



New South Wales

# Correctional Centres Amendment Act 1998 No 2

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New South Wales

# **Correctional Centres Amendment Act 1998 No 2**

Act No 2, 1998

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An Act to amend the *Correctional Centres Act 1952* with respect to the custody of persons and in other respects; and to amend the *Periodic Detention of Prisoners Act 1981* with respect to the taking of identifying particulars of a person who is the subject of an order for periodic detention.  
[Assented to 15 April 1998]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Correctional Centres Amendment Act 1998*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Correctional Centres Act 1952 No 9**

The *Correctional Centres Act 1952* is amended as set out in Schedule 1.

**4 Amendment of Periodic Detention of Prisoners Act 1981 No 18**

The *Periodic Detention of Prisoners Act 1981* is amended as set out in Schedule 2.

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## **Schedule 1    Amendment of Correctional Centres Act 1952**

(Section 3)

### **[1]    Section 20 Work to be performed by inmates**

Omit “and while so beyond such precinct shall be deemed to be within the correctional centre” from section 20 (2).

### **[2]    Section 29A**

Omit the section. Insert instead:

#### **29A Absent inmates taken to be in custody**

- (1) An inmate is, while absent from a correctional centre and not being escorted by a correctional officer, taken to be in the custody of the governor of the correctional centre.
- (2) An inmate is, while absent from a correctional centre and being escorted by a correctional officer, taken to be in the custody of:
  - (a) the governor of the correctional centre in which the correctional officer is employed, or
  - (b) the designated officer, if the correctional officer is not employed in a particular correctional centre.
- (3) Any failure by an inmate who is absent from a correctional centre to return to lawful custody:
  - (a) at the end of the period authorised for the absence, or
  - (b) on the revocation of the order or permission authorising the absence,

is taken to be an escape within the meaning of section 34.

- (4) In this section, a reference to an inmate being absent from a correctional centre is a reference to an inmate:
- (a) while permitted to be temporarily absent from a correctional centre as referred to in section 12 (2), or
  - (b) while at work beyond the precinct of a correctional centre as referred to in section 20 (2), or
  - (c) while being transferred from a correctional centre to another correctional centre under section 27, or
  - (d) while removed from a correctional centre to a hospital as referred to in section 28, or
  - (e) while taken temporarily from a correctional centre, or permitted to be temporarily absent from a correctional centre, as referred to in section 29 (1) or (2), or
  - (f) while absent in accordance with a permit issued under section 29AC, or
  - (g) while being transferred from one part of a correctional centre to another part of the correctional centre that is located on separate premises.

- (5) In this section:

***correctional officer*** means:

- (a) a correctional officer engaged in court security or escort duties, or
- (b) a person employed on a temporary basis within the Department of Corrective Services to perform court security or escort duties, or
- (c) a person holding an authority under section 31C authorising the person to perform escort duties.

***designated officer*** means a person designated by the Commissioner for the purposes of this section, whether designated generally or for a particular case.



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**[3] Section 29D**

Insert at the end of Division 3 of Part 5:

**29D Places where persons in custody may be kept during transfer**

- (1) This section applies to a person who is in lawful custody:
- (a) before being brought before a Justice or court in connection with the alleged commission of an offence, or
  - (b) during proceedings to determine whether the person has committed an offence or while such proceedings are pending, or
  - (c) following a grant of bail but before the person has fulfilled the necessary requirements entitling the person to be released, or
  - (d) during any period for which the person is on remand, or
  - (e) while awaiting sentencing for an offence or during sentencing proceedings, or
  - (f) after the person is sentenced for an offence, or
  - (g) as referred to in section 7 (2) of the *Periodic Detention of Prisoners Act 1981*, or
  - (h) in accordance with a warrant of commitment or other warrant, or an order of a court,
- and who is being transferred from premises to other premises.
- (2) A person to whom this section applies may be accommodated in a court cell, lock-up or police station if it is necessary or convenient to do so.
- (3) This section is subject to the *Children (Detention Centres) Act 1987*.

**[4]      Section 31K**

Insert before section 32:

**31K Definition**

In this Part, *place of detention* means a place where a person is kept in lawful custody:

- (a) before being brought before a Justice or court in connection with the alleged commission of an offence, or
- (b) during proceedings to determine whether the person has committed an offence or while such proceedings are pending, or
- (c) following a grant of bail but before the person has fulfilled the necessary requirements entitling the person to be released, or
- (d) during any period for which the person is on remand, or
- (e) while awaiting sentencing for an offence or during sentencing proceedings, or
- (f) after the person is sentenced for an offence, or
- (g) as referred to in section 7 (2) of the *Periodic Detention of Prisoners Act 1981*, or
- (h) in accordance with a warrant of commitment or other warrant, or an order of a court,

and includes any vehicle or vessel in which the person is being conveyed in any of the circumstances referred to in the preceding paragraphs, but does not include a detention centre within the meaning of the *Children (Detention Centres) Act 1987*.



