

CONCURRENCE COPY

PRISONS (AMENDMENT) BILL, 1984

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Prisons Act, 1952, so as—

- (a) to provide that prison officers of or above the rank of Assistant Superintendent are to be classified as commissioned prison officers and to authorise the issue of commissions to those officers (Schedule 1 (1));
 - (b) to provide that it is the responsibility of commissioned prison officers to exercise their functions in connection with the administration and management of prisons at all such times as the Corrective Services Commission directs (Schedule 1 (2));
 - (c) to provide for an oath or affirmation of office to be taken or made by members of the Corrective Services Commission and commissioned prison officers (Schedule 2); and
 - (d) to make other provisions of a minor, consequential or ancillary nature.
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PRISONS (AMENDMENT) BILL, 1984

No. , 1984.

A BILL FOR

An Act to amend the Prisons Act, 1952, so as to provide for the issue of commissions to certain prison officers and for the taking or making of oaths or affirmations of office by members of the Corrective Services Commission of New South Wales and commissioned prison officers.

[MR AKISTER—8 *May*, 1984.]

Prisons (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Prisons (Amendment) Act, 1984".

Commencement.

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.
- 10 (2) Schedule 2, and section 4 in its application to that Schedule, shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules.

3. This Act contains the following Schedules:—

15 SCHEDULE 1.—AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE COMMISSIONING OF OFFICERS.

SCHEDULE 2.—AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO OATHS AND AFFIRMATIONS.

Amendment of Act No. 9, 1952.

- 20 4. The Prisons Act, 1952, is amended in the manner set forth in Schedules 1 and 2.
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Prisons (Amendment).

SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
COMMISSIONING OF OFFICERS.

5 (1) Section 30A—

After section 30, insert:—

Commissioned and non-commissioned prison officers.

30A. (1) There shall be two classifications of prison officers, as follows:—

- 10 (a) commissioned prison officers;
(b) non-commissioned prison officers.

(2) Prison officers of or above the rank of Assistant Superintendent are commissioned prison officers.

15 (3) Prison officers below the rank of Assistant Superintendent are non-commissioned prison officers.

(4) The Governor may issue commissions to commissioned prison officers.

20 (5) A prison officer of or above the rank of Assistant Superintendent shall, whether or not the officer has been issued with a commission, be deemed to have been commissioned as an officer of the relevant rank at the date of appointment of the officer to that rank.

(2) Section 31 (2)—

At the end of section 31, insert:—

25 (2) It is the responsibility of commissioned prison officers to exercise and perform their powers, authorities, duties and functions in connection with the administration and management of prisons at all such times as the Commission, having regard to exigencies then existing, may from time to time direct.

Prisons (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
COMMISSIONING OF OFFICERS—*continued.*

(3) Section 50 (1) (n)—

5 After section 50 (1) (m), insert:—

- (n) the determining of the order of ranking of the various ranks of prison officers or the order of ranking of particular ranks of prison officers in relation to other ranks of prison officers.

SCHEDULE 2.

10

(Sec. 4.)

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO OATHS AND
AFFIRMATIONS.

(1) Section 48E—

After section 48D, insert:—

15 **Oath or affirmation of office.**

48E. (1) A Commissioner or commissioned prison officer may take the oath set out in Schedule 6 or make the affirmation set out in Schedule 7.

20 (2) A person who, having been appointed as a Commissioner or commissioned prison officer, neglects to take the oath or make the affirmation for the period of one month after the appointment is made shall, unless the person has previously taken or made the relevant oath or affirmation, be deemed to have declined the appointment, and—

25 (a) in the case of a Commissioner, shall be deemed to have vacated the office; and

(b) in the case of a commissioned prison officer, shall be deemed to revert to the rank (if any) previously held by the person.

Prisons (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO OATHS AND AFFIRMATIONS—*continued.*

5 (3) Subsection (2) does not apply to an appointment held by a person at the commencement of this section, but does apply to a subsequent appointment (including a subsequent re-appointment) of the person as a Commissioner or to another rank as commissioned prison officer.

10 (4) Subsections (2) and (3) do not apply to an acting or temporary appointment.

(5) The oath or affirmation shall—

(a) be administered or received by a Justice of the Peace;

(b) be subscribed by the person by whom it is taken or made; and

15 (c) be forwarded by the Justice of the Peace before whom it is taken or made to the Commission or such officer as may be prescribed.

(2) Schedules 6, 7—

After Schedule 5, insert:—

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SCHEDULE 6.

(Sec. 48E.)

OATH OF OFFICE.

25 I . . . do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law. I do swear that I will well and truly serve our Sovereign Lady Queen Elizabeth II in the office of Member of the Corrective Services Commission of New South Wales or Commissioned Prison Officer [*as the case may be*] and I will do right to all manner of people after the laws and usages of the State of New South Wales without fear or favour, affection or ill will.

30

SO HELP ME GOD.

Sworn and subscribed at

this

day of

, 19

.....

Signature

before me—

35

.....

Justice of the Peace

Prisons (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO OATHS AND AFFIRMATIONS—*continued.*

SCHEDULE 7.

(Sec. 48E.)

AFFIRMATION OF OFFICE.

