

PRISONS (AMENDMENT) BILL, 1985

EXPLANATORY NOTE

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

The Crimes (Powers of Arrest) Amendment Bill, 1985, is cognate with this Bill.

The objects of this Bill are to amend the Prisons Act, 1952 ("the Act"), so as—

- (a) to repeal the existing requirement that prisoners' diets should be prescribed under the Act (Schedule 1 (1));
- (b) to facilitate the disposal of certain unclaimed and confiscated property (Schedule 1 (2) and (7));
- (c) to enable a prisoner to be segregated from other prisoners where it is apparent that the prisoner's safety is under threat from other prisoners (Schedule 1 (3));
- (d) to provide that the only offences in respect of which a prisoner may be taken from prison for the purpose of being interviewed by members of the police force are those which have been committed in a prison (Schedule 1 (4));
- (e) to ensure that where a prisoner is unlawfully at large under certain circumstances (for example, by virtue of having been mistakenly released from prison) the period for which the prisoner is at large continues to be treated, for the purpose of calculating the length of time the prisoner has served any sentence, as if the prisoner had not been at large (Schedule 1 (5)); and
- (f) to provide that the requirements of the Act in relation to the taking of oaths of office are to apply to non-commissioned prison officers in the same way as they presently apply to commissioned prison officers (Schedule 1 (6) and (8)).

and to make other provisions of a minor, ancillary or consequential nature.

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PRISONS (AMENDMENT) BILL, 1985

No. , 1985.

A BILL FOR

An Act to amend the Prisons Act, 1952, with respect to the disposal of certain property, the segregation of prisoners and the taking of oaths of office by prison officers; and for other purposes.

See also Crimes (Powers of Arrest) Amendment Bill, 1985.

Prisons (Amendment) 1985

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, 1985".

Amendment of Act No. 9, 1952.

2. The Prisons Act, 1952, is amended in the manner set forth in Schedule 1.

10 Saving provision.

3. An oath or affirmation which was taken or made in accordance with section 48E of the Prisons Act, 1952, before the commencement of this Act shall be deemed to be a relevant oath or affirmation for the purposes of section 48E (2) of that Act, as amended by this Act.

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SCHEDULE 1.

(Sec. 2.)

AMENDMENTS TO THE PRISONS ACT, 1952.**(1) Section 14—**

Omit "and the scale of diet shall be as prescribed".

20 (2) Section 18 (3)–(5)—

After section 18 (2), insert:—

(3) Such part of any property surrendered by a prisoner as has been retained by the governor of a prison pursuant to subsection (1) and as remains unclaimed at the expiration of 6 months after—

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- (a) where the prisoner is released from prison—the date on which the prisoner was released;
- (b) where the prisoner escapes from prison—the date on which the prisoner escaped; or

*Prisons (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRISONS ACT, 1952—*continued.*

(c) where the prisoner dies while in prison—the date on which the prisoner died,

5 may be disposed of in accordance with the regulations.

(4) Subsection (3) does not enable property to be disposed of while the prisoner concerned (having been readmitted to prison before the property has been disposed of) remains in prison.

10 (5) Any property which is confiscated from a prisoner pursuant to this Act may be disposed of in accordance with the regulations.

(3) (a) Section 22 (1)—

After “safety of”, insert “that or”.

(b) Section 22 (1A)—

After section 22 (1), insert:—

15 (1A) Without limiting the generality of subsection (1), the Commission may, at the written request of a prisoner, direct the segregation of the prisoner, whereupon the prisoner shall be detained away from association with other prisoners or, where
20 the Commission so approves, in association only with such other prisoners as the Commission may determine.

(4) Section 29 (1) (f)—

After “offence”, insert “in any prison”.

(5) Section 29B—

After section 29A, insert:—

25 **Certain absences not to affect length of sentence.**

29B. While a prisoner is absent from a prison—

(a) otherwise than by reason of having escaped from lawful custody; and

30 (b) whether or not the prisoner is, pursuant to any provision of this Act, deemed to be in the custody of the governor of the prison during the period of absence,

*Prisons (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRISONS ACT, 1952—*continued.*

the prisoner shall, for the purpose only of calculating the length of time for which the prisoner has served any sentence of imprisonment, penal servitude or detention to which the prisoner is subject during that period of absence, be deemed to be serving in prison so much of any such sentence as corresponds to that period of absence.

(6) (a) Section 48E (1), (2)—

10 Omit “commissioned” wherever occurring.

(b) Section 48E (3)—

After “an appointment”, insert “as a Commissioner or commissioned prison officer”.

(c) Section 48E (3A)—

15 After section 48E (3), insert:—

(3A) Subsection (2) does not apply to an appointment as a non-commissioned prison officer held by a person at the commencement of the Prisons (Amendment) Act, 1985, but does apply to a subsequent appointment (including a subsequent re-appointment) of the person as a Commissioner or commissioned prison officer or to another rank as non-commissioned prison officer.

(d) Section 48E (4)—

Omit “and (3)”, insert instead “, (3) and (3A)”.

