

Corrections (Amendment) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 12 October 1994

(Brought in by Mr McNamara and Mr Gude)

A BILL

to amend the **Corrections Act 1986** to provide for the powers of the Minister and the Chief Commissioner of Police in relation to certain agreements, to provide for leave of absence for prisoners to travel interstate and to provide for improvements to the administration of that Act and to amend the **Prisoners (Interstate Transfer) Act 1983** and for other purposes.

Corrections (Amendment) Act 1994

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purposes*

The purposes of this Act are—

(a) to amend the **Corrections Act 1986**—

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

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- (i) to provide for the powers of the Minister in relation to agreements for the provision of correctional services; and
 - (ii) to provide for the powers of the Chief Commissioner of Police in relation to agreements for the provision of custodial and certain other services in relation to police gaols; and
 - (iii) to provide for leave of absence for prisoners to travel interstate; and
 - (iv) to improve the administration of that Act; and
- (b) to amend the **Prisoners (Interstate Transfer) Act 1983** to recognise the Australian Capital Territory as a participating State for the purposes of that Act.

2. Commencement

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent.
- (2) The remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in sub-section (2) does not come into operation before 1 January 1996, it comes into operation on that date.

PART 2—AMENDMENT OF CORRECTIONS ACT 1986**3. Principal Act**

In this Part the **Corrections Act 1986** is called the Principal Act.

Act No.
117/1986.
Reprinted t
No. 49/1991
subsequently
amended by
Nos 11/1993
41/1993,
23/1994,
31/1994 and
50/1994.

4. *Definitions*

In section 3 of the Principal Act—

(a) for the definition of “contractor” **substitute—**

“**contractor**” means—

(a) a party to an agreement with the Minister under section 8B (1); or

(b) a party to an agreement with the Director-General under section 9 (1); or

(c) a party to an agreement with the Chief Commissioner of Police under section 9AA (1);;

(b) in the definition of “correctional services”, in paragraph (a) after “to prisons” **insert** “or prisoners”;

(c) after the definition of “Regional Manager” **insert—**

“**sub-contractor**” means a sub-contractor of a contractor;’.

5. *New section 8 substituted*

For section 8 of the Principal Act **substitute—**

“8. *Delegation*

(1) The Director-General may, by instrument, delegate to the Commissioner or to any other officer or employee of the Department of Justice or to any officer within the meaning of Part 5 or Part 9 any function, power, duty or responsibility of the Director-General—

(a) under this Act or the regulations or under any other Act other than the **Public Sector Management Act 1992**; or

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(b) under an agreement under Part 2A—
except this power of delegation and the
Director-General’s powers under section
54A.

(2) The Director-General may under
sub-section (1) delegate a function,
power, duty or responsibility to a person
or class of persons.”

5

6. New section 8A inserted

After section 8 of the Principal Act insert—

10

“8A. Commissioner

(1) The Director-General may under the
Public Sector Management Act 1992
appoint a person to be Commissioner for
the purposes of this Act.

15

(2) The Commissioner is responsible for—

(a) monitoring performance in the
provision of all correctional
services to achieve the safe custody
and welfare of prisoners and
offenders; and

20

(b) exercising any other functions
relating to correctional services that
the Director-General may
determine from time to time.

25

(3) The Commissioner must endeavour to
exercise his or her functions in relation
to correctional services impartially
between all providers of correctional
services so far as this is consistent with
the safe custody and welfare of prisoners
and offenders and the proper operation
of the correctional services.”

30

7. *New Division 1 inserted in Part 2A*

After the heading to Part 2A of the Principal Act
insert—

“Division 1—Correctional services agreements

5 **8B. Minister may enter into correctional services
 agreements**

(1) The Minister may, for and on behalf of
the Crown—

10 (a) enter into an agreement with a
 person or body for the provision by
 that person or body of any
 correctional services; or

15 (b) enter into an agreement with a
 person or body which is ancillary to
 an agreement entered into under
 paragraph (a), including an
 agreement with any person or body
 providing financial accommodation
20 (within the meaning of the
 **Borrowing and Investment
 Powers Act 1987**) or a guarantee in
 respect of an agreement entered into
 under paragraph (a).

25 (2) The Minister must obtain the written
 approval of the Treasurer before entering
 into an agreement under sub-section (1).

8C. Matters to be included in agreement

(1) An agreement under section 8B (1) (a)
must provide for—

30 (a) compliance by the contractor with
 all relevant provisions of this Act or
 the regulations or of any other Act
 or instrument of a legislative
 character;

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- (b) objectives and performance standards in relation to the provision of services;
 - (c) the fees, costs and charges to be paid to the contractor; 5
 - (d) the submission of periodic reports in relation to the contractor's operations under the agreement;
 - (e) an indemnity by the contractor in favour of the Crown and the Minister; 10
 - (f) the office the holder of which is to be the principal officer for the purposes of the application of the **Freedom of Information Act 1982** to the contractor; 15
 - (g) the office the holder of which is to be the principal officer for the purposes of the application of the **Ombudsman Act 1973** to the contractor; 20
 - (h) any other matter that may be prescribed.
- (2) An agreement under section 8B (1) may contain— 25
- (a) a provision leaving any matter to be determined, approved or dispensed with by a specified person or body;
 - (b) a provision providing for the assignment to the Minister or any other person of any right or interest; 30
 - (c) a provision providing for the Minister to delegate powers and functions under the agreement;
 - (d) a provision providing for sub-contracting; 35

- (e) a provision requiring the provision by the contractor of a performance bond;
- (f) a provision providing for the suspension of obligations under the agreement in specified circumstances;
- (g) in the case of an agreement under section 8B (1) (b), a provision providing for—
 - (i) the Minister to take over, or nominate any other person or body to take over, rights or obligations under any other agreement or transaction;
 - (ii) the transfer of land to the Minister in the circumstances set out in the agreement;
- (h) a provision providing for rights of access in relation to correctional services;
- (i) any other provisions that are not inconsistent with this Act or the regulations.

