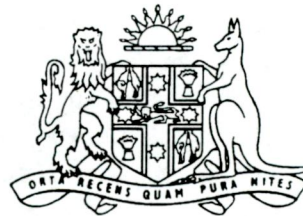


First print



New South Wales

Prisons Amendment Bill 1995

Explanatory note

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

Overview of Bill

The objects of this Bill are to:

- (a) amend the *Prisons Act 1952*:
 - to rename the Act as the *Correctional Centres Act 1952*, and
 - to replace other outdated references to prisons, prison complexes, prisoners and prison officers with references to correctional centres, correctional complexes, inmates and correctional officers respectively, and
 - to enable leave of absence to be granted to inmates to travel interstate and to facilitate similar leave within the State by inmates from interstate, and
 - to increase the maximum penalty for certain offences involving contraband from 6 months imprisonment or 10 penalty units (or both) to 2 years imprisonment or 20 penalty units (or both), and
-

- to provide for penalties for trafficking in drugs and poisons in correctional centres and correctional complexes that are comparable with penalties for supplying prohibited drugs under the *Drug Misuse and Trafficking Act 1985* and supplying poisons under the *Poisons Act 1966*, and
 - to enable Visiting Justices to order inmates to pay compensation for property damage for an amount that exceeds the present \$300 limit, and
 - to clarify the operation of provisions dealing with the segregation of inmates, and
 - to make an amendment in the nature of statute law revision, and
- (b) to amend the *Criminal Procedure Act 1986* consequentially.

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 a day or days to be appointed by proclamation. It also provides for the delayed commencement of some items of Schedule 5 to the proposed Act that amend certain uncommenced provisions.

Clause 3 is a formal provision giving effect to the amendments to the *Prisons Act 1952* set out in Schedules 1.1 and 2-6.

Clause 4 is a formal provision giving effect to the amendments to the *Criminal Procedure Act 1986* set out in Schedule 1.2.

Clause 5 provides that explanatory notes contained in the proposed Act do not form part of the proposed Act.

Further explanation of the amendments is made in the explanatory notes relating to the amendments concerned.



New South Wales

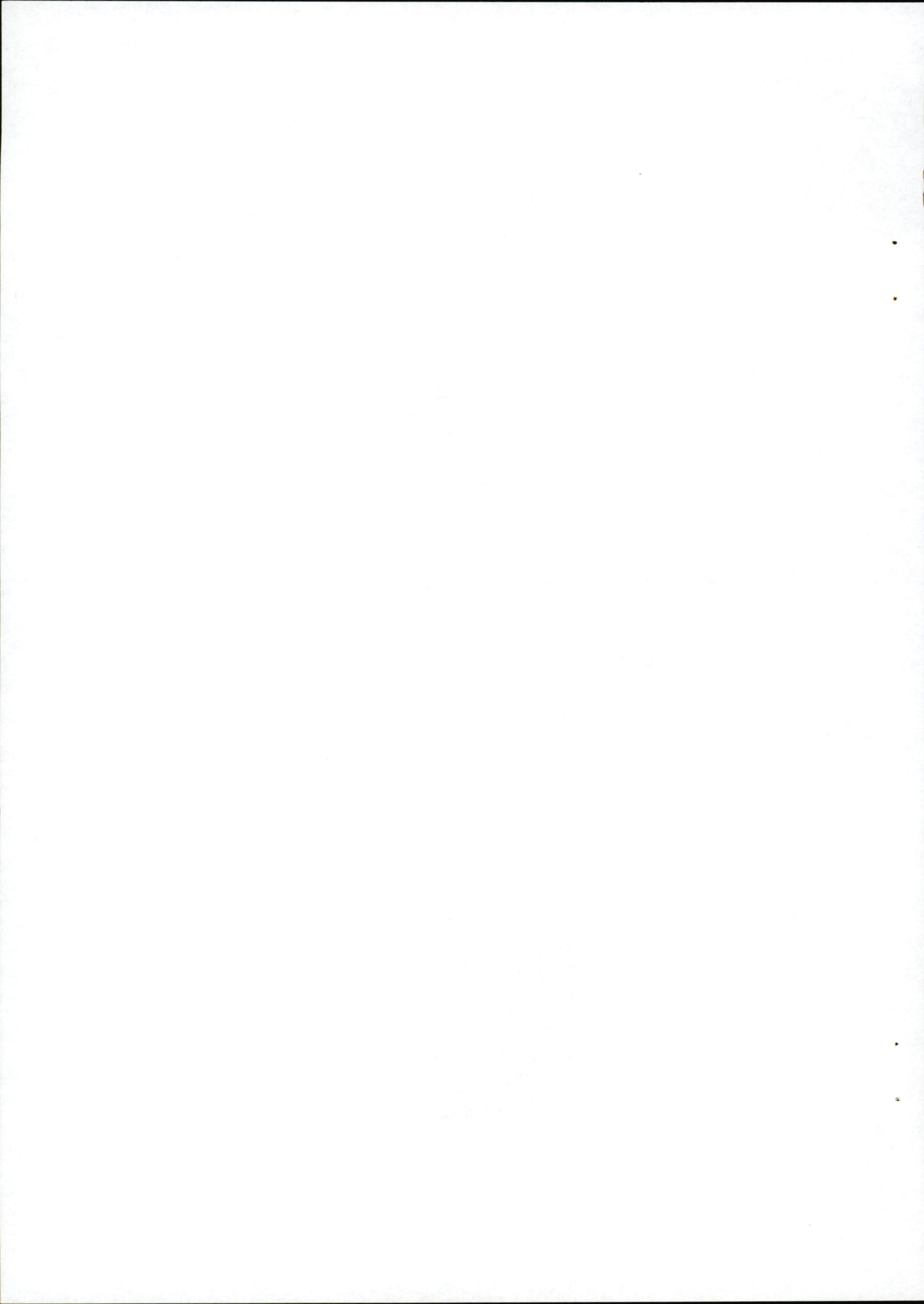
Prisons Amendment Bill 1995

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New South Wales

Prisons Amendment Bill 1995

No. , 1995

A Bill for

An Act to rename the *Prisons Act 1952* as the *Correctional Centres Act 1952*; to amend that Act in relation to certain drug trafficking and other offences, leave of absence for interstate travel, penalties, segregation of inmates, compensation for property damage and penal terminology; to amend consequentially the *Criminal Procedure Act 1986*; and for related purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Prisons Amendment Act 1995*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation. 5
- (2) Schedule 5 [66] to this Act commences on the commencement of Schedule 2 (12) to the *Prisons (Amendment) Act 1988* or on the commencement of Schedule 5 to this Act, whichever is the later. 10
- (3) Schedule 5 [114] to this Act commences on the commencement of Schedule 2 (20) (e) to the *Prisons (Amendment) Act 1988* or on the commencement of Schedule 5 to this Act, whichever is the later.
- (4) Schedule 5 [122]–[124] to this Act commences on the commencement of Schedule 2 (22) to the *Prisons (Amendment) Act 1988* or on the commencement of Schedule 5 to this Act, whichever is the later. 15

3 Amendment of Prisons Act 1952 No 9

The *Prisons Act 1952* is amended as set out in Schedules 1.1 and 2–6. 20

4 Amendment of Criminal Procedure Act 1986 No 209

The *Criminal Procedure Act 1986* is amended as set out in Schedule 1.2.

5 Explanatory notes 25

Matter appearing under the heading “Explanatory note” in this Act does not form part of this Act.

Schedule 1 Amendments relating to trafficking offences in correctional centres

(Sections 3 and 4)

1.1 Prisons Act 1952 No 9

[1] Section 37 Trafficking

5

Omit section 37 (1). Insert instead:

- (1) A person must not, without lawful authority, bring or attempt by any means whatever to introduce into any correctional centre or correctional complex any spiritous or fermented liquor.

10

Maximum penalty: 6 months imprisonment or 10 penalty units, or both.

[2] Section 37 (1A)

Insert after section 37 (1):

- (1A) A person must not, without lawful authority, bring or attempt to bring by any means whatever into any correctional centre or correctional complex any prohibited drug, prohibited plant or poison.

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Maximum penalty:

- (a) in relation to a quantity of a prohibited drug or number of prohibited plants that is less than the small quantity—the same penalty that a person supplying that quantity of the drug or number of plants is liable to under the *Drug Misuse and Trafficking Act 1985* if tried on indictment, or
- (b) in relation to a quantity of a prohibited drug or number of prohibited plants that is not less than the small quantity (but not more than the commercial quantity)—the same penalty that a person supplying that quantity of the drug or number of plants is liable to under the *Drug Misuse and Trafficking Act 1985* if tried on indictment, or

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- (c) in relation to a quantity of a prohibited drug or number of prohibited plants that is not less than the commercial quantity (but not more than the large commercial quantity)—the same penalty that a person supplying that quantity of the drug or number of plants is liable to under the *Drug Misuse and Trafficking Act 1985* if tried on indictment, or 5
- (d) in relation to a quantity of a prohibited drug or number of prohibited plants that is not less than the large commercial quantity—the same penalty that a person supplying that quantity of the drug or number of plants is liable to under the *Drug Misuse and Trafficking Act 1985* if tried on indictment, or 10
15
- (e) in relation to a poison—a penalty of 2 years imprisonment or 20 penalty units, or both.
- [3] **Section 37 (2)**
Omit “drug”.
Insert instead “prohibited drug, prohibited plant or poison”. 20
- [4] **Section 37 (2A)**
Insert after section 37 (2):
(2A) In this section:
- commercial quantity* of a prohibited drug or prohibited plant means the commercial quantity applicable to the drug or plant under the *Drug Misuse and Trafficking Act 1985*. 25
- large commercial quantity* of a prohibited drug or prohibited plant means the large commercial quantity applicable to that drug or plant under the *Drug Misuse and Trafficking Act 1985*. 30
- poison* means a poison listed in Appendix D of Schedule Four to the Poisons List in force under the *Poisons Act 1966*.

prohibited drug has the same meaning it has in the *Drug Misuse and Trafficking Act 1985*.

prohibited plant has the same meaning it has in the *Drug Misuse and Trafficking Act 1985*.

small quantity of a prohibited drug or prohibited plant means the small quantity applicable to that drug or plant under the *Drug Misuse and Trafficking Act 1985*. 5

[5] Section 47 Proceedings for offences

Omit section 47 (1). Insert instead:

- (1) Subject to Part 4, proceedings for offences against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone. However, this subsection does not apply:
- (a) to offences for which a sentence of penal servitude may be imposed, or 15
 - (b) to offences under section 37 (1A) involving a quantity of prohibited drug or a number of prohibited plants for which a penalty under paragraphs (c) or (d) of that subsection may be imposed. 20

[6] Section 47 (1A)

Insert after section 47 (1):

- (1A) Offences under section 37 (1A) involving a quantity of prohibited drugs or a number of prohibited plants for which a penalty under paragraphs (c) or (d) of that subsection may be imposed must be tried on indictment. 25

Prisons Amendment Bill 1995

Schedule 1 Amendments relating to trafficking offences in correctional centres

[7] Section 47 (2)

Omit "an offence against this Act (other than an offence under section 32) for which a sentence of penal servitude may be imposed."

Insert instead:

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:

(a) an offence under this Act (other than an offence under section 32) for which a sentence of penal servitude may be imposed, and

(b) an offence under section 37 (1A) involving a quantity of prohibited drug or number of prohibited plants for which a penalty under paragraph (b) of that subsection may be imposed.

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1.2 Criminal Procedure Act 1986 No 209

[1] Part 9A, Table 1

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Omit clause 24.

[2] Part 9A, Table 1

Insert after clause 18 in Part 4 of Table 1:

18A Correctional Centres Act 1952

(1) An offence under the *Correctional Centres Act 1952* (other than an offence under section 32) for which a sentence of penal servitude may be imposed.

20

(2) An offence under section 37 (1A) of that Act involving a quantity of prohibited drug or number of prohibited plants for which a penalty under paragraph (b) of that subsection may be imposed.

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Explanatory note

Schedule 1.1 [1] re-enacts without any changes of substance, the existing provisions in section 37 (1) relating to alcohol trafficking.

Schedule 1.1 [2] re-enacts the provisions presently contained in section 37 (1) relating to drug trafficking subject to the following changes:

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- the provisions extend to prohibited drugs and prohibited plants under the *Drug Misuse and Trafficking Act 1985* and certain poisons in the Poisons List in force under the *Poisons Act 1966*,
- the penalties for trafficking in drugs and poisons are made consistent with the penalties provided under those Acts for the supply of prohibited drugs, prohibited plants and poisons.

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Schedule 1.1 [4] inserts various definitions in the section including **prohibited drug**, **prohibited plant** and **poison**. Schedule 1.1 [3] makes a consequential amendment.

Schedule 1.1 [5]–[7] amends section 47 to ensure that offences under proposed section 37 (1A) relating to drugs involving less than a small amount are dealt with summarily. Offences involving not less than a small amount, but not more than a commercial amount, will be dealt with summarily unless the prosecution or the accused elects (in accordance with Part 9A of the *Criminal Procedure Act 1986*) to be tried on indictment. Schedule 1.2 makes consequential amendments to Part 9A of the *Criminal Procedure Act 1986*.

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**Schedule 2 Amendment of Prisons Act 1952
relating to property damage
compensation and penalties for
miscellaneous offences**

(Section 3) 5

**[1] Section 26D Payment of compensation by inmate for damage to
property etc**

Omit section 26D (2). Insert instead:

- (2) The maximum amount of compensation that an inmate may be ordered to pay by the governor of a correctional centre is \$50. 10

[2] Section 38 Miscellaneous offences

Omit "shall be liable to imprisonment for a term not exceeding six months or to a penalty not exceeding 10 penalty units or to both such imprisonment and penalty." from section 38 (1). 15

Insert instead:

is guilty of an offence.

Maximum penalty:

- (a) in relation to an offence referred to in subsection (1) (c), (d) or (f)—2 years imprisonment or 20 penalty units, or both, or 20
- (b) in all other cases—6 months imprisonment or 10 penalty units, or both.

