.

no cooperation declaration, for chapter 5, see section 175L.

non-contact visit means a personal visit during which there is no direct physical contact between the prisoner and the personal visitor.

Norfolk Island court, for chapter 2, part 1A, see section 18A.

Norfolk Island magistrate, for chapter 2, part 1A, see section 18A.

Norfolk Island prisoner, for chapter 2, part 1A, see section 18B.

Norfolk Island warrant, for chapter 2, part 1A, see section 18A.

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

(a) to practise in the nursing profession, other than as a student; and

(b) in the registered nurses division of that profession.

offence means an offence against an Act.

offender means—

(a) a prisoner; or

(b) a person who is subject to a community based order.

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official visitor means a person who holds an appointment as an official visitor under section 285.

Optional Protocol means the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly of the United Nations on 18 December 2002, as amended and in force for Australia from time to time.

order, in relation to a Norfolk Island court or Norfolk Island magistrate, for chapter 2, part 1A, see section 18A.

ordinary mail means mail other than privileged mail.

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 immediately before its seizure.

parent, of a child, see the *Child Protection Act 1999*, section 11.

parole board see section 216.

parole eligibility date, for a prisoner, means the parole eligibility date applying to the prisoner under chapter 5, part 1, division 1, subdivision 2.

parole order—

(a) means a parole order mentioned in section 194 or a court ordered parole order; and

(b) for chapter 5, part 1, division 1, subdivision 2—see section 178; and

(c) for chapter 5, part 1, division 2—see section 186.

Note—

Under the *Youth Justice Act 1992*, sections 136 and 276E, the provisions of this Act that apply to a parole order also apply to a statutory parole order under those sections of that Act.

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.

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period of imprisonment see the *Penalties and Sentences Act 1992*, section 4.

permanent board member see section 221(3).

person, for chapter 3, part 3, see section 125.

personal call see section 50(2) to (4).

personal search, of a prisoner, means a search in which light pressure is momentarily applied to the prisoner over the prisoner's 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—

(a) a relative of the prisoner; or

(b) a person who the chief executive is satisfied has a personal relationship with the prisoner.

police representative see section 221(1)(d).

positive test sample means a test sample that shows a prisoner has used a substance that is a prohibited thing.

potential claimant, for chapter 6, part 12B, see section 319J.

prescribed board member means—

(a) the president; or

(b) a deputy president; or

(c) a professional board member.

prescribed provision means—

(a) section 193B; or

(b) section 193D; or

(c) section 234(3), definition *prescribed prisoner*; or

(d) definition *criminal history*.

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prescribed requirement means a requirement prescribed under section 256(1).

prescribed salary means—

(a) in relation to the president or a former senior board member who held office as the president—the total of the following payable to a Supreme Court judge, other than the Chief Justice or President of the Court of Appeal, under the *Judicial Remuneration Act 2007*—

(i) the annual rate of salary;

(ii) the annual rate of the jurisprudential allowance and expense-of-office allowance; or

(b) in relation to a deputy president or a former senior board member who held office as a deputy president—the total of the following payable to a District Court judge, other than the Chief Judge or a retired acting District Court judge, under the *Judicial Remuneration Act 2007*—

(i) the annual rate of salary;

(ii) the annual rate of the jurisprudential allowance and expense-of-office allowance.

president means the president of the parole board.

President of the Court of Appeal see the *Judicial Remuneration Act 2007*, schedule 2.

previous, if followed by a provision number—

(a) for chapter 7, see section 356; or

(b) for chapter 7A, part 4, see section 480.

primary care giver, for a child, means a person—

(a) with whom the child is required to live under a court order, whether or not the person is the child's parent; or

(b) who is the sole provider of ongoing daily care for the child.

primary school includes a full-time preparatory year of education.

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prison means a place declared to be a prison under section 149(1).

prisoner—

1 Prisoner—

(a) means a person who is in the chief executive's custody, including a person who is released on parole; and

(b) for chapter 5, part 1, includes a classified patient under the *Mental Health Act 2016* who is serving a period of imprisonment.

2 However, prisoner does not include a person who is released on parole, or a supervised dangerous prisoner (sexual offender), for the following provisions—

- sections 12 to 24, 28 to 40 and 43
- chapter 2, part 2, divisions 4 to 9A
- chapter 3, parts 1 and 2
- chapter 4, parts 2 and 4
- chapter 6, parts 5, 6 and 11.