25 (7) (a) Section 50 (1) (d1), (d2)—

After section 50 (1) (d), insert:—

(d1) the confiscation of property unlawfully in the possession of prisoners;

(d2) the disposal of unclaimed property and confiscated property;

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Prisons (Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952—*continued.*

(b) Section 50 (1B)—

After section 50 (1A), insert:—

5 (1B) Without prejudice to the generality of subsection (1)
(d2), a regulation with respect to the disposal of unclaimed
property or confiscated property may—

10 (a) provide that such property becomes the property of the
Crown, to be disposed of as the Commission thinks fit;
or

 (b) provide that such property may be sold by the
Commission, the proceeds of any such sale to be dealt
with as if those proceeds were unclaimed money held by
the Commission,

15 or may do both of those things.

(8) Schedules 6, 7—

Omit “Commissioned” wherever occurring.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985

PRISONS (AMENDMENT) ACT, 1985, No. 26

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

* * * * *

Act No. 26, 1985.

An Act to amend the Prisons Act, 1952, with respect to the disposal of certain property, the segregation of prisoners and the taking of oaths of office by prison officers; and for other purposes. [Assented to, 22nd April, 1985.]

See also Crimes (Powers of Arrest) Amendment Act, 1985.

Prisons (Amendment) 1985

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, 1985".

Amendment of Act No. 9, 1952.

2. The Prisons Act, 1952, is amended in the manner set forth in Schedule 1.

Saving provision.

3. An oath or affirmation which was taken or made in accordance with section 48E of the Prisons Act, 1952, before the commencement of this Act shall be deemed to be a relevant oath or affirmation for the purposes of section 48E (2) of that Act, as amended by this Act.

SCHEDULE 1.

(Sec. 2.)

AMENDMENTS TO THE PRISONS ACT, 1952.

- (1) Section 14—

Omit "and the scale of diet shall be as prescribed".

- (2) Section 18 (3)–(5)—

After section 18 (2), insert:—

(3) Such part of any property surrendered by a prisoner as has been retained by the governor of a prison pursuant to subsection (1) and as remains unclaimed at the expiration of 6 months after—

- (a) where the prisoner is released from prison—the date on which the prisoner was released;
- (b) where the prisoner escapes from prison—the date on which the prisoner escaped; or

*Prisons (Amendment) 1985***SCHEDULE 1—continued.****AMENDMENTS TO THE PRISONS ACT, 1952—continued.**

- (c) where the prisoner dies while in prison—the date on which the prisoner died,

may be disposed of in accordance with the regulations.

(4) Subsection (3) does not enable property to be disposed of while the prisoner concerned (having been readmitted to prison before the property has been disposed of) remains in prison.

(5) Any property which is confiscated from a prisoner pursuant to this Act may be disposed of in accordance with the regulations.

- (3) (a) Section 22 (1)—

After “safety of”, insert “that or”.

- (b) Section 22 (1A)—

After section 22 (1), insert:—

(1A) Without limiting the generality of subsection (1), the Commission may, at the written request of a prisoner, direct the segregation of the prisoner, whereupon the prisoner shall be detained away from association with other prisoners or, where the Commission so approves, in association only with such other prisoners as the Commission may determine.

- (4) Section 29 (1) (f)—

After “offence”, insert “in any prison”.

- (5) Section 29B—

After section 29A, insert:—

Certain absences not to affect length of sentence.

29B. While a prisoner is absent from a prison—

- (a) otherwise than by reason of having escaped from lawful custody; and
- (b) whether or not the prisoner is, pursuant to any provision of this Act, deemed to be in the custody of the governor of the prison during the period of absence,

Prisons (Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952—*continued.*

the prisoner shall, for the purpose only of calculating the length of time for which the prisoner has served any sentence of imprisonment, penal servitude or detention to which the prisoner is subject during that period of absence, be deemed to be serving in prison so much of any such sentence as corresponds to that period of absence.

(6) (a) Section 48E (1), (2)—

Omit “commissioned” wherever occurring.

(b) Section 48E (3)—

After “an appointment”, insert “as a Commissioner or commissioned prison officer”.

(c) Section 48E (3A)—

After section 48E (3), insert:—

(3A) Subsection (2) does not apply to an appointment as a non-commissioned prison officer held by a person at the commencement of the Prisons (Amendment) Act, 1985, but does apply to a subsequent appointment (including a subsequent re-appointment) of the person as a Commissioner or commissioned prison officer or to another rank as non-commissioned prison officer.

(d) Section 48E (4)—

Omit “and (3)”, insert instead “, (3) and (3A)”.

(7) (a) Section 50 (1) (d1), (d2)—

After section 50 (1) (d), insert:—

(d1) the confiscation of property unlawfully in the possession of prisoners;

(d2) the disposal of unclaimed property and confiscated property;

Prisons (Amendment) 1985

SCHEDULE 1—*continued*.

AMENDMENTS TO THE PRISONS ACT, 1952—*continued*.

(b) Section 50 (1B)—

After section 50 (1A), insert:—

(1B) Without prejudice to the generality of subsection (1) (d2), a regulation with respect to the disposal of unclaimed property or confiscated property may—

(a) provide that such property becomes the property of the Crown, to be disposed of as the Commission thinks fit; or

(b) provide that such property may be sold by the Commission, the proceeds of any such sale to be dealt with as if those proceeds were unclaimed money held by the Commission,

or may do both of those things.

(8) Schedules 6, 7—

Omit “Commissioned” wherever occurring.

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

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 22nd April, 1985.*