Explanatory note

Item [1] replaces section 26D (2) to remove the present limit of \$300 on the amount a Visiting Justice can order an inmate to pay as compensation for property damage. It retains the present limit of \$50 on the amount that a governor of a correctional centre can order an inmate to pay as compensation. 25

Item [2] increases the maximum penalty for certain offences in section 38 involving contraband from 6 months imprisonment or 10 penalty units (or both) to 2 years imprisonment or 20 penalty units (or both) while retaining the existing maximum penalty for other offences under that section. 30

**Schedule 3 Amendment of Prisons Act 1952
relating to segregation of inmates**

(Section 3)

[1] Section 22

Omit the section. Insert instead:

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22 Segregation of inmates

The Commissioner or the governor of a correctional centre may direct the segregation of an inmate if the Commissioner or governor (as the case may be) is of the opinion that the association of the inmate with other inmates constitutes or is likely to constitute a threat to:

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- (a) the personal safety of any other person, or
- (b) the security of the correctional centre, or
- (c) good order and discipline within the correctional centre.

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22AA Protective custody of inmates

- (1) The Commissioner or the governor of a correctional centre may direct that an inmate be held in protective custody if the Commissioner or governor (as the case may be) is of the opinion that the association of the inmate with other inmates constitutes or is likely to constitute a threat to the personal safety of the inmate.

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- (2) The Commissioner may also direct that an inmate be held in protective custody if the inmate requests the Commissioner in writing to do so.

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22AB Governor of correctional centre to notify Commissioner of segregation or protective custody direction

The governor of a correctional centre who gives a direction under section 22 or 22AA must report the fact to the Commissioner in writing as soon as practicable.

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22AC Effect of segregation or protective custody direction

- (1) If the Commissioner or the governor of a correctional centre gives a direction under section 22 or 22AA, the inmate concerned is to be detained:
- (a) away from association with other inmates, or 5
 - (b) if the Commissioner so approves, in association only with such other inmates as the Commissioner may determine.
- (2) An inmate who is segregated or held in protective custody is not to suffer any reduction of diet or be deprived of any rights or privileges (other than those that may be determined by the Commissioner either generally or in a particular case). 10

22AD Period of segregation or protective custody

- (1) An inmate segregated or held in protective custody as a result of a direction of the governor of a correctional centre is not to be so segregated or held for longer than 14 days unless the Commissioner otherwise directs. 15
- (2) The Commissioner must not direct that an inmate be segregated or held in protective custody for a continuous period of more than 3 months, except in accordance with section 22AE. 20

22AE Extension of period of segregation or protective custody

- (1) The Commissioner may direct, on one or more occasions, that the period of segregation or of holding in protective custody of an inmate be extended, but only if on each occasion the Commissioner has: 25
- (a) in the case of an extension of a period of segregation—formed an opinion as required under section 22, or 30

-
- (b) in the case of an extension of a period of holding in protective custody:
- (i) formed an opinion as required under section 22AA (1), or
 - (ii) received a written request as required under section 22AA (2). 5
- (2) An extension must not exceed 3 months at a time.
- (3) A direction for an extension of a period of segregation, or of a period of holding in protective custody, may differ in its terms from any earlier direction for the segregation, or holding in protective custody, of the same inmate, or for any extension of that segregation or holding in protective custody. 10

22AF Form of direction for segregation or protective custody

A direction under section 22, 22AA or 22AE must be in writing and must include the grounds on which it is given. 15

22AG Revocation of direction for segregation or protective custody

- (1) The Commissioner must revoke a direction under section 22AA (2), or a direction under section 22AE (1) that was given at the request of the inmate concerned, if that inmate requests the Commissioner in writing to revoke it. 20
- (2) The Commissioner may, at any time, revoke any other direction under section 22, 22AA or 22AE. 25

[2] Section 22A Report to Minister on extension of segregation or protective custody

Omit "a prisoner's period of segregation" from section 22A (1). Insert instead "the period of segregation under section 22, or the period of holding in protective custody under section 22AA (1), of an inmate". 30

Prisons Amendment Bill 1995

Schedule 3 Amendment of Prisons Act 1952 relating to segregation of inmates

- [3] Section 22A (1) (a) and (b)**
Omit "segregation of the prisoner" wherever occurring.
Insert instead "segregation or holding in protective custody of the inmate".
- [4] Section 22A (4)** 5
Omit the subsection.
- [5] Section 22B Review of segregation or protective custody by Minister**
Omit "a prisoner's segregation" from section 22B (1).
Insert instead "the segregation or holding in protective custody of an inmate". 10
- [6] Section 22B (3) (b)**
Omit "prisoner". Insert instead "inmate".
- [7] Section 22B (3) (c)**
Insert "or 22AA" after "section 22". 15
- [8] Section 22C Review of segregation or protective custody by Review Council**
Omit section 22C (1). Insert instead:
(1) An inmate whose total continuous period of segregation or holding in protective custody exceeds 14 days may apply to the Review Council for a review of the direction for that segregation or holding in protective custody or any direction for an extension of it. 20

[9] Section 22C (2), (4) (c) and (5)

Omit "prisoner's", "prisoner" and "prison" wherever occurring.
Insert instead "inmate's", "inmate" and "correctional centre"
respectively.

[10] Section 22C (5)

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Insert "or 22AA" after "section 22".

[11] Section 22D Interim directions by Review Council

Omit section 22D (1). Insert instead:

- (1) The Chairperson of the Review Council may give a
direction for the suspension of the segregation or holding
in protective custody of an inmate, or for the removal of
an inmate to a different correctional centre.

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[12] Section 22D (3)

Omit "the prisoner is not to be segregated unless a fresh direction for
segregation".

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Insert instead "the inmate is not to be segregated or held in
protective custody unless the relevant fresh direction for segregation
or holding in protective custody".

[13] Section 22D (5)

Omit "or extension of segregation".

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Insert instead "or holding in protective custody, or of a direction for
extension of segregation or holding in protective custody".

[14] Section 22D (6)

Omit "prisoner" and "prison".

Insert instead "inmate" and "correctional centre" respectively.

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Prisons Amendment Bill 1995

Schedule 3 Amendment of Prisons Act 1952 relating to segregation of inmates

[15] Section 22D (6)

Omit "or extension of segregation".

Insert instead "or holding in protective custody, or of a direction for extension of segregation or holding in protective custody".

[16] Section 22E Procedure for review of segregation or holding in protective custody 5

Omit "segregation of a prisoner" from section 22E (1).

Insert instead "segregation or holding in protective custody of an inmate".

[17] Section 22E (3) and (4) 10

Omit "prisoner" and "prisoner's" wherever occurring.

Insert instead "inmate" and "inmate's" respectively.

[18] Section 22F Determination of review by Review Council

Omit "or for the extension of segregation" from section 22F (1).

Insert instead "or holding in protective custody, or a direction for the extension of segregation or holding in protective custody". 15

[19] Section 22F (1) (c) and (d)

Omit "prison officer", "relevant prison" and "prisoner" wherever occurring.

Insert instead "correctional officer", "relevant correctional centre" and "inmate" respectively. 20

[20] Section 62 Functions of Review Council

Omit "segregation of prisoners or for the extension of the segregation of prisoners" from section 62 (d).

Insert instead “segregation or holding in protective custody of inmates, or of directions for the extension of segregation or holding in protective custody of inmates”.

Explanatory note

At present, section 22 blurs the distinction between prisoners who are segregated from other prisoners for their own protection and those who are segregated in order to preserve the good order and discipline of the prison. Item [1] of the proposed amendments repeals and re-enacts the lengthy section 22 in the form of 8 shorter sections so as to make that distinction clear and to reflect the new terminology of the Act to be inserted by Schedule 5. The only change of substance made by the re-enactment is the fact that the new section 22 allows the Commissioner or governor of a correctional centre to direct the segregation of an inmate if the Commissioner or governor (as the case may be) is of the opinion that the association of the inmate with other inmates constitutes or is likely to constitute a threat to the personal safety of *any* other person (at present, the direction may be given only if there is considered to be a threat to the safety of *specified* persons). 5
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Items [2]–[5], [7], [8], [10]–[13], [15], [16], [18] and [20] make consequential amendments.

Items [6], [9], [14], [17] and [19] replace outdated terminology relating to prisons, prisoners and prison officers in a manner consistent with the amendments to be made by Schedule 5. 20

**Schedule 4 Amendment of Prisons Act 1952
relating to interstate leave of absence**

(Section 3)

[1] Part 5, Division 1, heading

Insert the heading "Division 1 Transfer and leave of absence within the State" before section 27. 5

[2] Part 5, Division 2

Insert after section 29:

Division 2 Interstate leave of absence for inmates

29AA Definitions 10

In this Division:

corresponding interstate law means a law that is declared to be a corresponding interstate law for the purposes of this Division by an order published under section 29AB. 15

corresponding Commissioner, in relation to a participating State, means the officer responsible for the administration of correctional centres in the participating State.

interstate leave permit means a permit granted by the Commissioner under section 29AC. 20

participating State means any State in which a corresponding interstate law is in force.

State includes the Australian Capital Territory and the Northern Territory. 25

29AB Corresponding interstate law

- (1) The Governor may, by an order published in the Gazette, declare that a law of a State other than New South Wales is a corresponding interstate law for the purposes of this Division. 30

- (2) Such an order is to be made only if the Governor is satisfied that the law substantially corresponds with the provisions of this Division.

29AC Issue of interstate leave permits

- (1) The Commissioner may issue an interstate leave permit to an inmate of a correctional centre for leave to travel to and from, and remain in, a participating State for a specified period: 5
- (a) if the inmate does not have a high security classification—on any grounds that the Commissioner considers appropriate, or 10
 - (b) if the inmate has a high security classification—only if the leave is for medical treatment or any other compassionate purpose.
- (2) In particular, the Commissioner may issue an interstate leave permit to an inmate who is an aboriginal person if satisfied that the purpose of the leave is: 15
- (a) to attend a funeral service or burial of any member of the inmate's immediate or extended family, or
 - (b) to attend any occasion of special significance to the inmate's immediate or extended family. 20
- (3) The period specified in an interstate leave permit must not exceed 7 days.
- (4) An interstate leave permit is subject to such conditions (including conditions relating to escort of the inmate) as the Commissioner specifies in the permit or as may be prescribed by the regulations. 25
- (5) The Commissioner may, by instrument in writing, appoint any correctional officer to be an escort for the purposes of this Division. 30
- (6) For the purposes of this section, an inmate has a high security classification if the inmate is within a class of inmates prescribed by the regulations as a high security classification for the purposes of this section.

29AD Effect of interstate leave permit

- (1) If it is a condition of an interstate leave permit that an inmate be escorted to a participating State, the permit:
- (a) authorises the inmate concerned to be absent from the correctional centre in the custody of an escort for the purpose and period specified in the permit, and 5
 - (b) authorises the escort to take and keep custody of the inmate for the purpose of escorting the inmate to (whether or not across any other State) and within the participating State in accordance with the permit, and 10
 - (c) authorises the escort to take and keep custody of the inmate for the purpose of returning the inmate to the correctional centre from which leave of absence was given. 15
- (2) However, if it is not a condition of an interstate leave permit that an inmate be escorted to a participating State, the permit authorises the inmate concerned to be absent from the correctional centre for the purpose and period specified in the permit. 20

29AE Variation or revocation of permit

The Commissioner may at any time:

- (a) vary or omit any condition of an interstate leave permit (whether specified in the permit or prescribed by the regulations) or substitute or add any new condition, or 25
- (b) revoke the permit.

29AF Offence: breach of interstate leave permit

An inmate must not fail, without reasonable excuse, to comply with any condition of an interstate leave permit. 30

Maximum penalty: 10 penalty units.

29AG Notice to participating State and transit jurisdiction

On the granting of an interstate leave permit, the Commissioner must:

- (a) give notice to the corresponding Commissioner and the chief officer of police of the participating State concerned of the issue and period of the permit authorising the inmate concerned to travel to that State, and 5
- (b) give notice to the chief officer of police of any other jurisdiction through which the inmate is to travel to reach the participating State of the issue and period of the permit. 10

29AH Effect of leave permit issued under corresponding interstate law

A person (being a police officer or correctional officer (however described) of a participating State) who is authorised under a permit issued under a corresponding interstate law to escort a person imprisoned in a participating State to or through this State is authorised while in this State: 15

- (a) to hold, take and keep custody of the person for the purposes and period set out in the permit, and
- (b) to hold, take and keep custody of the person for the purpose of returning the person to the participating State. 20 25

29AI Escape from custody of interstate inmates on leave of absence

- (1) A person:
 - (a) who, while in escorted custody in this State, escapes from that custody, or 30
 - (b) who, while in unescorted custody in this State, escapes from that custody,

may be apprehended without warrant by the person's escort (if any), a police officer or any other person.

- (2) If a person in escorted or unescorted custody:
- (a) has escaped and been apprehended, or
 - (b) has attempted to escape,
- the person may be taken before a Magistrate.
- (3) The Magistrate may by warrant (and despite the terms of any permit issued under a corresponding interstate law):
- (a) order the return of the person to the participating State in which the permit was issued, and
 - (b) order the person to be delivered to an interstate escort for the purpose of such a return.
- (4) A warrant issued under subsection (3) may be executed according to its tenor.
- (5) A person who is the subject of a warrant issued under subsection (3) may be detained in custody as an inmate of this State until the person is delivered into the custody of an interstate escort in accordance with that warrant or until the expiration of a period of 14 days from the issue of the warrant, whichever first occurs.
- (6) If a person who is the subject of a warrant issued under subsection (3) is not, in accordance with the warrant, delivered into the custody of an interstate escort within a period of 14 days from the issue of the warrant, the warrant ceases to have effect.
- (7) In this section:
- escorted custody* means in the custody of an escort under section 29AH.
- interstate escort* means:
- (a) a person who is authorised to have the custody of another person under a permit issued in a participating State, or

- (b) a correctional officer (however described) or a member of the police force of the participating State, or
- (c) a person appointed by the corresponding Commissioner of the participating State by an instrument in writing to be an escort for the purpose of escorting another person to the participating State, 5

or any 2 or more of them.

unescorted custody means leave within this State in circumstances where: 10

- (a) the leave is authorised by a permit issued under a corresponding interstate law, and
- (b) no interstate escort has been appointed to escort the inmate concerned while within this State, and 15
- (c) the corresponding interstate law provides that the inmate concerned is taken to be in the custody of the corresponding Commissioner or another official of the participating State while in this State. 20

29AJ Liability of Crown for damage caused by inmate or escort

- (1) The Crown in right of the State is liable for any damage or loss sustained by any person in a participating State that is caused by the acts or omissions of any inmate or an escort while in a participating State because of an interstate leave permit. 25
- (2) Nothing in this section affects any right of action the Crown may have against the inmate or escort for the damage or loss concerned. 30

[3] Part 5, Division 3, heading

Insert the heading "Division 3 Miscellaneous" before section 29A.