3 Also, prisoner does not include a detained dangerous prisoner (sexual offender) for the following provisions—

- chapter 2, part 2, division 10 or 11
- chapter 5.

prisoner facilities means the common areas provided in a corrective services facility for access by prisoners.

prisoner of a court or ***prisoner of the court*** means a person who is in the custody of a court.

prisoner's account means a prisoner's account in the prisoners trust fund.

prisoner's agent does not include a lawyer.

prisoner's mail means mail sent to, or by, a prisoner.

prisoner's property see section 317(1).

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prisoners trust fund means the trust fund kept under section 311.

privileged mail means mail sent to, or by, a person who is prescribed under a regulation.

privileges, for a prisoner, means privileges prescribed under a regulation for a prisoner.

probation order means a probation order under the *Penalties and Sentences Act 1992*.

professional board member see section 221(1)(c).

prohibited prisoner communication means communication during a prisoner's personal call that constitutes or facilitates—

(a) an offence, including an offence against section 52A or 132; or

(b) a breach of a domestic violence order or notice or other court order in force against a prisoner; or

(c) domestic violence; or

(d) a threat to a person's safety or welfare; or

(e) an incitement to commit violence against a person or to destroy property; or

(f) gambling by a prisoner; or

(g) a threat to the security or good order of a corrective services facility.

prohibited thing means something prescribed to be a prohibited thing under section 123(1).

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

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(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.

protected defendant see section 319A.

psychologist means a person registered under the Health Practitioner Regulation National Law to practise in the psychology profession, other than as a student.

public sector entity means an agency, authority, commission, corporation, department, instrumentality, office, or other entity, established under an Act for a public or State purpose, including a government owned corporation.

public service representative see section 221(1)(e).

public trustee see the *Public Trustee Act 1978*, section 6.

random alcohol test, for chapter 6, part 9A, see section 306A.

random substance test, for chapter 6, part 9A, see section 306A.

reasonably believes means believes on grounds that are reasonable in the circumstances.

reasonably considers means considers on grounds that are reasonable in the circumstances.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

reconsideration application, for chapter 5, see section 175R(2).

register, for chapter 6, part 13, means the register mentioned in section 320.

register of dangerous drugs for training, for chapter 6, part 13A, see section 344B.

relative, of a prisoner, includes a person who was, immediately before the prisoner was imprisoned, the prisoner's spouse.

released means released on parole.

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release day, for a prisoner, means the day on which the prisoner is to be released on parole.

released on parole means released from a corrective services facility subject to the conditions of a parole order.

relevant award, for chapter 6, part 12B, see section 319J.

relevant money, for chapter 6, part 12B, see section 319J.

relevant person, for chapter 6, part 12A, see section 319A.

relevant person, for chapter 6, part 13, division 2, see section 327.

religious visitor means a person who visits a prison to provide religious services or instruction for prisoners.

repealed Acts means—

(a) the *Corrective Services Act 2000*; and

(b) the *Corrective Services Act 1988*; and

(c) the *Corrective Services (Administration) Act 1988*.

restricted prisoner, for chapter 5, see section 175D.

restricted prisoner declaration, for chapter 5, see section 175E.

restricted prisoner report, for chapter 5, see section 175B.

retired acting District Court judge see the *Judicial Remuneration Act 2007*, schedule 2.

risk sub-category, of a prisoner, means the risk sub-category, if any, decided for the prisoner as part of the prisoner's security classification.

safety order see section 53(1).

sample, for chapter 6, part 9A, see section 306A.

scanning search, of a person, means a search of the person by electronic or other means that does not require the person to remove the person's clothing but may require another person, a specially trained animal or an apparatus to touch or come into contact with the person.

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Examples—

- using an electronic apparatus through which a person is required to pass
- using a corrective services dog that is trained to detect the scent of a prohibited thing to search a person

search, a prisoner's mail, means search by—

(a) an electronic scanning device; or

(b) a physical search.

search requiring the removal of clothing, of a prisoner, means a search in which the prisoner removes all garments during the course of the search, but in which direct contact is not made with the prisoner.

secretariat see section 236(1).

secure custody, in relation to a prisoner, means—

(a) a secure facility; or

(b) a vehicle being used to transport the prisoner; or

(c) a court before which the prisoner is appearing.

secure facility—

(a) generally, means a prison with a perimeter fence, or other security measures, that are designed to prevent the escape of a prisoner; and

(b) for chapter 6, part 13A, see section 344B.

security classification, for a prisoner, means the classification decided for the prisoner under section 12, 13, 14 or 16.

sentence, of a person, for chapter 6, part 13, division 2, means any penalty or imprisonment ordered to be paid or served, or any other order made, by a court after the person is convicted of an offence.

