



New South Wales

Crimes (Administration of Sentences) Amendment Bill 2010

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Crimes (Administration of Sentences) Act 1999* and other legislation as follows:

- (a) to confer on the State Parole Authority functions relating to parole orders for Norfolk Island prisoners held in New South Wales,
- (b) to update references to certain officers,
- (c) to enable members of staff responsible for the Victims Register kept under the *Crimes (Administration of Sentences) Act 1999* to provide certain information to victims on behalf of the State Parole Authority and the Serious Offenders Review Council,
- (d) to provide for corrective services dogs to have the same treatment under the *Companion Animals Act 1998* as police dogs,
- (e) to enable spent convictions to be required to be disclosed by persons seeking employment as members of staff of Corrective Services NSW,

- (f) to enable an inmate to be compelled to attend before the Mental Health Review Tribunal,
- (g) to make a provision of a savings and transitional nature.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Crimes (Administration of Sentences) Act 1999 No 93

Norfolk Island prisoners

Prisoners sentenced under Norfolk Island law may be removed to New South Wales correctional centres under the *Removal of Prisoners Act 2004* of Norfolk Island. Under Part 6 of the *Sentencing Act 2007* of Norfolk Island parole orders may be granted to Norfolk Island prisoners by the State Parole Authority.

Schedule 1 [4] inserts proposed Division 4A of Part 6 (proposed sections 160AB and 160AC). The proposed Division empowers the State Parole Authority to exercise the functions conferred on it under the Norfolk Island legislation with respect to parole orders. It also applies the *Crimes (Administration of Sentences) Act 1999* and the regulations under that Act to the exercise of those functions in so far as they are consistent with the Norfolk Island legislation. Functions are also conferred on the Probation and Parole Service with respect to Norfolk Island prisoners. The State Parole Authority and the Probation and Parole Service are not required to exercise any functions with respect to a Norfolk Island prisoner who is not in New South Wales, unless doing so in accordance with an agreement with the Administration of Norfolk Island. **Schedule 1 [1]** makes a consequential amendment.

Schedule 1 [9] validates previous acts or omissions by the State Parole Authority and the Probation and Parole Service in respect of Norfolk Island prisoners' parole if those acts or omissions could have been validly done had the proposed Division 4A of Part 6 been in force when the acts or omissions were done or omitted.

References to officers

Schedule 1 [2], [3], [5] and [6] update references to community offender services field officers.

Provision of information and documents to victims

Schedule 1 [7] enables members of staff of the agency responsible for keeping the Victims Register under the *Crimes (Administration of Sentences) Act 1999* to assist the Serious Offenders Review Council and the State Parole Authority to notify the victims of a serious offender after that Council forms an initial intention to

recommend a low security classification for the offender or that Authority forms an initial intention to make a parole order for the offender. Such staff may also assist the State Parole Authority to give the victim of a serious offender or the victim's authorised agent access to documents held in relation to the offender, being documents that the Authority has determined are to be provided, and assist with related ancillary functions.

Savings and transitional provisions

Schedule 1 [8] enables regulations containing savings and transitional provisions to be made consequent on the enactment of the proposed Act.

Schedule 2 Amendment of other Acts and instruments

Companion Animals Act 1998 No 87

Schedule 2.1 [3] exempts corrective services dogs from section 13 of the *Companion Animals Act 1998* (the *Act*), which makes it an offence for a person to have a dog in a public place if the person does not have the dog under the person's effective control by means of an adequate chain, cord or leash. The Act currently exempts police dogs and other types of dogs.

Schedule 2.1 [4] exempts corrective services dogs from section 14 of the Act, which prohibits dogs from being in certain public places, such as children's play areas and food preparation areas. Section 14 does not currently apply to police dogs or dogs being used to assist a person with a disability.

Schedule 2.1 [5] and [6] provide that offences under sections 16 and 17 of the Act, which relate to dog attacks, do not apply to corrective services dogs. **Schedule 2.1 [5]** also provides that section 25 of the Act, which imposes liability on a dog owner for injury or damage caused by the dog, does not apply to corrective services dogs. These sections do not currently apply to police dogs.

Schedule 2.1 [2] inserts a definition of *corrective services dog*, which means a dog that is being used on official duty by a correctional officer, into the Act. **Schedule 2.1 [1]** makes a consequential amendment to a note in the definition of *companion animal*.

Companion Animals Regulation 2008

Schedule 2.2 provides that corrective services dogs (or attacks involving corrective services dogs while working or training) are not required to be registered under the *Companion Animals Act 1998*. Similar exemptions apply to police dogs.

Crimes (Administration of Sentences) Regulation 2008

Schedule 2.3 [1]–[3] update references to community offender services field officers.