[4] Section 29A Absent inmates deemed to be in custody

Omit "section 29 (2)". Insert instead "section 29AC or 29 (2)".

Explanatory note

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Item [2] inserts proposed Division 2 to enable the Commissioner to issue interstate leave permits to inmates to enable them to take leaves of absence interstate while in the custody of an escort or unescorted. The provisions also enable inmates and escorting officers from certain other States and Territories to travel to or through this State on similar permits. In particular, the proposed Division contains the following provisions:

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Proposed section 29AA defines certain terms used in the proposed Division such as *corresponding interstate law* and *participating State*.

Proposed section 29AB enables the Governor, by order published in the Gazette, to declare a law of another State or Territory concerning interstate leave to be a corresponding interstate law to which the proposed Division applies.

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Proposed section 29AC enables the Commissioner to issue interstate leave permits to inmates. A distinction is drawn in the proposed section between high security inmates and other inmates. High security inmates will be able to obtain a permit only if the Commissioner is satisfied that the interstate leave is for medical reasons or on other compassionate grounds. Other inmates can be granted a permit on any grounds that the Commissioner considers appropriate. In addition, the proposed section enables the Commissioner to issue permits to aboriginal inmates for family funerals and burials and for other special family occasions.

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Proposed section 29AD specifies the matters which an interstate leave permit authorises an inmate and the inmate's escort (if any) to do.

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Proposed section 29AE enables the Commissioner to vary or revoke an interstate leave permit at any time.

Proposed section 29AF makes it an offence for an inmate to breach a condition of a permit without lawful excuse. The maximum penalty for the offence will be 10 penalty units (currently \$1000).

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Proposed section 29AG requires the Commissioner to give notice to any jurisdiction to or through which an inmate is to travel under an interstate leave permit.

Proposed section 29AH authorises an escort who escorts an inmate from interstate to have custody of the inmate while in this State. In exercising his or her duties, an interstate escort (who will be either a police officer or correctional

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officer (however described) of a participating State) will be able to carry and use firearms and handcuffs. This follows from section 4 (2) of the *Firearms Act 1989* and section 4 (2) of the *Prohibited Weapons Act 1989* which respectively exempt interstate police officers and prison officers who are carrying out their duties from criminal liability under those Acts.

5

Proposed section 29AI enables an inmate from interstate who is within this State under a leave permit issued by a participating State to be arrested without warrant if the inmate escapes. The provision also permits the repatriation of such an inmate to the participating State in cases of escape and attempted escape.

Proposed section 29AJ provides that the Crown in right of New South Wales is liable for any damage or loss caused by an inmate or escort while in another jurisdiction under an interstate leave permit.

10

Item [4] amends section 29A to ensure that an inmate on leave under an interstate leave permit is treated as continuing in the lawful custody of the governor of the correctional centre from which the inmate is absent. Consequently, if the inmate escapes while on such leave, he or she commits an offence under section 34 (escaping).

15

Items [1] and [3] insert other Division headings in Part 5 of the Principal Act to better organise the provisions of the Part.

Schedule 5 Amendment of Prisons Act 1952 relating to penal terminology

(Section 3)

Explanatory note

The amendments made by this Schedule replace outdated penal terminology with current terminology. In particular, it renames the Act as the *Correctional Centres Act 1952* and replaces references to prisons, prisoners and prison officers with references to correctional centres, inmates and correctional officers respectively. Similar amendments are also made by Schedule 3. 5

[1] The long title 10

Omit "prisons" and "prisoners".
Insert instead "correctional centres" and "inmates" respectively.

[2] Section 1 Name of Act and commencement

Omit section 1 (1). Insert instead:

(1) This Act is the *Correctional Centres Act 1952*. 15

[3] Section 3 Repeals and savings

Omit "prisons" from section 3 (4) where secondly occurring.
Insert instead "correctional centres".

[4] Section 4 Definitions

Omit the definitions of *convicted prisoner*, *governor of a prison*, *medical officer*, *prison*, *prison complex*, *prison offence* and *prisoner*. 20

Insert the following definitions in alphabetical order:

convicted inmate means:

- (a) a person under sentence of penal servitude or imprisonment imposed by any court, judge or justice or ordered to be detained in strict custody pursuant to section 25 or 39 of the *Mental Health (Criminal Procedure) Act 1990*, or 25

-
- (b) a person undergoing imprisonment in default of payment of any fine, penalty, costs or sum of money imposed on the person by any court, judge or justice, or in default of entering into a recognizance to be of good behaviour on the order of any court, judge or justice. 5

correctional centre includes:

- (a) any premises or place declared to be a correctional centre by a proclamation made under section 5, and 10
- (b) any gaol or place of detention, irrespective of the title by which it is known,

but does not include a detention centre within the meaning of the *Children (Detention Centres) Act 1987*.

correctional centre offence means a correctional centre offence declared under section 23. 15

correctional complex means any premises or place declared to be a correctional complex by virtue of a proclamation in force under section 5.

correctional officer means an officer appointed or employed in accordance with Part 6. 20

governor of a correctional centre means the superintendent, governor, gaoler or other officer or person for the time being in charge of the centre.

inmate means: 25

- (a) any convicted inmate, or
- (b) any person ordered to be imprisoned in or committed to a correctional centre, otherwise than as referred to in the definition of **convicted inmate**, by any court, judge or justice or other competent authority or otherwise than under the *Intoxicated Persons Act 1979*. 30

medical officer means, in relation to a correctional centre, a person who pursuant to section 9 has been appointed or is acting as such. 35

Prisons Amendment Bill 1995

Schedule 5 Amendment of Prisons Act 1952 relating to penal terminology

[5] Section 5 Correctional complexes and correctional centres

Omit "prison complex" wherever occurring.
Insert instead "correctional complex".

[6] Section 5 (3)

Omit "prison" where thirdly occurring.
Insert instead "correctional centre".

5

[7] Section 5 (4)

Omit "prison". Insert instead "correctional centre".

[8] Section 5 (5)

Omit "prison" where secondly and thirdly occurring.
Insert instead "correctional centre".

10

[9] Section 6 Commissioner

Omit "prisons and prison complexes" and "prisoners".
Insert instead "correctional centres and correctional complexes" and
"inmates" respectively.

15

[10] Sections 8 and 8A (4) (a)

Omit "prisoners" wherever occurring. Insert instead "inmates".

[11] Section 8A Official Visitors

Omit "prison" from section 8A (1), (3) (b) and (4) (b) wherever
occurring.
Insert instead "correctional centre".

20

[12] Section 8A (4) (a)

Omit "prison" where firstly and thirdly occurring.
Insert instead "correctional centre".

[13] Section 8A (4) (a)

Omit "prison officers". Insert instead "correctional officers".

5

[14] Sections 9, 10 and 11A (1)

Omit "prison" wherever occurring.
Insert instead "correctional centre".

[15] Section 11 Inspection by Judge or Magistrate

Omit "prison or prison complex".
Insert instead "correctional centre or correctional complex".

10

[16] Part 3, heading

Omit "prisoners". Insert instead "inmates".

[17] Section 12 Exercise

Omit "prisoner" from section 12 (1).
Insert instead "inmate".

15

[18] Section 12 (2)

Omit "Prisoners" and "prisoners".
Insert instead "Inmates" and "inmates" respectively.

[19] Section 12 (2)

Omit "prison" where firstly and secondly occurring.
Insert instead "correctional centre".

20

Prisons Amendment Bill 1995

Schedule 5 Amendment of Prisons Act 1952 relating to penal terminology

[20] Section 12 (2)

Omit "prison" where thirdly occurring.
Insert instead "the correctional centre".

[21] Section 12 (3)

Omit "A prisoner", "prisoner" and "prison complex" wherever occurring. 5
Insert instead "An inmate", "inmate" and "correctional complex"
respectively.

[22] Section 12 (3)

Omit "prison" where firstly and thirdly occurring. 10
Insert instead "correctional centre".

[23] Section 13 Clothing

Omit "prisoner", "prisoner's" and "prison" wherever occurring.
Insert instead "inmate", "inmate's" and "correctional centre"
respectively. 15

[24] Section 14 Diet

Omit "prisoner". Insert instead "inmate".

[25] Section 15 Separation of inmates

Omit "prisoners" wherever occurring. Insert instead "inmates".

[26] Section 16 Medical attention

Omit "prisoner", "prisoners" and "prison officers" wherever
occurring from section 16 (1). 20
Insert instead "inmate", "inmates" and "correctional officers".

[27] Section 16 (2)

Omit "a prisoner". Insert instead "an inmate".

[28] Section 16 (2)

Omit "prisoner" where secondly, thirdly and fourthly occurring.
Insert instead "inmate".

5

[29] Section 16 (2)

Omit "prison officer". Insert instead "correctional officer".

[30] Section 18 Private property

Omit "Every prisoner", "a prisoner", "the prisoner", "prisoners"
and "prisoner's" wherever occurring.
Insert instead "Every inmate", "an inmate", "the inmate",
"inmates" and "inmate's" respectively.

10

[31] Section 18

Omit "into prison", "from prison", "in prison", "a prison", "to
prison" and "the prison" wherever occurring.
Insert instead "into detention in a correctional centre", "from
detention in a correctional centre", "detained in a correctional
centre", "a correctional centre", "to detention in a correctional
centre" and "the correctional centre" respectively.

15

[32] Section 19 Record of personal description of inmates

20

Omit "prisoner". Insert instead "inmate".

[33] Section 20 Work to be performed by inmates

Omit "prisoner", "prisoners" and "prison" wherever occurring.
Insert instead "inmate", "inmates" and "correctional centre"
respectively.

25

[34] Part 4, heading

Omit "Prison". Insert instead "Correctional Centre".

[35] Section 23 Correctional centre offences to be declared by regulations

Omit "prison or prison complex", "a prisoner" and "the prisoner" wherever occurring. 5

Insert instead "correctional centre or correctional complex", "an inmate" and "the inmate" respectively.

[36] Section 23 (1)

Omit "prison" where firstly and fourthly occurring. 10
Insert instead "correctional centre".

[37] Section 23 (2)

Omit "prison". Insert instead "correctional centre".

[38] Section 23 (3)

Omit "prison" where firstly, secondly, thirdly and sixthly occurring. 15
Insert instead "correctional centre".

[39] Section 24 Laying of charges and inquiries by governor of correctional centre

Omit "prison", "a prisoner", "the prisoner" and "the prisoner's" from section 24 (1) and (3) (a), (b), (d)–(f) and (i) wherever occurring. 20

Insert instead "correctional centre", "an inmate", "the inmate" and "the inmate's" respectively.

[40] Section 24 (3) (c)

Omit "The prisoner". Insert instead "The inmate".

[41] Section 24 (3) (h)

Omit "a prison" and "prison officers".

Insert instead "a correctional centre" and "correctional officers" respectively.

5

[42] Section 25 Governor of correctional centre may impose penalties for certain correctional centre offences

Omit "prison", "a prisoner", "the prisoner's", "of prisoners" and "the prisoner" from section 25 (1)–(4), (4B) and (5) wherever occurring.

10

Insert instead "correctional centre", "an inmate", "the inmate's", "of inmates" and "the inmate" respectively.

[43] Section 25 (4A)

Omit "governor of a prison", "a prisoner", "the prisoner's", "the prisoner" and "prison officer".

15

Insert instead "governor of a correctional centre", "an inmate", "the inmate's", "the inmate" and "correctional officer" respectively.

[44] Section 26 Reference of certain correctional centre offences to Visiting Justice

20

Omit "prison" and "a prisoner" wherever occurring.

Insert instead "correctional centre" and "an inmate" respectively.

[45] Section 26A Procedure at hearings before Visiting Justices

Omit "prisoner" and "prison" wherever occurring.

Insert instead "inmate" and "correctional centre" respectively.

25

- [46] Section 26B Imposition of penalty by Visiting Justice**
Omit "the prisoner", "prisoners", "a prisoner's" and "the prisoner's" wherever occurring.
Insert instead "the inmate", "inmates", "an inmate's" and "the inmate's" respectively. 5
- [47] Section 26C Correctional centre offences may be dealt with summarily or on indictment**
Omit "a prisoner", "prison" and "the prisoner".
Insert instead "an inmate", "correctional centre" and "the inmate" respectively. 10
- [48] Section 26D Payment of compensation by inmate for damage to property**
Omit "a prisoner", "prison" and "the prisoner" wherever occurring.
Insert instead "an inmate", "correctional centre" and "the inmate" respectively. 15
- [49] Section 26E Cumulative punishments**
Omit "prison" and "a prisoner" wherever occurring.
Insert instead "correctional centre" and "an inmate" respectively.
- [50] Section 26F Record of punishments imposed for correctional centre offences** 20
Omit "prison" and "a prisoner" wherever occurring.
Insert instead "correctional centre" and "an inmate" respectively.
- [51] Section 26G Appeals against decisions of Visiting Justices**
Omit "a prisoner" wherever occurring. 25
Insert instead "an inmate".

-
- [52] Section 26H Other criminal proceedings for same offence**
Omit "prison" wherever occurring.
Insert instead "correctional centre".
- [53] Section 26I Offence of making false or misleading statements**
Omit "prison" from section 26I (1). 5
Insert instead "correctional centre".
- [54] Part 5, heading**
Omit "prisoners". Insert instead "inmates".
- [55] Section 27 Orders for removal of inmates from one correctional centre to another** 10
Omit "prisoner" and "prison" wherever occurring.
Insert instead "inmate" and "correctional centre" respectively.
- [56] Section 28 Removal of inmates to hospital**
Omit "Any prisoner", "A prisoner", "such prisoner", "the prisoner" and "a prisoner" wherever occurring. 15
Insert instead "Any inmate", "An inmate", "such inmate", "the inmate" and "an inmate" respectively.
- [57] Section 28 (1), (3) and (4)**
Omit "prison" wherever occurring.
Insert instead "correctional centre". 20
- [58] Section 28 (2)**
Omit "the prison", "such prison" and "prison officer".
Insert instead "the correctional centre", "such correctional centre" and "correctional officer" respectively.