sentencing court, for a prisoner, means—

(a) the court that sentenced the prisoner to the term of imprisonment the prisoner is serving; or

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(b) if the prisoner is serving more than 1 term of imprisonment—each court that sentenced the prisoner to a term of imprisonment the prisoner is serving.

separate confinement, in relation to a prisoner, means the separation of the prisoner from other prisoners.

serious offence, for sections 334 and 339, means—

(a) an offence against the *Drugs Misuse Act 1986*; or

(b) an offence against the Criminal Code (Cwlth), chapter 9, part 9.1; or

(c) an offence of counselling or procuring the commission of, or attempting or conspiring to commit, an offence mentioned in paragraphs (a) and (b).

serious violent offence means a serious violent offence under the *Penalties and Sentences Act 1992*.

serious violent offender means a prisoner who is serving a term of imprisonment for a serious violent offence.

sexual offence means—

(a) an offence mentioned in schedule 1; or

(b) an offence against a law applying, or that applied, in another jurisdiction if the offence substantially corresponds to an offence mentioned in schedule 1.

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) sex; or

(d) cultural background.

Example of a need—

the culturally specific needs of Aboriginal and Torres Strait Islander prisoners

SPER, for chapter 6, part 12B, see section 319J.

SPER registrar, for chapter 6, part 12B, see section 319J.

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staff member means —

(a) an employee of—

(i) the department; or

(ii) an engaged service provider; or

(b) a corrective services officer.

substance test, for chapter 6, part 9A, see section 306A.

supervised dangerous prisoner (sexual offender) means a prisoner subject to a supervision order or interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

suspend, for chapter 2, part 2, division 10, subdivision 3 and chapter 5, part 1, division 5, subdivisions 2 and 2A, means suspend for a fixed or indeterminate period.

targeted substance, for chapter 6, part 9A, see section 306A.

temporary safety order see section 58(1).

term of imprisonment see the *Penalties and Sentences Act 1992*, section 4.

terrorism offence means—

(a) a terrorism offence under the *Crimes Act 1914* (Cwlth); or

(b) an offence against the repealed *Crimes (Foreign Incursions and Recruitment) Act 1978* (Cwlth), sections 6 to 9; or

(c) an offence against the *Terrorism (Community Protection) Act 2003* (Vic), section 4B; or

(d) an offence against the *Crimes Act 1900* (NSW), section 310J; or

(e) an offence against the *Criminal Law Consolidation Act 1935* (SA), section 83CA; or

(f) another offence against a provision of a law of the Commonwealth or another State if the provision—

(i) is prescribed by regulation; and

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(ii) is in relation to an activity that involves a terrorist act, or is preparatory to the carrying out of an activity that involves a terrorist act.

terrorist act see the *Police Powers and Responsibilities Act 2000*, section 211.

terrorist organisation see the Criminal Code (Cwlth), section 102.1(1).

test sample means a sample of blood, breath, hair, saliva or urine.

training program, for chapter 6, part 9A, see section 306A.

tribunal, for chapter 6, part 12A, see section 319A.

UN expert means an expert selected in accordance with the Optional Protocol, article 13.

unlawfully at large, in relation to a prisoner, means the prisoner remains in the community after—

(a) any of the following has been suspended or cancelled or has expired or is otherwise no longer in force—

(i) an order granted under section 72 for leave of absence;

(ii) an interstate leave permit;

(iii) a work order; or

(b) the prisoner's parole order has been suspended or cancelled; or

(c) the prisoner fails to report to a community corrections office and obtain a copy of the prisoner's court ordered parole order as required under the *Penalties and Sentences Act 1992*, section 160G(3).

UN subcommittee means the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture, established in accordance with the Optional Protocol, part II.

victim claim, for chapter 6, part 12B, see section 319S(1).

victim's location, for chapter 5, see section 175B.

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Victims of Crime Assistance Act means the *Victims of Crime Assistance Act 2009*.

victim trust fund, for chapter 6, part 12B, see section 319J.

visitor means—

(a) any person, including a staff member, who enters or intends to enter a corrective services facility; or

Example—

a legal visitor or religious visitor

(b) a casual site visitor as defined in section 165(2).

volunteer see section 306(1).

warrant includes—

(a) a warrant issued by the chief executive; and

(b) an order committing a person into custody.

Examples for paragraph (b)—

- an order or direction under the *Migration Act 1958* (Cwlth)
- a preventative detention order under the *Terrorism (Preventative Detention) Act 2005*

work camp means a place declared to be a work camp under section 151(1)(a)(ii).

work order see section 66(1).

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