Crimes (Administration of Sentences) Amendment Bill 2010

Explanatory note

Schedule 2.3 [4] specifies provisions of the *Crimes (Administration of Sentences) Act 1999* that do and do not apply to the granting of parole orders to Norfolk Island prisoners in New South Wales correctional centres.

Schedule 2.3 [5] enables the Mental Health Review Tribunal to direct the Commissioner of Corrective Services to cause an inmate to attend before the Tribunal.

Criminal Records Act 1991 No 8

Schedule 2.4 enables spent convictions to be required to be disclosed by persons seeking employment as members of staff of Corrective Services NSW by exempting those circumstances from the prohibition on such disclosures.

First print



New South Wales

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Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Crimes (Administration of Sentences) Act 1999 No 93	3
Schedule 2 Amendment of other Acts and instruments	6



New South Wales

Crimes (Administration of Sentences) Amendment Bill 2010

No. , 2010

A Bill for

An Act to amend the *Crimes (Administration of Sentences) Act 1999* and other legislation with respect to the making of parole orders for Norfolk Island prisoners, corrective services dogs and the provision of information; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Crimes (Administration of Sentences) Amendment Act 2010</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1	Amendment of Crimes (Administration of Sentences) Act 1999 No 93	1
		2
[1]	Section 48 Conveyance and detention of prisoners from Norfolk Island	3
	Insert “, the <i>Sentencing Act 2007</i> of Norfolk Island and Division 4A of Part 6 of this Act” after “Norfolk Island Act” in section 48 (6).	4
		5
[2]	Sections 107, 235E (1) and 235F (2)	6
	Omit “ <i>community service field officer</i> ” wherever occurring.	7
	Insert instead “ <i>community offender services field officer</i> ”.	8
[3]	Sections 112 (1) (b), 117 (g) and 235E (2)	9
	Omit “community service field officers” wherever occurring.	10
	Insert instead “community offender services field officers”.	11
[4]	Part 6, Division 4A	12
	Insert after Division 4:	13
	Division 4A Parole orders for prisoners received from Norfolk Island	14
		15
160AB	Definitions	16
	In this Division:	17
	<i>modification</i> includes addition, exception, omission or substitution.	18
		19
	<i>Norfolk Island Act</i> means the <i>Sentencing Act 2007</i> of Norfolk Island.	20
		21
	<i>offender</i> means a person who is serving in New South Wales a sentence by way of full-time detention imposed under a law in force in Norfolk Island.	22
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160AC	Parole orders for prisoners from Norfolk Island	25
(1)	The Parole Authority has, and may exercise, in relation to an offender the functions of a Board under Part 6 of the Norfolk Island Act.	26
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		28
(2)	This Act and the regulations apply to and in respect of the parole of an offender, and a parole order made by the Parole Authority for an offender under the Norfolk Island Act, in the same way as they apply to any other offender or parole order to which Part 6 of this Act applies. However, this Act and the regulations do not	29
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apply to the extent to which they are inconsistent with the Norfolk Island Act.	1
	2
Note. Section 151 (10) of the Norfolk Island Act requires the Parole Authority, when making a parole order, to exercise its duties in accordance with the legislation, rules and procedures applicable under the <i>Crimes (Administration of Sentences) Act 1999</i> .	3
	4
	5
	6
(3) The regulations may provide that any specified provision of this Act or the regulations:	7
	8
(a) does or does not apply to the parole of an offender or a parole order for an offender, or	9
	10
(b) applies to and in respect of the parole of an offender or a parole order for an offender with such modifications as the regulations may prescribe.	11
	12
	13
(4) The Probation and Parole Service has the same functions in respect of an offender as it has in respect of any other offender to which Part 6 of this Act applies.	14
	15
	16
(5) Despite any other provision of this section, the Parole Authority and the Probation and Parole Service are not required to exercise any functions in respect of an offender who is not in New South Wales unless they are doing so in accordance with an agreement with the Administration of Norfolk Island.	17
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	21
[5] Section 235E Functions of community offender services field officers	22
Omit “Community service field officers” from section 235E (3).	23
Insert instead “Community offender services field officers”.	24
[6] Section 235F Common work sites	25
Omit “community service field officer” from section 235F (1) (a) and (b) wherever occurring.	26
	27
Insert instead “community offender services field officer”.	28
[7] Section 256 Victims Register	29
Insert after section 256 (4):	30
(4A) Members of staff of the government agency that keeps the Victims Register may assist:	31
	32
(a) the Review Council and the Parole Authority to give notices to victims under sections 67 and 145, and	33
	34
(b) the Parole Authority to give a victim of a serious offender or a victim’s authorised agent access to documents specified by the Parole Authority for the purposes of section 193A, and	35
	36
	37
	38