- [59] Section 29 Absence from a correctional centre in certain circumstances permitted**
- Omit "Any prisoner", "female prisoner", "the prisoner", "A prisoner" and "a prisoner" wherever occurring.
Insert instead "Any inmate", "female inmate", "the inmate", "An inmate" and "an inmate" respectively. 5
- [60] Section 29 (1) and (2)**
- Omit "prison" wherever occurring.
Insert instead "correctional centre".
- [61] Section 29 (4)** 10
- Omit "to prison" wherever occurring.
Insert instead "to a correctional centre".
- [62] Section 29 (5)**
- Omit "prison complex". Insert instead "correctional complex".
- [63] Section 29 (5)** 15
- Omit "prison" where firstly and thirdly occurring.
Insert instead "correctional centre".
- [64] Section 29A Absent inmates taken to be in custody**
- Omit "A prisoner", "prison" and "such prisoner" wherever occurring. 20
Insert instead "An inmate", "correctional centre" and "such inmate" respectively.

[65] Section 29B Certain absences not to affect length of sentence

Omit "a prisoner", "the prisoner", "a prison", "the prison" and "in prison" wherever occurring.

Insert instead "an inmate", "the inmate", "a correctional centre", "the correctional centre" and "in a correctional centre" respectively.

5

[66] Section 29C Transfer of inmates to or through the Australian Capital Territory (as inserted by the Prisons (Amendment) Act 1988)

Omit "A prisoner", "prison" and "the prisoner" wherever occurring.

Insert instead "An inmate", "correctional centre" and "the inmate" respectively.

10

[67] Part 6, heading

Omit "Prison officers". Insert instead "Correctional officers".

[68] Section 30 Appointment of correctional officers

15

Omit "prison officers". Insert instead "correctional officers".

[69] Section 30A Commissioned and non-commissioned correctional officers

Omit "Prison" and "prison" wherever occurring.

Insert "Correctional" and "correctional" respectively.

20

[70] Section 31 Duties of correctional officers

Omit "prison officers" and "prisons" wherever occurring.

Insert instead "correctional officers" and "correctional centres" respectively.

- [71] Section 31A Purpose for which contractors may be engaged**
- Omit "prisons", "prisoners" and "prison" wherever occurring.
Insert instead "correctional centres", "inmates" and "correctional centre" respectively.
- [72] Section 31B Management of correctional centre under agreement** 5
- Omit "prisons", "prison" and "prisoners" wherever occurring.
Insert instead "correctional centres", "correctional centre" and "inmates" respectively.
- [73] Section 31C Authorisation of correctional centre staff** 10
- Omit "prison" and "prisoners" wherever occurring.
Insert instead "correctional centre" and "inmates" respectively.
- [74] Section 31D Status of staff at correctional centre managed under an agreement**
- Omit "prison" from section 31D (1)–(3) wherever occurring. 15
Insert instead "correctional centre".
- [75] Section 31D (4)**
- Omit "the prison" and "prison officer".
Insert instead "the correctional centre" and "correctional officer" 20
respectively.
- [76] Section 31E Monitoring**
- Omit "prison" and "prisoners" wherever occurring.
Insert instead "correctional centre" and "inmates" respectively.

[77] Section 31F Corrections Health Service

Omit "Director", "prisoners", "prison" and "Prison Medical Service" wherever occurring.

Insert instead "Chief Executive Officer", "inmates", "correctional centre" and "Corrections Health Service" respectively.

5

[78] Sections 31G Investigation of corruption, 31H Administrative complaints and 31I Freedom of information

Omit "prison" wherever occurring.

Insert instead "correctional centre".

[79] Section 32 Rescuing person from lawful custody

10

Omit "prisoner". Insert instead "inmate".

[80] Section 33 Aiding escape

Omit "a prisoner", "any prisoner" and "prison or prison complex" wherever occurring.

Insert instead "an inmate", "any inmate" and "correctional centre or correctional complex" respectively.

15

[81] Section 34 Escaping

Omit "prisoner" wherever occurring. Insert instead "inmate".

[82] Section 34A Tunnels to facilitate escape

Omit "A prisoner", "any prisoner" and "the prisoner".

Insert instead "An inmate", "any inmate" and "the inmate" respectively.

20

- [83] Section 35 Permitting escape**
Omit "a prisoner", "prisoners" and "prison" wherever occurring.
Insert instead "an inmate", "inmates" and "correctional centre" respectively.
- [84] Section 36 Harboursing escapee** 5
Omit "prisoner". Insert instead "inmate".
- [85] Section 37 Trafficking**
Omit "prison or prison complex" and "prison officer" wherever occurring.
Insert instead "correctional centre or correctional complex" and "correctional officer" respectively. 10
- [86] Section 37A Introduction or supply of syringes**
Omit "a prisoner", "the prisoner" and "prison" from section 37A (1)–(3) wherever occurring.
Insert instead "an inmate", "the inmate" and "correctional centre" respectively. 15
- [87] Section 37A (4) and (5)**
Omit "prison officer", "a prisoner", "the prisoner", "prisoners", "at a prison" and "from a prison" wherever occurring.
Insert instead "correctional centre", "an inmate", "the inmate", "inmates", "at a correctional centre" and "from a correctional centre" respectively. 20
- [88] Section 38 Miscellaneous offences**
Omit "prison or prison complex", "any prisoner", "prisoners", "prison officer" and "in connection with a prison" wherever occurring. 25
Insert instead "correctional centre or correctional complex", "any inmate", "inmates", "correctional officer" and "in connection with a correctional centre" respectively.

[89] Section 38B Impersonating a correctional officer

Omit "prison officer". Insert instead "correctional officer".

[90] Section 39 Custody of inmates

Omit "Every prisoner", "such prisoner", "A prisoner" and "the prisoner" wherever occurring.

5

Insert instead "Every inmate", "such inmate", "An inmate" and "the inmate" respectively.

[91] Section 39 (1)

Omit "prison". Insert instead "correctional centre".

[92] Section 39 (2)

10

Omit "prison complex". Insert instead "correctional complex".

[93] Section 39 (2)

Omit "prison" where firstly, thirdly and fourthly occurring.
Insert instead "correctional centre".

[94] Section 40 Responsibility of governors of correctional centres

15

Omit "prison" and "prisoner" wherever occurring.
Insert instead "correctional centre" and "inmate" respectively.

[95] Section 40A Correctional centre delivery

Omit "prison" wherever occurring.
Insert instead "correctional centre".

20

[96] Section 40B Evidence of imprisonment in correctional centre

Omit "prison" and "a prisoner".
Insert instead "correctional centre" and "an inmate".

[97] Section 40C Delegations by governors of correctional centres

Omit "prison". Insert instead "correctional centre". 5

[98] Section 41 Expiration of sentence

Omit "A prisoner", "the prisoner", "any prisoner", "the prisoner's" and "from prison" wherever occurring.
Insert instead "An inmate", "the inmate", "any inmate", "the inmate's" and "from detention in a correctional centre" respectively. 10

[99] Section 42 Address of warrant

Omit "prison" and "a prisoner" wherever occurring.
Insert instead "correctional centre" and "an inmate" respectively.

[100] Section 43 Notice to coroner of inmate's death

Omit "a prisoner", "the prisoner" and "prison". 15
Insert instead "an inmate", "the inmate" and "correctional centre" respectively.

[101] Section 44 Attendance of inmate before courts and certain persons and bodies

Omit "a prisoner", "such prisoner", "the prisoner" and "prison" 20
from section 44 (1) wherever occurring.
Insert instead "an inmate", "such inmate", "the inmate" and "correctional centre" respectively.

[102] Section 44 (2)

Omit "Every prisoner", "the prison", "prison officer" and "the prisoner" wherever occurring.

Insert instead "Every inmate", "the correctional centre", "correctional officer" and "the inmate" respectively.

5

[103] Section 45 Sentences to be served in lock-up

Omit "prison", "the prisoner", "Any prisoner" and "a prisoner" wherever occurring.

Insert instead "correctional centre", "the inmate", "Any inmate" and "an inmate" respectively.

10

[104] Section 45A Use of dogs in maintaining good order and security

Omit "prison officer", "a prison" and "the prison" from section 45A (1).

Insert instead "correctional officer", "a correctional centre" and "the correctional centre" respectively.

15

[105] Section 45A (2)

Omit "governor of a prison", "prison or prison complex", "prisons or prison complexes", "prisoners" and "prisoner" wherever occurring.

Insert instead "governor of a correctional centre", "correctional centre or correctional complex", "correctional centres or correctional complexes", "inmates" and "inmate" respectively.

20

[106] Section 45A (3) and (4)

Omit "prison officer" and "prison officer's" wherever occurring.
Insert instead "correctional officer" and "correctional officer's" respectively.

25

Prisons Amendment Bill 1995

Schedule 5 Amendment of Prisons Act 1952 relating to penal terminology

[107] Section 45A (5)

Omit "a prison is being managed", "prisoners" and "prison officer".

Insert instead "a correctional centre is being managed", "inmates" and "correctional officer" respectively.

5

[108] Section 48A Research work—records and information

Omit "prisons" and "prisoners" wherever occurring.

Insert instead "correctional centres" and "inmates" respectively.

[109] Section 48B Funds payable to certain organisation

Omit "prisoners" wherever occurring. Insert instead "inmates".

10

[110] Section 48E Oath or affirmation of office

Omit "prison officer" wherever occurring.

Insert instead "correctional officer".

[111] Section 50 Regulations

Omit "prisons", "prison" and "prisoners" from section 50 (as amended by the *Prisons (Amendment) Act 1988*) wherever occurring, except section 50 (1) (a), (d3), (g), (j3), (n) and (o).

Insert instead "correctional centres", "correctional centre" and "inmates" respectively.

15

[112] Section 50 (1) (a), (d3) and (g)

Omit "prisons and prison complexes" wherever occurring.

Insert instead "correctional centres and correctional complexes".

20

[113] Section 50 (1) (g)

Omit "prisons" where secondly occurring.
Insert instead "correctional centres".

[114] Section 50 (1) (j3) (as inserted by the Prisons (Amendment) Act 1988)

5

Omit "prisons and prison complexes".
Insert instead "correctional centres and correctional complexes".

[115] Section 50 (1) (n) and (o)

Omit "prison officers" and "prison or prison complex" wherever occurring.
Insert instead "correctional centres" and "correctional centre and correctional complex" respectively.

10

[116] Part 9, heading

Omit "Prisoners". Insert instead "Inmates".

[117] Section 53 Definitions

15

Omit the definitions of *authorized person*, *constable*, *court*, *magistrate*, *order* and *prison* from section 53 (1).
Insert in alphabetical order:

authorized person, *constable*, *court*, *magistrate* and *order* have the same respective meanings as in section 3 (1) of the ACT Act.

20

correctional centre has the same meaning as *prison* does in section 3 (1) of the ACT Act.

[118] Section 54 Conveyance and detention of inmates from the Territory

25

Omit "prison" wherever occurring.
Insert instead "correctional centre".

- [119] Section 55 Returns of persons to the Territory**
Omit "prison" and "prisoner" wherever occurring.
Insert instead "correctional centre" and "inmate" respectively.
- [120] Section 56 Application of this Part to inmates in custody at commencement of this Part** 5
Omit "prison" wherever occurring.
Insert instead "correctional centre".
- [121] Section 57 Validation**
Omit "prison" wherever occurring.
Insert instead "correctional centre". 10
- [122] Part 9A, heading (as inserted by the Prisons (Amendment) Act 1988)**
Omit "Prisoners". Insert instead "Inmates".
- [123] Section 58A Definitions (as inserted by the Prisons (Amendment) Act 1988)** 15
Omit the definitions of *constable* and *prisoner* from section 58A (1).
Insert in alphabetical order:
constable has the same meaning as in the Commonwealth Act.
inmate has the same meaning as *prisoner* does in the Commonwealth Act. 20
- [124] Sections 58B Conveyance and detention of inmates from Norfolk Island, 58C Return of inmates to Norfolk Island (as inserted by the Prisons (Amendment) Act 1988)**
Omit "a prisoner", "the prisoner", "The prisoner", "any prisoner" and "prison" wherever occurring. 25
Insert instead "an inmate", "the inmate", "The inmate", "any inmate" and "correctional centre" respectively.

[125] Section 62 Functions of the Review Council

Omit "prisoners" wherever occurring.
Insert instead "inmates".

[126] Section 64 Security of certain information

Omit "prison" from section 64 (a).
Insert instead "correctional centre".

5

[127] Schedule 4A, clauses 3A and 4

Omit "prison" from clauses 3A (1) and 4 (3) wherever occurring.
Insert instead "correctional centre".

[128] Schedules 6 and 7

10

Omit "Prison Officer" wherever occurring.
Insert instead "Correctional Officer".

[129] Schedule 8, clause 6

Omit "prisons". Insert instead "correctional centres".

[130] Schedule 8, clause 14

15

Omit "a prisoner". Insert instead "an inmate".

[131] Schedule 8, clause 15

Omit "a prisoner", "the prisoner" and "prison" wherever occurring.
Insert instead "an inmate", "the inmate" and "correctional centre" respectively.

20

Prisons Amendment Bill 1995

Schedule 5 Amendment of Prisons Act 1952 relating to penal terminology

[132] Schedule 8, clause 16

Omit "a prisoner", "the prisoner", "a prison" and "in prison" wherever occurring.

Insert instead "an inmate", "the inmate", "a correctional centre" and "detained in a correctional centre" respectively.

5

[133] Schedule 8, clause 21

Omit "prisoners". Insert instead "inmates".

[134] Schedule 8, clause 22

Omit "prisoner". Insert instead "inmate".

**Schedule 6 Amendment of Prisons Act 1952
relating to statute law revision and
savings and transitional matters**

(Section 3)

- [1] **Section 44 Attendance of inmate before courts and certain other persons and bodies** 5
- Omit "Registrar of the Court of Appeal" from section 44 (3).
Insert instead "Registrar of the Court of Criminal Appeal".
- Explanatory note**
- The amendment made by item [1] corrects an incorrect reference. 10
- [2] **Schedule 8, clause 1**
- Insert at the end of clause 1 (1):
- Prisons Amendment Act 1995.*
- [3] **Schedule 8, Part 8** 15
- Insert after Part 7:
- Part 8 Provisions consequent on enactment of Prisons Amendment Act 1995**
- 26 Definitions**
- In this Part:
- amending Act* means the *Prisons Amendment Act 1995*. 20
- the appointed day* means the day on which Schedule 3 to the amending Act commences.
- terminology amendment* means an amendment made by the amending Act replacing a reference to a prison, prison complex, prison offence, prisoner or prison officer. 25

27 Inmates held in protective custody

- (1) Any inmate who, immediately before the appointed day, is segregated pursuant to:
- (a) a direction given by the Commissioner or governor under section 22 (1) (as in force immediately before the appointed day) because of his or her opinion that the association of the inmate with other inmates constituted or was likely to constitute a threat to the personal safety of that inmate, or
 - (b) a direction given under section 22 (1A) (as in force immediately before the appointed day),
- is taken to be held in protective custody pursuant to a direction under section 22AA.
- (2) Any other inmate who, immediately before the appointed day, is segregated pursuant to a direction under section 22 (as in force immediately before the appointed day) is taken to be segregated pursuant to a direction made under section 22 (as re-enacted by the amending Act).
- (3) Any period of segregation of an inmate before the appointed day pursuant to a direction referred to in subclause (1) (a) or (b) is taken to be a period of protective custody for the purposes of sections 22A–22G.
- (4) A period of segregation of an inmate before the appointed day pursuant to a direction other than a direction referred to in subclause (1) (a) or (b) is taken to be a period of segregation for the purposes of sections 22A–22G.