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**[5] Sections 33 (b), 37 (1), (1A), (1C) and (2) and 38 (1) (a), (c), (d) and (e)**

Omit "correctional centre or correctional complex" wherever occurring.

Insert instead "place of detention".

**[6] Section 35 Permitting escape**

Omit "officer of a correctional centre" from section 35 (1).

Insert instead "officer of a place of detention".

**[7] Section 37A Introduction or supply of syringes**

Omit "a correctional centre" from section 37A (1) (a), (2) and (3) (b) wherever occurring.

Insert instead "a place of detention".

**[8] Section 37A (2) and (3) (b)**

Omit "governor of the correctional centre" wherever occurring.

Insert instead "officer in charge of the place of detention".

**[9] Section 37A (5)**

Insert "(within the meaning of that section)" after "correctional officer".

**[10] Section 42A**

Insert after section 42:

**42A Transport and custody of persons in connection with proceedings**

(1) A person who is in lawful custody:

(a) before being brought before a Justice or court in connection with the alleged commission of an offence, or

- (b) during proceedings to determine whether the person has committed an offence or while such proceedings are pending, or
  - (c) following a grant of bail but before the person has fulfilled the necessary requirements entitling the person to be released, or
  - (d) during any period for which the person is on remand or awaiting sentencing for an offence, during sentencing proceedings, or during any period after the person is sentenced for an offence, but before the person is delivered to the governor of a correctional centre, or
  - (e) as referred to in section 7 (2) of the *Periodic Detention of Prisoners Act 1981*, or
  - (f) in accordance with a warrant of commitment or other warrant, or an order of a court,may be given into the keeping of a correctional officer.
- (2) A correctional officer into whose keeping a person has been given under this section:
  - (a) may convey the person to any correctional centre, lock-up, police station or court cell, or to any other place in accordance with a direction of a court, and
  - (b) may detain the person in the correctional centre, lock-up, police station, court cell or other place.
- (3) While a person is in the keeping of a correctional officer in accordance with this section, the person is taken to be in the custody of the designated officer.
- (4) Subject to the regulations:
  - (a) the designated officer has, in relation to a person taken to be in the officer's custody by virtue of this section, all the powers and duties that the governor of a correctional centre has in relation to an inmate, and

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- (b) a person taken to be in the designated officer's custody by virtue of this section has all the rights of an inmate.
- (5) Subsection (4) (b) does not affect any other right that the person in custody may have apart from that paragraph.
- (6) The regulations may:
- (a) limit the powers and duties of the designated officer in relation to persons taken to be in the custody of the designated officer by virtue of this section, and
  - (b) limit the rights that a person in custody has under subsection (4) (b).
- (7) A warrant of commitment or other warrant, or an order of a court, authorising the detention of a person or the conveyance of a person to a place of detention authorises a correctional officer to convey the person to the place of detention referred to in the warrant or order.
- (8) In this section:
- correctional officer*** means:
- (a) a correctional officer engaged in court security or escort duties, or
  - (b) a person employed on a temporary basis within the Department of Corrective Services to perform court security or escort duties, or
  - (c) a person holding an authority under section 31C authorising the person to perform escort duties.
- designated officer*** means a person designated by the Commissioner for the purposes of this section, whether designated generally or for a particular case.
- (9) This section is subject to the *Children (Detention Centres) Act 1987*.
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**[11]    Section 50 Regulations**

Omit “gaol” from section 50 (1) (l) and (m) wherever occurring.  
Insert instead “correctional centre”.

**[12]    Schedule 8 Savings and transitional provisions**

Insert “*Correctional Centres Amendment Act 1998*” at the end of  
clause 1 (1).



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## **Schedule 2    Amendment of Periodic Detention of Prisoners Act 1981**

(Section 4)

**[1]    Section 5AA Power to order taking of photographs and  
fingerprints**

Omit “or by a person” from section 5AA (2).

Insert instead “or a correctional officer, or by any other person”.

**[2]    Section 5AA (6)**

Insert before the definition of *identifying particulars*:

*correctional officer* means:

- (a) a correctional officer, within the meaning of the *Correctional Centres Act 1952*, engaged in court security or escort duties, or
- (b) a person employed on a temporary basis within the Department of Corrective Services to perform court security or escort duties.

[Minister's second reading speech made in—

Legislative Assembly on 14 November 1997 a.m.

Legislative Council on 7 April 1998]