(c)	the Review Council and the Parole Authority to carry out other ancillary functions relating to the matters referred to in paragraphs (a) and (b).	1 2 3
[8]	Schedule 5 Savings, transitional and other provisions	4
	Insert at the end of clause 1 (1):	5
	<i>Crimes (Administration of Sentences) Amendment Act 2010</i>	6
[9]	Schedule 5	7
	Insert at the end of the Schedule with appropriate Part and clause numbering:	8
Part	Provision consequent on enactment of Crimes (Administration of Sentences) Amendment Act 2010	9 10 11
	Validation of acts and omissions relating to Norfolk Island prisoners	12 13
	Anything done or omitted by or on behalf of the Parole Authority or the Probation and Parole Service in respect of an offender within the meaning of Division 4A of Part 6 (as inserted by the <i>Crimes (Administration of Sentences) Amendment Act 2010</i>), and that would have been valid had that Division been in force when the thing was done or omitted, is taken to be (and always to have been) validly done or omitted.	14 15 16 17 18 19 20

Schedule 2	Amendment of other Acts and instruments	1
		2
2.1	Companion Animals Act 1998 No 87	3
[1]	Section 5 Definitions	4
	Omit “and police dogs” from the note to the definition of <i>companion animal</i> in section 5 (1).	5
	Insert instead “, police dogs and corrective services dogs”.	6
[2]	Section 5 (1)	7
	Insert in alphabetical order:	8
	<i>corrective services dog</i> means a dog that is being used on official duty by a correctional officer (within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i>).	9
	Note. This Act contains special exemptions for corrective services dogs. Because this definition requires that the dog is being used on official duty by a correctional officer, the exemptions apply only when the dog is “on duty”.	10
		11
		12
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[3]	Section 13 Responsibilities while dog in public place	17
	Insert after section 13 (5) (e):	18
	(e1) a corrective services dog, or	19
[4]	Section 14 Dogs prohibited in some public places	20
	Insert after section 14 (8) (b):	21
	(c) a corrective services dog.	22
[5]	Sections 16 (3) and 25 (3)	23
	Insert “or a corrective services dog” after “police dog” wherever occurring.	24
[6]	Section 17 Dog must not be encouraged to attack	25
	Insert “or correctional officer (within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i>)” after “police officer” in section 17 (2) (b).	26
		27
		28

2.2 Companion Animals Regulation 2008	1
[1] Clause 16 Exemptions from registration requirement	2
Insert after clause 16 (h):	3
(h1) a dog that is ordinarily used on official duty by a	4
correctional officer (within the meaning of the <i>Crimes</i>	5
<i>(Administration of Sentences) Act 1999</i>),	6
[2] Clause 33A Dog attack information on the Register	7
Insert “or corrective services dog” after “police dog” in clause 33A (4) (c).	8
2.3 Crimes (Administration of Sentences) Regulation 2008	9
[1] Clause 188 Conduct at work sites	10
Omit “community service field officer” from clause 188 (b), (c) and (e)	11
wherever occurring.	12
Insert instead “community offender services field officer”.	13
[2] Clause 220 Appointment of community offender services field officers	14
Omit “community service field officer” from clause 220 (1).	15
Insert instead “community offender services field officer”.	16
[3] Clause 221 Community offender services field officer to report to assigned officer	17
Omit “community service field officer”.	18
Insert instead “community offender services field officer”.	19
[4] Clause 241A	21
Insert after clause 241:	22
241A Norfolk Island parole orders	23
(1) The following provisions of the Act apply to and in respect of the	24
parole of an offender and a Norfolk Island parole order in the	25
same way as they apply to and in respect of the parole of any	26
other offender or parole order to which Part 6 of the Act applies:	27
(a) sections 139–141A,	28
(b) sections 145–154,	29
(c) sections 169, 179, 180 and 182.	30

(2)	The following provisions of the Act do not apply to or in respect of the parole of an offender or a Norfolk Island parole order:	1
		2
(a)	sections 128–128B, 130 and 132,	3
(b)	Division 3 of Part 6 of the Act,	4
(c)	sections 160, 160A, 170–172A and 181.	5
(3)	In this clause:	6
	<i>Norfolk Island parole order</i> means a parole order issued by the Parole Authority in respect of an offender under the functions conferred by section 160AC (1) of the Act.	7
		8
		9
	<i>offender</i> has the same meaning as in Division 4A of Part 6 of the Act.	10
		11
[5]	Clause 325 Attendance of inmates before courts and court officers	12
	Insert after clause 325 (2) (e):	13
	(f) the Mental Health Review Tribunal.	14
2.4	Criminal Records Act 1991 No 8	15
	Section 15 Employment in certain occupations	16
	Omit “prison officer” from section 15 (1).	17
	Insert instead “member of staff of Corrective Services NSW (within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i>)”.	18
		19