28 Effect of terminology amendments

- (1) Any terminology amendment made to this Act by the amending Act is made for the purpose of replacing outdated penal terminology with current terminology.

- (2) Accordingly, any such amendment:
- (a) does not affect the construction or meaning of any provision of any Act or instrument, and
 - (b) does not affect the status, rights, liabilities or immunities of any person or body. 5

29 Inmates having high security classifications for the purposes of section 29AC

Until a regulation is made under section 29AC (6), an inmate classified by the Commissioner:

- (a) in Category A1, A2 or B under clause 10 (1) of the *Prisons (General) Regulation 1995*, or 10
- (b) in Category E1 or E2 under clause 11 (3) of the *Prisons (General) Regulation 1995*,

is taken to be an inmate having a high security classification for the purposes of section 29AC. 15

30 References to prisons, prison complexes, prisoners, prison officers and prison offences

- (1) A reference in any other Act, or any instrument made under any Act, or any document of any kind to a prison (within the meaning of this Act before the commencement of Schedule 5 [4] to the amending Act) is to be read as a reference to a correctional centre. 20
- (2) A reference in any other Act, or any instrument made under any Act, or any document of any kind to a prison complex (within the meaning of this Act before the commencement of Schedule 5 [4] to the amending Act) is to be read as a reference to a correctional complex. 25
- (3) A reference in any other Act, or any instrument made under any Act, or any document of any kind to a prisoner (within the meaning of this Act before the commencement of Schedule 5 [4] to the amending Act) is to be read as a reference to an inmate. 30

Prisons Amendment Bill 1995

Schedule 6 Amendment of Prisons Act 1952 relating to statute law revision and savings and transitional matters

- (4) A reference in any other Act, or any instrument made under any Act, or any document of any kind to a prison officer (within the meaning of this Act before the commencement of Schedule 5 [4] to the amending Act) is to be read as a reference to a correctional officer. 5
- (5) A reference in any other Act, or any instrument made under any Act, or any document of any kind to a prison offence (within the meaning of this Act before the commencement of Schedule 5 [4] to the amending Act) is to be read as a reference to a correctional centre offence. 10

Explanatory note

Items [2] and [3] make provision for matters of a savings or transitional nature.



New South Wales

Prisons Amendment Bill 1995

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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Clerk of the Legislative Assembly.
Legislative Assembly*



New South Wales

Prisons Amendment Bill 1995

Act No , 1995

An Act to rename the *Prisons Act 1952* as the *Correctional Centres Act 1952*; to amend that Act in relation to certain drug trafficking and other offences, leave of absence for interstate travel, penalties, segregation of inmates, compensation for property damage and penal terminology; to amend consequentially the *Criminal Procedure Act 1986*; and for related purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Prisons Amendment Act 1995*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation. 5
- (2) Schedule 5 [66] to this Act commences on the commencement of Schedule 2 (12) to the *Prisons (Amendment) Act 1988* or on the commencement of Schedule 5 to this Act, whichever is the later. 10
- (3) Schedule 5 [114] to this Act commences on the commencement of Schedule 2 (20) (e) to the *Prisons (Amendment) Act 1988* or on the commencement of Schedule 5 to this Act, whichever is the later.
- (4) Schedule 5 [122]–[124] to this Act commences on the commencement of Schedule 2 (22) to the *Prisons (Amendment) Act 1988* or on the commencement of Schedule 5 to this Act, whichever is the later. 15

3 Amendment of Prisons Act 1952 No 9

The *Prisons Act 1952* is amended as set out in Schedules 1.1 and 2–6. 20

4 Amendment of Criminal Procedure Act 1986 No 209

The *Criminal Procedure Act 1986* is amended as set out in Schedule 1.2.

5 Explanatory notes 25

Matter appearing under the heading “Explanatory note” in this Act does not form part of this Act.

Schedule 1 Amendments relating to trafficking offences in correctional centres

(Sections 3 and 4)

1.1 Prisons Act 1952 No 9

[1] Section 37 Trafficking

5

Omit section 37 (1). Insert instead:

- (1) A person must not, without lawful authority, bring or attempt by any means whatever to introduce into any correctional centre or correctional complex any spiritous or fermented liquor.

10

Maximum penalty: 6 months imprisonment or 10 penalty units, or both.

[2] Section 37 (1A)

Insert after section 37 (1):

- (1A) A person must not, without lawful authority, bring or attempt to bring by any means whatever into any correctional centre or correctional complex any prohibited drug, prohibited plant or poison.

15

Maximum penalty:

- (a) in relation to a quantity of a prohibited drug or number of prohibited plants that is less than the small quantity—the same penalty that a person supplying that quantity of the drug or number of plants is liable to under the *Drug Misuse and Trafficking Act 1985* if tried summarily, or
- (b) in relation to a quantity of a prohibited drug or number of prohibited plants that is not less than the small quantity (but not more than the commercial quantity)—the same penalty that a person supplying that quantity of the drug or number of plants is liable to under the *Drug Misuse and Trafficking Act 1985* if tried on indictment, or

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25

30

Prisons Amendment Bill 1995

Schedule 1 Amendments relating to trafficking offences in correctional centres

- (c) in relation to a quantity of a prohibited drug or number of prohibited plants that is not less than the commercial quantity (but not more than the large commercial quantity)—the same penalty that a person supplying that quantity of the drug or number of plants is liable to under the *Drug Misuse and Trafficking Act 1985* if tried on indictment, or 5
- (d) in relation to a quantity of a prohibited drug or number of prohibited plants that is not less than the large commercial quantity—the same penalty that a person supplying that quantity of the drug or number of plants is liable to under the *Drug Misuse and Trafficking Act 1985* if tried on indictment, or 10
- (e) in relation to a poison—a penalty of 2 years imprisonment or 20 penalty units, or both. 15
- [3] Section 37 (2)**
Omit “drug”.
Insert instead “prohibited drug, prohibited plant or poison”. 20
- [4] Section 37 (2A)**
Insert after section 37 (2):
(2A) In this section:
- commercial quantity* of a prohibited drug or prohibited plant means the commercial quantity applicable to the drug or plant under the *Drug Misuse and Trafficking Act 1985*. 25
- large commercial quantity* of a prohibited drug or prohibited plant means the large commercial quantity applicable to that drug or plant under the *Drug Misuse and Trafficking Act 1985*. 30
- poison* means a poison listed in Appendix D of Schedule Four to the Poisons List in force under the *Poisons Act 1966*.

prohibited drug has the same meaning it has in the *Drug Misuse and Trafficking Act 1985*.

prohibited plant has the same meaning it has in the *Drug Misuse and Trafficking Act 1985*.

small quantity of a prohibited drug or prohibited plant means the small quantity applicable to that drug or plant under the *Drug Misuse and Trafficking Act 1985*. 5

[5] Section 47 Proceedings for offences

Omit section 47 (1). Insert instead:

- (1) Subject to Part 4, proceedings for offences against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone. However, this subsection does not apply: 10
 - (a) to offences for which a sentence of penal servitude may be imposed, or 15
 - (b) to offences under section 37 (1A) involving a quantity of prohibited drug or a number of prohibited plants for which a penalty (other than a penalty under paragraph (a) of that subsection) may be imposed. 20

[6] Section 47 (1A)

Insert after section 47 (1):

- (1A) Offences under section 37 (1A) involving a quantity of prohibited drugs or a number of prohibited plants for which a penalty under paragraphs (c) or (d) of that subsection may be imposed must be tried on indictment. 25

[7] Section 47 (2)

Omit "an offence against this Act (other than an offence under section 32) for which a sentence of penal servitude may be imposed."

Insert instead:

5

:

(a) an offence under this Act (other than an offence under section 32) for which a sentence of penal servitude may be imposed, and

(b) an offence under section 37 (1A) involving a quantity of prohibited drug or number of prohibited plants for which a penalty under paragraph (b) of that subsection may be imposed.

10

1.2 Criminal Procedure Act 1986 No 209

[1] Part 9A, Table 1

15

Omit clause 24.

[2] Part 9A, Table 1

Insert after clause 18 in Part 4 of Table 1:

18A Correctional Centres Act 1952

(1) An offence under the *Correctional Centres Act 1952* (other than an offence under section 32) for which a sentence of penal servitude may be imposed.

20

(2) An offence under section 37 (1A) of that Act involving a quantity of prohibited drug or number of prohibited plants for which a penalty under paragraph (b) of that subsection may be imposed.

25

Explanatory note

Schedule 1.1 [1] re-enacts without any changes of substance, the existing provisions in section 37 (1) relating to alcohol trafficking.

Schedule 1.1 [2] re-enacts the provisions presently contained in section 37 (1) relating to drug trafficking subject to the following changes:

5

- the provisions extend to prohibited drugs and prohibited plants under the *Drug Misuse and Trafficking Act 1985* and certain poisons in the Poisons List in force under the *Poisons Act 1966*,
- the penalties for trafficking in drugs and poisons are made consistent with the penalties provided under those Acts for the supply of prohibited drugs, prohibited plants and poisons.

10

Schedule 1.1 [4] inserts various definitions in the section including **prohibited drug**, **prohibited plant** and **poison**. Schedule 1.1 [3] makes a consequential amendment.

Schedule 1.1 [5]–[7] amends section 47 to ensure that offences under proposed section 37 (1A) relating to drugs involving less than a small amount are dealt with summarily. Offences involving not less than a small amount, but not more than a commercial amount, will be dealt with summarily unless the prosecution or the accused elects (in accordance with Part 9A of the *Criminal Procedure Act 1986*) to be tried on indictment. Schedule 1.2 makes consequential amendments to Part 9A of the *Criminal Procedure Act 1986*.

15

20

Schedule 2 Amendment of Prisons Act 1952 relating to property damage compensation and penalties for miscellaneous offences

(Section 3) 5

[1] Section 26D Payment of compensation by inmate for damage to property etc

Omit section 26D (2). Insert instead:

- (2) The maximum amount of compensation that an inmate may be ordered to pay by the governor of a correctional centre is \$50. 10

[2] Section 38 Miscellaneous offences

Omit "shall be liable to imprisonment for a term not exceeding six months or to a penalty not exceeding 10 penalty units or to both such imprisonment and penalty." from section 38 (1). 15

Insert instead:

is guilty of an offence.

Maximum penalty:

- (a) in relation to an offence referred to in subsection (1) (c), (d) or (f)—2 years imprisonment or 20 penalty units, or both, or 20
- (b) in all other cases—6 months imprisonment or 10 penalty units, or both.

Explanatory note

Item [1] replaces section 26D (2) to remove the present limit of \$300 on the amount a Visiting Justice can order an inmate to pay as compensation for property damage. It retains the present limit of \$50 on the amount that a governor of a correctional centre can order an inmate to pay as compensation. 25

Item [2] increases the maximum penalty for certain offences in section 38 involving contraband from 6 months imprisonment or 10 penalty units (or both) to 2 years imprisonment or 20 penalty units (or both) while retaining the existing maximum penalty for other offences under that section. 30

**Schedule 3 Amendment of Prisons Act 1952
relating to segregation of inmates**

(Section 3)

[1] Section 22

Omit the section. Insert instead:

5

22 Segregation of inmates

The Commissioner or the governor of a correctional centre may direct the segregation of an inmate if the Commissioner or governor (as the case may be) is of the opinion that the association of the inmate with other inmates constitutes or is likely to constitute a threat to:

10

- (a) the personal safety of any other person, or
- (b) the security of the correctional centre, or
- (c) good order and discipline within the correctional centre.

15

22AA Protective custody of inmates

- (1) The Commissioner or the governor of a correctional centre may direct that an inmate be held in protective custody if the Commissioner or governor (as the case may be) is of the opinion that the association of the inmate with other inmates constitutes or is likely to constitute a threat to the personal safety of the inmate.

20

- (2) The Commissioner may also direct that an inmate be held in protective custody if the inmate requests the Commissioner in writing to do so.

25

22AB Governor of correctional centre to notify Commissioner of segregation or protective custody direction

The governor of a correctional centre who gives a direction under section 22 or 22AA must report the fact to the Commissioner in writing as soon as practicable.

30

22AC Effect of segregation or protective custody direction

- (1) If the Commissioner or the governor of a correctional centre gives a direction under section 22 or 22AA, the inmate concerned is to be detained:
- (a) away from association with other inmates, or 5
 - (b) if the Commissioner so approves, in association only with such other inmates as the Commissioner may determine.
- (2) An inmate who is segregated or held in protective custody is not to suffer any reduction of diet or be deprived of any rights or privileges (other than those that may be determined by the Commissioner either generally or in a particular case). 10

22AD Period of segregation or protective custody

- (1) An inmate segregated or held in protective custody as a result of a direction of the governor of a correctional centre is not to be so segregated or held for longer than 14 days unless the Commissioner otherwise directs. 15
- (2) The Commissioner must not direct that an inmate be segregated or held in protective custody for a continuous period of more than 3 months, except in accordance with section 22AE. 20

22AE Extension of period of segregation or protective custody

- (1) The Commissioner may direct, on one or more occasions, that the period of segregation or of holding in protective custody of an inmate be extended, but only if on each occasion the Commissioner has: 25
- (a) in the case of an extension of a period of segregation—formed an opinion as required under section 22, or 30

(b) in the case of an extension of a period of holding in protective custody:

(i) formed an opinion as required under section 22AA (1), or

(ii) received a written request as required under section 22AA (2). 5

(2) An extension must not exceed 3 months at a time.