I . . . do solemnly, sincerely and truly declare and affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law. I do solemnly, sincerely and truly declare and affirm that I will well and truly serve our Sovereign Lady Queen Elizabeth II in the office of Member of the Corrective Services Commission of New South Wales or Commissioned Prison Officer [*as the case may be*], and I will do right to all manner of people after the laws and usages of the State of New South Wales without fear or favour, affection or ill will.

Subscribed at
this
before me—

day of }
, 19 }
Signature

.....
Justice of the Peace

BY AUTHORITY
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984

PRISONS (AMENDMENT) ACT, 1984, No. 63

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 63, 1984.

An Act to amend the Prisons Act, 1952, so as to provide for the issue of commissions to certain prison officers and for the taking or making of oaths or affirmations of office by members of the Corrective Services Commission of New South Wales and commissioned prison officers.
[Assented to, 19th June, 1984.]

Prisons (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Prisons (Amendment) Act, 1984".

Commencement.

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Schedule 2, and section 4 in its application to that Schedule, shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules.

3. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE COMMISSIONING OF OFFICERS.

SCHEDULE 2.—AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO OATHS AND AFFIRMATIONS.

Amendment of Act No. 9, 1952.

4. The Prisons Act, 1952, is amended in the manner set forth in Schedules 1 and 2.
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Prisons (Amendment).

SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
COMMISSIONING OF OFFICERS.

(1) Section 30A—

After section 30, insert:—

Commissioned and non-commissioned prison officers.

30A. (1) There shall be two classifications of prison officers, as follows:—

- (a) commissioned prison officers;
- (b) non-commissioned prison officers.

(2) Prison officers of or above the rank of Assistant Superintendent are commissioned prison officers.

(3) Prison officers below the rank of Assistant Superintendent are non-commissioned prison officers.

(4) The Governor may issue commissions to commissioned prison officers.

(5) A prison officer of or above the rank of Assistant Superintendent shall, whether or not the officer has been issued with a commission, be deemed to have been commissioned as an officer of the relevant rank at the date of appointment of the officer to that rank.

(2) Section 31 (2)—

At the end of section 31, insert:—

(2) It is the responsibility of commissioned prison officers to exercise and perform their powers, authorities, duties and functions in connection with the administration and management of prisons at all such times as the Commission, having regard to exigencies then existing, may from time to time direct.

Prisons (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
COMMISSIONING OF OFFICERS—*continued.*

(3) Section 50 (1) (n)—

After section 50 (1) (m), insert:—

- (n) the determining of the order of ranking of the various ranks of prison officers or the order of ranking of particular ranks of prison officers in relation to other ranks of prison officers.

SCHEDULE 2.

(Sec. 4.)

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO OATHS AND
AFFIRMATIONS.

(1) Section 48E—

After section 48D, insert:—

Oath or affirmation of office.

48E. (1) A Commissioner or commissioned prison officer may take the oath set out in Schedule 6 or make the affirmation set out in Schedule 7.

(2) A person who, having been appointed as a Commissioner or commissioned prison officer, neglects to take the oath or make the affirmation for the period of one month after the appointment is made shall, unless the person has previously taken or made the relevant oath or affirmation, be deemed to have declined the appointment, and—

- (a) in the case of a Commissioner, shall be deemed to have vacated the office; and
- (b) in the case of a commissioned prison officer, shall be deemed to revert to the rank (if any) previously held by the person.

Prisons (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO OATHS AND AFFIRMATIONS—*continued.*

(3) Subsection (2) does not apply to an appointment held by a person at the commencement of this section, but does apply to a subsequent appointment (including a subsequent re-appointment) of the person as a Commissioner or to another rank as commissioned prison officer.

(4) Subsections (2) and (3) do not apply to an acting or temporary appointment.

(5) The oath or affirmation shall—

- (a) be administered or received by a Justice of the Peace;
- (b) be subscribed by the person by whom it is taken or made; and
- (c) be forwarded by the Justice of the Peace before whom it is taken or made to the Commission or such officer as may be prescribed.

(2) Schedules 6, 7—

After Schedule 5, insert:—

SCHEDULE 6.

(Sec. 48E.)

OATH OF OFFICE.

I . . . do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law. I do swear that I will well and truly serve our Sovereign Lady Queen Elizabeth II in the office of Member of the Corrective Services Commission of New South Wales or Commissioned Prison Officer [*as the case may be*] and I will do right to all manner of people after the laws and usages of the State of New South Wales without fear or favour, affection or ill will.

SO HELP ME GOD.

Sworn and subscribed at

this

day of
, 19

before me—

.....

Signature

.....

Justice of the Peace

Prisons (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO OATHS AND AFFIRMATIONS—*continued.*

SCHEDULE 7.

(Sec. 48E.)

AFFIRMATION OF OFFICE.

I . . . do solemnly, sincerely and truly declare and affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law. I do solemnly, sincerely and truly declare and affirm that I will well and truly serve our Sovereign Lady Queen Elizabeth II in the office of Member of the Corrective Services Commission of New South Wales or Commissioned Prison Officer [*as the case may be*], and I will do right to all manner of people after the laws and usages of the State of New South Wales without fear or favour, affection or ill will.

Subscribed at
this

day of }
, 19 }

.....
Signature

before me—

.....
Justice of the Peace

In the name and on behalf of Her Majesty I assent to this Act.

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 19th June, 1984.*