(3) A direction for an extension of a period of segregation, or of a period of holding in protective custody, may differ in its terms from any earlier direction for the segregation, or holding in protective custody, of the same inmate, or for any extension of that segregation or holding in protective custody. 10

22AF Form of direction for segregation or protective custody

A direction under section 22, 22AA or 22AE must be in writing and must include the grounds on which it is given. 15

22AG Revocation of direction for segregation or protective custody

(1) The Commissioner must revoke a direction under section 22AA (2), or a direction under section 22AE (1) that was given at the request of the inmate concerned, if that inmate requests the Commissioner in writing to revoke it. 20

(2) The Commissioner may, at any time, revoke any other direction under section 22, 22AA or 22AE. 25

[2] Section 22A Report to Minister on extension of segregation or protective custody

Omit "a prisoner's period of segregation" from section 22A (1). Insert instead "the period of segregation under section 22, or the period of holding in protective custody under section 22AA (1), of an inmate". 30

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Schedule 3 Amendment of Prisons Act 1952 relating to segregation of inmates

- [3] Section 22A (1) (a) and (b)**
Omit "segregation of the prisoner" wherever occurring.
Insert instead "segregation or holding in protective custody of the inmate".
- [4] Section 22A (4)** 5
Omit the subsection.
- [5] Section 22B Review of segregation or protective custody by Minister**
Omit "a prisoner's segregation" from section 22B (1).
Insert instead "the segregation or holding in protective custody of an inmate". 10
- [6] Section 22B (3) (b)**
Omit "prisoner". Insert instead "inmate".
- [7] Section 22B (3) (c)**
Insert "or 22AA" after "section 22". 15
- [8] Section 22C Review of segregation or protective custody by Review Council**
Omit section 22C (1). Insert instead:
(1) An inmate whose total continuous period of segregation or holding in protective custody exceeds 14 days may apply to the Review Council for a review of the direction for that segregation or holding in protective custody or any direction for an extension of it. 20

[9] Section 22C (2), (4) (c) and (5)

Omit "prisoner's", "prisoner" and "prison" wherever occurring.
Insert instead "inmate's", "inmate" and "correctional centre"
respectively.

[10] Section 22C (5)

5

Insert "or 22AA" after "section 22".

[11] Section 22D Interim directions by Review Council

Omit section 22D (1). Insert instead:

- (1) The Chairperson of the Review Council may give a
direction for the suspension of the segregation or holding
in protective custody of an inmate, or for the removal of
an inmate to a different correctional centre.

10

[12] Section 22D (3)

Omit "the prisoner is not to be segregated unless a fresh direction for
segregation".

15

Insert instead "the inmate is not to be segregated or held in
protective custody unless the relevant fresh direction for segregation
or holding in protective custody".

[13] Section 22D (5)

Omit "or extension of segregation".

20

Insert instead "or holding in protective custody, or of a direction for
extension of segregation or holding in protective custody".

[14] Section 22D (6)

Omit "prisoner" and "prison".

Insert instead "inmate" and "correctional centre" respectively.

25

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Schedule 3 Amendment of Prisons Act 1952 relating to segregation of inmates

[15] Section 22D (6)

Omit "or extension of segregation".

Insert instead "or holding in protective custody, or of a direction for extension of segregation or holding in protective custody".

[16] Section 22E Procedure for review of segregation or holding in protective custody 5

Omit "segregation of a prisoner" from section 22E (1).

Insert instead "segregation or holding in protective custody of an inmate".

[17] Section 22E (3) and (4) 10

Omit "prisoner" and "prisoner's" wherever occurring.

Insert instead "inmate" and "inmate's" respectively.

[18] Section 22F Determination of review by Review Council

Omit "or for the extension of segregation" from section 22F (1).

Insert instead "or holding in protective custody, or a direction for the extension of segregation or holding in protective custody". 15

[19] Section 22F (1) (c) and (d)

Omit "prison officer", "relevant prison" and "prisoner" wherever occurring.

Insert instead "correctional officer", "relevant correctional centre" and "inmate" respectively. 20

[20] Section 62 Functions of Review Council

Omit "segregation of prisoners or for the extension of the segregation of prisoners" from section 62 (d).

Insert instead “segregation or holding in protective custody of inmates, or of directions for the extension of segregation or holding in protective custody of inmates”.

Explanatory note

At present, section 22 blurs the distinction between prisoners who are segregated from other prisoners for their own protection and those who are segregated in order to preserve the good order and discipline of the prison. Item [1] of the proposed amendments repeals and re-enacts the lengthy section 22 in the form of 8 shorter sections so as to make that distinction clear and to reflect the new terminology of the Act to be inserted by Schedule 5. The only change of substance made by the re-enactment is the fact that the new section 22 allows the Commissioner or governor of a correctional centre to direct the segregation of an inmate if the Commissioner or governor (as the case may be) is of the opinion that the association of the inmate with other inmates constitutes or is likely to constitute a threat to the personal safety of *any* other person (at present, the direction may be given only if there is considered to be a threat to the safety of *specified* persons).

Items [2]–[5], [7], [8], [10]–[13], [15], [16], [18] and [20] make consequential amendments.

Items [6], [9], [14], [17] and [19] replace outdated terminology relating to prisons, prisoners and prison officers in a manner consistent with the amendments to be made by Schedule 5.

**Schedule 4 Amendment of Prisons Act 1952
relating to interstate leave of absence**

(Section 3)

[1] Part 5, Division 1, heading

Insert the heading "Division 1 Transfer and leave of absence within the State" before section 27. 5

[2] Part 5, Division 2

Insert after section 29:

Division 2 Interstate leave of absence for inmates

29AA Definitions 10

In this Division:

corresponding interstate law means a law that is declared to be a corresponding interstate law for the purposes of this Division by an order published under section 29AB. 15

corresponding Commissioner, in relation to a participating State, means the officer responsible for the administration of correctional centres in the participating State.

interstate leave permit means a permit granted by the Commissioner under section 29AC. 20

participating State means any State in which a corresponding interstate law is in force.

State includes the Australian Capital Territory and the Northern Territory. 25

29AB Corresponding interstate law

- (1) The Governor may, by an order published in the Gazette, declare that a law of a State other than New South Wales is a corresponding interstate law for the purposes of this Division. 30

- (2) Such an order is to be made only if the Governor is satisfied that the law substantially corresponds with the provisions of this Division.

29AC Issue of interstate leave permits

- (1) The Commissioner may issue an interstate leave permit to an inmate of a correctional centre for leave to travel to and from, and remain in, a participating State for a specified period: 5
- (a) if the inmate does not have a high security classification—on any grounds that the Commissioner considers appropriate, or 10
 - (b) if the inmate has a high security classification—only if the leave is for medical treatment or any other compassionate purpose.
- (2) In particular, the Commissioner may issue an interstate leave permit to an inmate who is an aboriginal person if satisfied that the purpose of the leave is: 15
- (a) to attend a funeral service or burial of any member of the inmate's immediate or extended family, or
 - (b) to attend any occasion of special significance to the inmate's immediate or extended family. 20
- (3) The period specified in an interstate leave permit must not exceed 7 days.
- (4) An interstate leave permit is subject to such conditions (including conditions relating to escort of the inmate) as the Commissioner specifies in the permit or as may be prescribed by the regulations. 25
- (5) The Commissioner may, by instrument in writing, appoint any correctional officer to be an escort for the purposes of this Division. 30
- (6) For the purposes of this section, an inmate has a high security classification if the inmate is within a class of inmates prescribed by the regulations as a high security classification for the purposes of this section.

29AD Effect of interstate leave permit

- (1) If it is a condition of an interstate leave permit that an inmate be escorted to a participating State, the permit:
- (a) authorises the inmate concerned to be absent from the correctional centre in the custody of an escort for the purpose and period specified in the permit, and 5
 - (b) authorises the escort to take and keep custody of the inmate for the purpose of escorting the inmate to (whether or not across any other State) and within the participating State in accordance with the permit, and 10
 - (c) authorises the escort to take and keep custody of the inmate for the purpose of returning the inmate to the correctional centre from which leave of absence was given. 15
- (2) However, if it is not a condition of an interstate leave permit that an inmate be escorted to a participating State, the permit authorises the inmate concerned to be absent from the correctional centre for the purpose and period specified in the permit. 20

29AE Variation or revocation of permit

The Commissioner may at any time:

- (a) vary or omit any condition of an interstate leave permit (whether specified in the permit or prescribed by the regulations) or substitute or add any new condition, or 25
- (b) revoke the permit.

29AF Offence: breach of interstate leave permit

An inmate must not fail, without reasonable excuse, to comply with any condition of an interstate leave permit. 30

Maximum penalty: 10 penalty units.

29AG Notice to participating State and transit jurisdiction

On the granting of an interstate leave permit, the Commissioner must:

- (a) give notice to the corresponding Commissioner and the chief officer of police of the participating State concerned of the issue and period of the permit authorising the inmate concerned to travel to that State, and 5
- (b) give notice to the chief officer of police of any other jurisdiction through which the inmate is to travel to reach the participating State of the issue and period of the permit. 10

29AH Effect of leave permit issued under corresponding interstate law

A person (being a police officer or correctional officer (however described) of a participating State) who is authorised under a permit issued under a corresponding interstate law to escort a person imprisoned in a participating State to or through this State is authorised while in this State: 15

- (a) to hold, take and keep custody of the person for the purposes and period set out in the permit, and
- (b) to hold, take and keep custody of the person for the purpose of returning the person to the participating State. 20 25

29AI Escape from custody of interstate inmates on leave of absence

- (1) A person:
 - (a) who, while in escorted custody in this State, escapes from that custody, or 30
 - (b) who, while in unescorted custody in this State, escapes from that custody,

may be apprehended without warrant by the person's escort (if any), a police officer or any other person.

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Schedule 4 Amendment of Prisons Act 1952 relating to interstate leave of absence

- (2) If a person in escorted or unescorted custody:
- (a) has escaped and been apprehended, or
 - (b) has attempted to escape,
- the person may be taken before a Magistrate.
- (3) The Magistrate may by warrant (and despite the terms of any permit issued under a corresponding interstate law):
- (a) order the return of the person to the participating State in which the permit was issued, and
 - (b) order the person to be delivered to an interstate escort for the purpose of such a return.
- (4) A warrant issued under subsection (3) may be executed according to its tenor.
- (5) A person who is the subject of a warrant issued under subsection (3) may be detained in custody as an inmate of this State until the person is delivered into the custody of an interstate escort in accordance with that warrant or until the expiration of a period of 14 days from the issue of the warrant, whichever first occurs.
- (6) If a person who is the subject of a warrant issued under subsection (3) is not, in accordance with the warrant, delivered into the custody of an interstate escort within a period of 14 days from the issue of the warrant, the warrant ceases to have effect.
- (7) In this section:
- escorted custody* means in the custody of an escort under section 29AH.
- interstate escort* means:
- (a) a person who is authorised to have the custody of another person under a permit issued in a participating State, or

(b) a correctional officer (however described) or a member of the police force of the participating State, or

(c) a person appointed by the corresponding Commissioner of the participating State by an instrument in writing to be an escort for the purpose of escorting another person to the participating State, 5

or any 2 or more of them.

unescorted custody means leave within this State in circumstances where: 10

(a) the leave is authorised by a permit issued under a corresponding interstate law, and

(b) no interstate escort has been appointed to escort the inmate concerned while within this State, and 15

(c) the corresponding interstate law provides that the inmate concerned is taken to be in the custody of the corresponding Commissioner or another official of the participating State while in this State. 20

29AJ Liability of Crown for damage caused by inmate or escort

(1) The Crown in right of the State is liable for any damage or loss sustained by any person in a participating State that is caused by the acts or omissions of any inmate or an escort while in a participating State because of an interstate leave permit. 25

(2) Nothing in this section affects any right of action the Crown may have against the inmate or escort for the damage or loss concerned. 30

[3] Part 5, Division 3, heading

Insert the heading "Division 3 Miscellaneous" before section 29A.

[4] Section 29A Absent inmates deemed to be in custody

Omit "section 29 (2)". Insert instead "section 29AC or 29 (2)".

Explanatory note

Item [2] inserts proposed Division 2 to enable the Commissioner to issue interstate leave permits to inmates to enable them to take leaves of absence interstate while in the custody of an escort or unescorted. The provisions also enable inmates and escorting officers from certain other States and Territories to travel to or through this State on similar permits. In particular, the proposed Division contains the following provisions: 5

Proposed section 29AA defines certain terms used in the proposed Division such as *corresponding interstate law* and *participating State*. 10

Proposed section 29AB enables the Governor, by order published in the Gazette, to declare a law of another State or Territory concerning interstate leave to be a corresponding interstate law to which the proposed Division applies. 15

Proposed section 29AC enables the Commissioner to issue interstate leave permits to inmates. A distinction is drawn in the proposed section between high security inmates and other inmates. High security inmates will be able to obtain a permit only if the Commissioner is satisfied that the interstate leave is for medical reasons or on other compassionate grounds. Other inmates can be granted a permit on any grounds that the Commissioner considers appropriate. In addition, the proposed section enables the Commissioner to issue permits to aboriginal inmates for family funerals and burials and for other special family occasions. 20

Proposed section 29AD specifies the matters which an interstate leave permit authorises an inmate and the inmate's escort (if any) to do. 25

Proposed section 29AE enables the Commissioner to vary or revoke an interstate leave permit at any time.

Proposed section 29AF makes it an offence for an inmate to breach a condition of a permit without lawful excuse. The maximum penalty for the offence will be 10 penalty units (currently \$1000). 30

Proposed section 29AG requires the Commissioner to give notice to any jurisdiction to or through which an inmate is to travel under an interstate leave permit.

Proposed section 29AH authorises an escort who escorts an inmate from interstate to have custody of the inmate while in this State. In exercising his or her duties, an interstate escort (who will be either a police officer or correctional 35

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Amendment of Prisons Act 1952 relating to interstate leave of absence Schedule 4

officer (however described) of a participating State) will be able to carry and use firearms and handcuffs. This follows from section 4 (2) of the *Firearms Act 1989* and section 4 (2) of the *Prohibited Weapons Act 1989* which respectively exempt interstate police officers and prison officers who are carrying out their duties from criminal liability under those Acts.

5

Proposed section 29AI enables an inmate from interstate who is within this State under a leave permit issued by a participating State to be arrested without warrant if the inmate escapes. The provision also permits the repatriation of such an inmate to the participating State in cases of escape and attempted escape.

Proposed section 29AJ provides that the Crown in right of New South Wales is liable for any damage or loss caused by an inmate or escort while in another jurisdiction under an interstate leave permit.

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Item [4] amends section 29A to ensure that an inmate on leave under an interstate leave permit is treated as continuing in the lawful custody of the governor of the correctional centre from which the inmate is absent. Consequently, if the inmate escapes while on such leave, he or she commits an offence under section 34 (escaping).

15

Items [1] and [3] insert other Division headings in Part 5 of the Principal Act to better organise the provisions of the Part.

Schedule 5 Amendment of Prisons Act 1952 relating to penal terminology

(Section 3)

Explanatory note

The amendments made by this Schedule replace outdated penal terminology with current terminology. In particular, it renames the Act as the *Correctional Centres Act 1952* and replaces references to prisons, prisoners and prison officers with references to correctional centres, inmates and correctional officers respectively. Similar amendments are also made by Schedule 3. 5

[1] The long title 10

Omit “prisons” and “prisoners”.
Insert instead “correctional centres” and “inmates” respectively.

[2] Section 1 Name of Act and commencement

Omit section 1 (1). Insert instead:

(1) This Act is the *Correctional Centres Act 1952*. 15

[3] Section 3 Repeals and savings

Omit “prisons” from section 3 (4) where secondly occurring.
Insert instead “correctional centres”.

[4] Section 4 Definitions

Omit the definitions of *convicted prisoner*, *governor of a prison*, *medical officer*, *prison*, *prison complex*, *prison offence* and *prisoner*. 20

Insert the following definitions in alphabetical order:

convicted inmate means:

- (a) a person under sentence of penal servitude or imprisonment imposed by any court, judge or justice or ordered to be detained in strict custody pursuant to section 25 or 39 of the *Mental Health (Criminal Procedure) Act 1990*, or 25

-
- (b) a person undergoing imprisonment in default of payment of any fine, penalty, costs or sum of money imposed on the person by any court, judge or justice, or in default of entering into a recognizance to be of good behaviour on the order of any court, judge or justice. 5

correctional centre includes:

- (a) any premises or place declared to be a correctional centre by a proclamation made under section 5, and 10
- (b) any gaol or place of detention, irrespective of the title by which it is known,

but does not include a detention centre within the meaning of the *Children (Detention Centres) Act 1987*.

correctional centre offence means a correctional centre offence declared under section 23. 15

correctional complex means any premises or place declared to be a correctional complex by virtue of a proclamation in force under section 5.

correctional officer means an officer appointed or employed in accordance with Part 6. 20

governor of a correctional centre means the superintendent, governor, gaoler or other officer or person for the time being in charge of the centre.

inmate means: 25

- (a) any convicted inmate, or
- (b) any person ordered to be imprisoned in or committed to a correctional centre, otherwise than as referred to in the definition of **convicted inmate**, by any court, judge or justice or other competent authority or otherwise than under the *Intoxicated Persons Act 1979*. 30

medical officer means, in relation to a correctional centre, a person who pursuant to section 9 has been appointed or is acting as such. 35

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Schedule 5 Amendment of Prisons Act 1952 relating to penal terminology

- [5] Section 5 Correctional complexes and correctional centres**
Omit "prison complex" wherever occurring.
Insert instead "correctional complex".
- [6] Section 5 (3)**
Omit "prison" where thirdly occurring. 5
Insert instead "correctional centre".
- [7] Section 5 (4)**
Omit "prison". Insert instead "correctional centre".
- [8] Section 5 (5)**
Omit "prison" where secondly and thirdly occurring. 10
Insert instead "correctional centre".
- [9] Section 6 Commissioner**
Omit "prisons and prison complexes" and "prisoners".
Insert instead "correctional centres and correctional complexes" and
"inmates" respectively. 15
- [10] Sections 8 and 8A (4) (a)**
Omit "prisoners" wherever occurring. Insert instead "inmates".
- [11] Section 8A Official Visitors**
Omit "prison" from section 8A (1), (3) (b) and (4) (b) wherever
occurring. 20
Insert instead "correctional centre".

[12] Section 8A (4) (a)

Omit "prison" where firstly and thirdly occurring.
Insert instead "correctional centre".

[13] Section 8A (4) (a)

Omit "prison officers". Insert instead "correctional officers".

5

[14] Sections 9, 10 and 11A (1)

Omit "prison" wherever occurring.
Insert instead "correctional centre".

[15] Section 11 Inspection by Judge or Magistrate

Omit "prison or prison complex".
Insert instead "correctional centre or correctional complex".

10

[16] Part 3, heading

Omit "prisoners". Insert instead "inmates".

[17] Section 12 Exercise

Omit "prisoner" from section 12 (1).
Insert instead "inmate".

15

[18] Section 12 (2)

Omit "Prisoners" and "prisoners".
Insert instead "Inmates" and "inmates" respectively.

[19] Section 12 (2)

Omit "prison" where firstly and secondly occurring.
Insert instead "correctional centre".

20

Prisons Amendment Bill 1995

Schedule 5 Amendment of Prisons Act 1952 relating to penal terminology

[20] Section 12 (2)

Omit "prison" where thirdly occurring.
Insert instead "the correctional centre".

[21] Section 12 (3)

Omit "A prisoner", "prisoner" and "prison complex" wherever occurring. 5
Insert instead "An inmate", "inmate" and "correctional complex"
respectively.

[22] Section 12 (3)

Omit "prison" where firstly and thirdly occurring. 10
Insert instead "correctional centre".

[23] Section 13 Clothing

Omit "prisoner", "prisoner's" and "prison" wherever occurring.
Insert instead "inmate", "inmate's" and "correctional centre"
respectively. 15

[24] Section 14 Diet

Omit "prisoner". Insert instead "inmate".

[25] Section 15 Separation of inmates

Omit "prisoners" wherever occurring. Insert instead "inmates".

[26] Section 16 Medical attention

Omit "prisoner", "prisoners" and "prison officers" wherever
occurring from section 16 (1). 20
Insert instead "inmate", "inmates" and "correctional officers".

[27] Section 16 (2)

Omit "a prisoner". Insert instead "an inmate".

[28] Section 16 (2)

Omit "prisoner" where secondly, thirdly and fourthly occurring.
Insert instead "inmate".

5

[29] Section 16 (2)

Omit "prison officer". Insert instead "correctional officer".

[30] Section 18 Private property

Omit "Every prisoner", "a prisoner", "the prisoner", "prisoners"
and "prisoner's" wherever occurring.
Insert instead "Every inmate", "an inmate", "the inmate",
"inmates" and "inmate's" respectively.

10

[31] Section 18

Omit "into prison", "from prison", "in prison", "a prison", "to
prison" and "the prison" wherever occurring.
Insert instead "into detention in a correctional centre", "from
detention in a correctional centre", "detained in a correctional
centre", "a correctional centre", "to detention in a correctional
centre" and "the correctional centre" respectively.

15

[32] Section 19 Record of personal description of inmates

20

Omit "prisoner". Insert instead "inmate".

[33] Section 20 Work to be performed by inmates

Omit "prisoner", "prisoners" and "prison" wherever occurring.
Insert instead "inmate", "inmates" and "correctional centre"
respectively.

25

[34] Part 4, heading

Omit "Prison". Insert instead "Correctional Centre".

[35] Section 23 Correctional centre offences to be declared by regulations

Omit "prison or prison complex", "a prisoner" and "the prisoner" wherever occurring. 5

Insert instead "correctional centre or correctional complex", "an inmate" and "the inmate" respectively.

[36] Section 23 (1)

Omit "prison" where firstly and fourthly occurring. 10
Insert instead "correctional centre".

[37] Section 23 (2)

Omit "prison". Insert instead "correctional centre".

[38] Section 23 (3)

Omit "prison" where firstly, secondly, thirdly and sixthly occurring. 15
Insert instead "correctional centre".

[39] Section 24 Laying of charges and inquiries by governor of correctional centre

Omit "prison", "a prisoner", "the prisoner" and "the prisoner's" from section 24 (1) and (3) (a), (b), (d)–(f) and (i) wherever occurring. 20

Insert instead "correctional centre", "an inmate", "the inmate" and "the inmate's" respectively.

[40] Section 24 (3) (c)

Omit "The prisoner". Insert instead "The inmate".

[41] Section 24 (3) (h)

Omit "a prison" and "prison officers".

Insert instead "a correctional centre" and "correctional officers" respectively.

5

[42] Section 25 Governor of correctional centre may impose penalties for certain correctional centre offences

Omit "prison", "a prisoner", "the prisoner's", "of prisoners" and "the prisoner" from section 25 (1)–(4), (4B) and (5) wherever occurring.

10

Insert instead "correctional centre", "an inmate", "the inmate's", "of inmates" and "the inmate" respectively.

[43] Section 25 (4A)

Omit "governor of a prison", "a prisoner", "the prisoner's", "the prisoner" and "prison officer".

15

Insert instead "governor of a correctional centre", "an inmate", "the inmate's", "the inmate" and "correctional officer" respectively.

[44] Section 26 Reference of certain correctional centre offences to Visiting Justice

20

Omit "prison" and "a prisoner" wherever occurring.

Insert instead "correctional centre" and "an inmate" respectively.

[45] Section 26A Procedure at hearings before Visiting Justices

Omit "prisoner" and "prison" wherever occurring.

Insert instead "inmate" and "correctional centre" respectively.

25

- [46] Section 26B Imposition of penalty by Visiting Justice**
- Omit "the prisoner", "prisoners", "a prisoner's" and "the prisoner's" wherever occurring.
Insert instead "the inmate", "inmates", "an inmate's" and "the inmate's" respectively. 5
- [47] Section 26C Correctional centre offences may be dealt with summarily or on indictment**
- Omit "a prisoner", "prison" and "the prisoner".
Insert instead "an inmate", "correctional centre" and "the inmate" respectively. 10
- [48] Section 26D Payment of compensation by inmate for damage to property**
- Omit "a prisoner", "prison" and "the prisoner" wherever occurring.
Insert instead "an inmate", "correctional centre" and "the inmate" respectively. 15
- [49] Section 26E Cumulative punishments**
- Omit "prison" and "a prisoner" wherever occurring.
Insert instead "correctional centre" and "an inmate" respectively.
- [50] Section 26F Record of punishments imposed for correctional centre offences** 20
- Omit "prison" and "a prisoner" wherever occurring.
Insert instead "correctional centre" and "an inmate" respectively.
- [51] Section 26G Appeals against decisions of Visiting Justices**
- Omit "a prisoner" wherever occurring. 25
Insert instead "an inmate".

-
- [52] Section 26H Other criminal proceedings for same offence**
Omit "prison" wherever occurring.
Insert instead "correctional centre".
- [53] Section 26I Offence of making false or misleading statements**
Omit "prison" from section 26I (1). 5
Insert instead "correctional centre".
- [54] Part 5, heading**
Omit "prisoners". Insert instead "inmates".
- [55] Section 27 Orders for removal of inmates from one correctional centre to another** 10
Omit "prisoner" and "prison" wherever occurring.
Insert instead "inmate" and "correctional centre" respectively.
- [56] Section 28 Removal of inmates to hospital**
Omit "Any prisoner", "A prisoner", "such prisoner", "the prisoner" and "a prisoner" wherever occurring. 15
Insert instead "Any inmate", "An inmate", "such inmate", "the inmate" and "an inmate" respectively.
- [57] Section 28 (1), (3) and (4)**
Omit "prison" wherever occurring. 20
Insert instead "correctional centre".
- [58] Section 28 (2)**
Omit "the prison", "such prison" and "prison officer".
Insert instead "the correctional centre", "such correctional centre" and "correctional officer" respectively.

[59] Section 29 Absence from a correctional centre in certain circumstances permitted

Omit "Any prisoner", "female prisoner", "the prisoner", "A prisoner" and "a prisoner" wherever occurring.

Insert instead "Any inmate", "female inmate", "the inmate", "An inmate" and "an inmate" respectively.

5

[60] Section 29 (1) and (2)

Omit "prison" wherever occurring.

Insert instead "correctional centre".

[61] Section 29 (4)

10

Omit "to prison" wherever occurring.

Insert instead "to a correctional centre".

[62] Section 29 (5)

Omit "prison complex". Insert instead "correctional complex".

[63] Section 29 (5)

15

Omit "prison" where firstly and thirdly occurring.

Insert instead "correctional centre".

[64] Section 29A Absent inmates taken to be in custody

Omit "A prisoner", "prison" and "such prisoner" wherever occurring.

20

Insert instead "An inmate", "correctional centre" and "such inmate" respectively.

[65] Section 29B Certain absences not to affect length of sentence

Omit "a prisoner", "the prisoner", "a prison", "the prison" and "in prison" wherever occurring.

Insert instead "an inmate", "the inmate", "a correctional centre", "the correctional centre" and "in a correctional centre" respectively.

5

[66] Section 29C Transfer of inmates to or through the Australian Capital Territory (as inserted by the Prisons (Amendment) Act 1988)

Omit "A prisoner", "prison" and "the prisoner" wherever occurring.

Insert instead "An inmate", "correctional centre" and "the inmate" respectively.

10

[67] Part 6, heading

Omit "Prison officers". Insert instead "Correctional officers".

[68] Section 30 Appointment of correctional officers

15

Omit "prison officers". Insert instead "correctional officers".

[69] Section 30A Commissioned and non-commissioned correctional officers

Omit "Prison" and "prison" wherever occurring.

Insert "Correctional" and "correctional" respectively.

20

[70] Section 31 Duties of correctional officers

Omit "prison officers" and "prisons" wherever occurring.

Insert instead "correctional officers" and "correctional centres" respectively.

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Schedule 5 Amendment of Prisons Act 1952 relating to penal terminology

- [71] Section 31A Purpose for which contractors may be engaged**
- Omit "prisons", "prisoners" and "prison" wherever occurring.
Insert instead "correctional centres", "inmates" and "correctional centre" respectively.
- [72] Section 31B Management of correctional centre under agreement** 5
- Omit "prisons", "prison" and "prisoners" wherever occurring.
Insert instead "correctional centres", "correctional centre" and "inmates" respectively.
- [73] Section 31C Authorisation of correctional centre staff** 10
- Omit "prison" and "prisoners" wherever occurring.
Insert instead "correctional centre" and "inmates" respectively.
- [74] Section 31D Status of staff at correctional centre managed under an agreement**
- Omit "prison" from section 31D (1)–(3) wherever occurring. 15
Insert instead "correctional centre".
- [75] Section 31D (4)**
- Omit "the prison" and "prison officer".
Insert instead "the correctional centre" and "correctional officer" respectively. 20
- [76] Section 31E Monitoring**
- Omit "prison" and "prisoners" wherever occurring.
Insert instead "correctional centre" and "inmates" respectively.

[77] Section 31F Corrections Health Service

Omit "Director", "prisoners", "prison" and "Prison Medical Service" wherever occurring.

Insert instead "Chief Executive Officer", "inmates", "correctional centre" and "Corrections Health Service" respectively.

5

[78] Sections 31G Investigation of corruption, 31H Administrative complaints and 31I Freedom of information

Omit "prison" wherever occurring.

Insert instead "correctional centre".

[79] Section 32 Rescuing person from lawful custody

10

Omit "prisoner". Insert instead "inmate".

[80] Section 33 Aiding escape

Omit "a prisoner", "any prisoner" and "prison or prison complex" wherever occurring.

Insert instead "an inmate", "any inmate" and "correctional centre or correctional complex" respectively.

15

[81] Section 34 Escaping

Omit "prisoner" wherever occurring. Insert instead "inmate".

[82] Section 34A Tunnels to facilitate escape

Omit "A prisoner", "any prisoner" and "the prisoner".

Insert instead "An inmate", "any inmate" and "the inmate" respectively.

20

Prisons Amendment Bill 1995

Schedule 5 Amendment of Prisons Act 1952 relating to penal terminology

[83] Section 35 Permitting escape

Omit "a prisoner", "prisoners" and "prison" wherever occurring.
Insert instead "an inmate", "inmates" and "correctional centre" respectively.

[84] Section 36 Harboursing escapee

5

Omit "prisoner". Insert instead "inmate".

[85] Section 37 Trafficking

Omit "prison or prison complex" and "prison officer" wherever occurring.

Insert instead "correctional centre or correctional complex" and "correctional officer" respectively.

10

[86] Section 37A Introduction or supply of syringes

Omit "a prisoner", "the prisoner" and "prison" from section 37A (1)–(3) wherever occurring.

Insert instead "an inmate", "the inmate" and "correctional centre" respectively.

15

[87] Section 37A (4) and (5)

Omit "prison officer", "a prisoner", "the prisoner", "prisoners", "at a prison" and "from a prison" wherever occurring.

Insert instead "correctional centre", "an inmate", "the inmate", "inmates", "at a correctional centre" and "from a correctional centre" respectively.

20

[88] Section 38 Miscellaneous offences

Omit "prison or prison complex", "any prisoner", "prisoners", "prison officer" and "in connection with a prison" wherever occurring.

Insert instead "correctional centre or correctional complex", "any inmate", "inmates", "correctional officer" and "in connection with a correctional centre" respectively.

25

[89] Section 38B Impersonating a correctional officer

Omit "prison officer". Insert instead "correctional officer".

[90] Section 39 Custody of inmates

Omit "Every prisoner", "such prisoner", "A prisoner" and "the prisoner" wherever occurring.

5

Insert instead "Every inmate", "such inmate", "An inmate" and "the inmate" respectively.

[91] Section 39 (1)

Omit "prison". Insert instead "correctional centre".

[92] Section 39 (2)

10

Omit "prison complex". Insert instead "correctional complex".

[93] Section 39 (2)

Omit "prison" where firstly, thirdly and fourthly occurring.
Insert instead "correctional centre".

[94] Section 40 Responsibility of governors of correctional centres

15

Omit "prison" and "prisoner" wherever occurring.
Insert instead "correctional centre" and "inmate" respectively.

[95] Section 40A Correctional centre delivery

Omit "prison" wherever occurring.
Insert instead "correctional centre".

20

[96] Section 40B Evidence of imprisonment in correctional centre

Omit "prison" and "a prisoner".
Insert instead "correctional centre" and "an inmate".

[97] Section 40C Delegations by governors of correctional centres

Omit "prison". Insert instead "correctional centre". 5

[98] Section 41 Expiration of sentence

Omit "A prisoner", "the prisoner", "any prisoner", "the prisoner's" and "from prison" wherever occurring.
Insert instead "An inmate", "the inmate", "any inmate", "the inmate's" and "from detention in a correctional centre" respectively. 10

[99] Section 42 Address of warrant

Omit "prison" and "a prisoner" wherever occurring.
Insert instead "correctional centre" and "an inmate" respectively.

[100] Section 43 Notice to coroner of inmate's death

Omit "a prisoner", "the prisoner" and "prison". 15
Insert instead "an inmate", "the inmate" and "correctional centre" respectively.

[101] Section 44 Attendance of inmate before courts and certain persons and bodies

Omit "a prisoner", "such prisoner", "the prisoner" and "prison" 20
from section 44 (1) wherever occurring.
Insert instead "an inmate", "such inmate", "the inmate" and "correctional centre" respectively.

[102] Section 44 (2)

Omit "Every prisoner", "the prison", "prison officer" and "the prisoner" wherever occurring.

Insert instead "Every inmate", "the correctional centre", "correctional officer" and "the inmate" respectively.

5

[103] Section 45 Sentences to be served in lock-up

Omit "prison", "the prisoner", "Any prisoner" and "a prisoner" wherever occurring.

Insert instead "correctional centre", "the inmate", "Any inmate" and "an inmate" respectively.

10

[104] Section 45A Use of dogs in maintaining good order and security

Omit "prison officer", "a prison" and "the prison" from section 45A (1).

Insert instead "correctional officer", "a correctional centre" and "the correctional centre" respectively.

15

[105] Section 45A (2)

Omit "governor of a prison", "prison or prison complex", "prisons or prison complexes", "prisoners" and "prisoner" wherever occurring.

Insert instead "governor of a correctional centre", "correctional centre or correctional complex", "correctional centres or correctional complexes", "inmates" and "inmate" respectively.

20

[106] Section 45A (3) and (4)

Omit "prison officer" and "prison officer's" wherever occurring.
Insert instead "correctional officer" and "correctional officer's" respectively.

25

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[107] Section 45A (5)

Omit "a prison is being managed", "prisoners" and "prison officer".

Insert instead "a correctional centre is being managed", "inmates" and "correctional officer" respectively.

5

[108] Section 48A Research work—records and information

Omit "prisons" and "prisoners" wherever occurring.

Insert instead "correctional centres" and "inmates" respectively.

[109] Section 48B Funds payable to certain organisation

Omit "prisoners" wherever occurring. Insert instead "inmates".

10

[110] Section 48E Oath or affirmation of office

Omit "prison officer" wherever occurring.

Insert instead "correctional officer".

[111] Section 50 Regulations

Omit "prisons", "prison" and "prisoners" from section 50 (as amended by the *Prisons (Amendment) Act 1988*) wherever occurring, except section 50 (1) (a), (d3), (g), (j3), (n) and (o).

Insert instead "correctional centres", "correctional centre" and "inmates" respectively.

15

[112] Section 50 (1) (a), (d3) and (g)

Omit "prisons and prison complexes" wherever occurring.

Insert instead "correctional centres and correctional complexes".

20

[113] Section 50 (1) (g)

Omit "prisons" where secondly occurring.
Insert instead "correctional centres".

[114] Section 50 (1) (j3) (as inserted by the Prisons (Amendment) Act 1988)

5

Omit "prisons and prison complexes".
Insert instead "correctional centres and correctional complexes".

[115] Section 50 (1) (n) and (o)

Omit "prison officers" and "prison or prison complex" wherever occurring.
Insert instead "correctional centres" and "correctional centre and correctional complex" respectively.

10

[116] Part 9, heading

Omit "Prisoners". Insert instead "Inmates".

[117] Section 53 Definitions

15

Omit the definitions of *authorized person*, *constable*, *court*, *magistrate*, *order* and *prison* from section 53 (1).

Insert in alphabetical order:

authorized person, *constable*, *court*, *magistrate* and *order* have the same respective meanings as in section 3 (1) of the ACT Act.

20

correctional centre has the same meaning as *prison* does in section 3 (1) of the ACT Act.

[118] Section 54 Conveyance and detention of inmates from the Territory

25

Omit "prison" wherever occurring.
Insert instead "correctional centre".

[119] Section 55 Returns of persons to the Territory

Omit "prison" and "prisoner" wherever occurring.
Insert instead "correctional centre" and "inmate" respectively.

[120] Section 56 Application of this Part to inmates in custody at commencement of this Part

5

Omit "prison" wherever occurring.
Insert instead "correctional centre".

[121] Section 57 Validation

Omit "prison" wherever occurring.
Insert instead "correctional centre".

10

[122] Part 9A, heading (as inserted by the Prisons (Amendment) Act 1988)

Omit "Prisoners". Insert instead "Inmates".

[123] Section 58A Definitions (as inserted by the Prisons (Amendment) Act 1988)

15

Omit the definitions of *constable* and *prisoner* from section 58A (1).
Insert in alphabetical order:

constable has the same meaning as in the Commonwealth Act.

inmate has the same meaning as *prisoner* does in the Commonwealth Act.

20

[124] Sections 58B Conveyance and detention of inmates from Norfolk Island, 58C Return of inmates to Norfolk Island (as inserted by the Prisons (Amendment) Act 1988)

Omit "a prisoner", "the prisoner", "The prisoner", "any prisoner" and "prison" wherever occurring.
Insert instead "an inmate", "the inmate", "The inmate", "any inmate" and "correctional centre" respectively.

25

[125] Section 62 Functions of the Review Council

Omit "prisoners" wherever occurring.
Insert instead "inmates".

[126] Section 64 Security of certain information

Omit "prison" from section 64 (a).
Insert instead "correctional centre".

5

[127] Schedule 4A, clauses 3A and 4

Omit "prison" from clauses 3A (1) and 4 (3) wherever occurring.
Insert instead "correctional centre".

[128] Schedules 6 and 7

10

Omit "Prison Officer" wherever occurring.
Insert instead "Correctional Officer".

[129] Schedule 8, clause 6

Omit "prisons". Insert instead "correctional centres".

[130] Schedule 8, clause 14

15

Omit "a prisoner". Insert instead "an inmate".

[131] Schedule 8, clause 15

Omit "a prisoner", "the prisoner" and "prison" wherever occurring.
Insert instead "an inmate", "the inmate" and "correctional centre" respectively.

20

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[132] Schedule 8, clause 16

Omit "a prisoner", "the prisoner", "a prison" and "in prison" wherever occurring.

Insert instead "an inmate", "the inmate", "a correctional centre" and "detained in a correctional centre" respectively.

5

[133] Schedule 8, clause 21

Omit "prisoners". Insert instead "inmates".

[134] Schedule 8, clause 22

Omit "prisoner". Insert instead "inmate".

**Schedule 6 Amendment of Prisons Act 1952
relating to statute law revision and
savings and transitional matters**

(Section 3)

- [1] Section 44 Attendance of inmate before courts and certain other persons and bodies** 5
- Omit "Registrar of the Court of Appeal" from section 44 (3).
Insert instead "Registrar of the Court of Criminal Appeal".
- Explanatory note**
- The amendment made by item [1] corrects an incorrect reference. 10
- [2] Schedule 8, clause 1**
- Insert at the end of clause 1 (1):
- Prisons Amendment Act 1995.*
- [3] Schedule 8, Part 8** 15
- Insert after Part 7:
- Part 8 Provisions consequent on enactment of Prisons Amendment Act 1995**
- 26 Definitions**
- In this Part:
- amending Act* means the *Prisons Amendment Act 1995*. 20
- the appointed day* means the day on which Schedule 3 to the amending Act commences.
- terminology amendment* means an amendment made by the amending Act replacing a reference to a prison, prison complex, prison offence, prisoner or prison officer. 25

27 Inmates held in protective custody

- (1) Any inmate who, immediately before the appointed day, is segregated pursuant to:
- (a) a direction given by the Commissioner or governor under section 22 (1) (as in force immediately before the appointed day) because of his or her opinion that the association of the inmate with other inmates constituted or was likely to constitute a threat to the personal safety of that inmate, or
 - (b) a direction given under section 22 (1A) (as in force immediately before the appointed day),
- is taken to be held in protective custody pursuant to a direction under section 22AA.
- (2) Any other inmate who, immediately before the appointed day, is segregated pursuant to a direction under section 22 (as in force immediately before the appointed day) is taken to be segregated pursuant to a direction made under section 22 (as re-enacted by the amending Act).
- (3) Any period of segregation of an inmate before the appointed day pursuant to a direction referred to in subclause (1) (a) or (b) is taken to be a period of protective custody for the purposes of sections 22A–22G.
- (4) A period of segregation of an inmate before the appointed day pursuant to a direction other than a direction referred to in subclause (1) (a) or (b) is taken to be a period of segregation for the purposes of sections 22A–22G.

28 Effect of terminology amendments

- (1) Any terminology amendment made to this Act by the amending Act is made for the purpose of replacing outdated penal terminology with current terminology.

- (2) Accordingly, any such amendment:
- (a) does not affect the construction or meaning of any provision of any Act or instrument, and
 - (b) does not affect the status, rights, liabilities or immunities of any person or body.

5

29 Inmates having high security classifications for the purposes of section 29AC

Until a regulation is made under section 29AC (6), an inmate classified by the Commissioner:

- (a) in Category A1, A2 or B under clause 10 (1) of the *Prisons (General) Regulation 1995*, or
- (b) in Category E1 or E2 under clause 11 (3) of the *Prisons (General) Regulation 1995*,

10

is taken to be an inmate having a high security classification for the purposes of section 29AC.

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30 References to prisons, prison complexes, prisoners, prison officers and prison offences

- (1) A reference in any other Act, or any instrument made under any Act, or any document of any kind to a prison (within the meaning of this Act before the commencement of Schedule 5 [4] to the amending Act) is to be read as a reference to a correctional centre.
- (2) A reference is any other Act, or any instrument made under any Act, or any document of any kind to a prison complex (within the meaning of this Act before the commencement of Schedule 5 [4] to the amending Act) is to be read as a reference to a correctional complex.
- (3) A reference in any other Act, or any instrument made under any Act, or any document of any kind to a prisoner (within the meaning of this Act before the commencement of Schedule 5 [4] to the amending Act) is to be read as a reference to an inmate.

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Prisons Amendment Bill 1995

Schedule 6 Amendment of Prisons Act 1952 relating to statute law revision and savings and transitional matters

- (4) A reference in any other Act, or any instrument made under any Act, or any document of any kind to a prison officer (within the meaning of this Act before the commencement of Schedule 5 [4] to the amending Act) is to be read as a reference to a correctional officer. 5
- (5) A reference in any other Act, or any instrument made under any Act, or any document of any kind to a prison offence (within the meaning of this Act before the commencement of Schedule 5 [4] to the amending Act) is to be read as a reference to a correctional centre offence. 10

Explanatory note

Items [2] and [3] make provision for matters of a savings or transitional nature.