8D. Agreement to run with land

- (1) An agreement entered into under section 8B (1) (b) under which the owner of land covenants to transfer that land to the Minister in the circumstances set out in the agreement must be under seal and must bind the owner of land to those covenants.
- (2) Sections 181, 182 and 183 of the **Planning and Environment Act 1987** apply to that agreement as if a reference in those sections to the responsible

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authority were a reference to the Minister.

- (3) Land which is transferred to the Minister in accordance with an agreement under section 8B (1) (b) is deemed to be unalienated land of the Crown freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests. 5
- (4) No compensation is payable by the Crown in respect of the transfer of land to the Minister in accordance with an agreement under section 8B (1) (b) except compensation (if any) which is expressly provided for in that agreement. 10
15

8E. *Rights of access*

- (1) A contractor or sub-contractor must give the Minister, the Director-General and any person authorised by the Director-General free and unfettered access at all times, together with any assistants and equipment that the Minister, the Director-General or authorised person considers necessary— 20
- (a) to any correctional service under the management or control of the contractor or sub-contractor (as the case requires) which is the subject of an agreement under Part 2A; and 25
- (b) to all persons detained or employed there; and 30
- (c) to all documents in the possession of the contractor or sub-contractor in relation to any correctional service which is the subject of an agreement under Part 2A— 35

5 for the purpose of ensuring compliance with the Act or the regulations or an agreement under Part 2A or ensuring that the safe custody and welfare of prisoners and offenders are maintained.

Penalty: 50 penalty units.

10 (2) A contractor or sub-contractor must give an administrator appointed under section 8F free and unfettered access at all times, together with any assistants and equipment that the administrator considers necessary—

15 (a) to any correctional service under the management or control of the contractor or sub-contractor (as the case requires) which is the subject of an agreement under Part 2A; and

(b) to all persons detained or employed there; and

20 (c) to all documents in the possession of the contractor or sub-contractor in relation to any correctional service which is the subject of an agreement under Part 2A—

25 for the purpose of enabling the administrator to carry out his or her powers and functions under that section.

Penalty: 50 penalty units.

30 (3) An authorisation under sub-section (1) must be in writing and may be given subject to any conditions and limitations that the Director-General thinks fit.

8F. *Emergency powers*

35 (1) If an agreement under section 8B (1) relates to the management of a correctional service, the Minister may

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intervene in the management of that service if—

- (a) the Minister considers that—
 - (i) there is an emergency in the service; or 5
 - (ii) the contractor has failed to provide competent management of the service; and
 - (b) the Minister considers that it is in the public interest or the interest of the safe custody or welfare of prisoners or offenders to intervene. 10
- (2) If the Minister intervenes in the management of a correctional service, the Minister may appoint an administrator to manage the service until the Minister determines that— 15
- (a) the emergency is over; or
 - (b) the contractor is able to manage the service to the satisfaction of the Minister. 20
- (3) If an administrator is appointed under sub-section (2), then for the period of that appointment— 25
- (a) the contractor and any person appointed by the contractor to manage the service must—
 - (i) manage the service in accordance with the directions of the administrator; or 30
 - (ii) cease to manage the service completely or to the extent directed by the administrator; and
 - (b) any person who is employed by the contractor or a sub-contractor in relation to the service must comply with the directions of the 35

administrator in relation to the management and operation of the service.

Penalty 50 penalty units.

- 5
- (4) An administrator appointed under sub-section (2) has and may exercise all of the functions or powers under this Act or the regulations of a Governor, prison officer and Regional Manager in relation to the service and prisoners and offenders for the period of appointment.
- 10
- (5) The Director-General must provide the administrator with any assistance necessary to the carrying out of his or her functions under this section.
- 15
- (6) This section applies despite anything to the contrary in the agreement.

8G. Building work

- 20
- (1) Section 218 of the **Building Act 1993** does not apply to the carrying out of building work under an agreement under section 8B (1) (a).
- 25
- (2) For the purposes of Division 6 of Part 12 of the **Building Act 1993**, building work carried out or to be carried out under an agreement under section 8B (1) (a) is deemed to be carried out on behalf of the Crown.”.

8. Heading to Division 2 of Part 2A inserted

30 Before section 9 of the Principal Act insert—

“Division 2—Management Agreements”.

9. Management agreements

- (1) In section 9 of the Principal Act—

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- (a) in sub-section (1)—
- (i) after “may” **insert** “, for and on behalf of the Crown,”; and
 - (ii) **omit** “or any services related to the transport of prisoners or to court security”; 5
- (b) in sub-section (2)—
- (i) paragraph (c) is **repealed**;
 - (ii) in paragraph (d) after “fees” **insert** “, costs and charges”;
 - (iii) in paragraph (e) for “to the Director-General of periodic reports and audited accounts” **substitute** “of periodic reports”; 10
 - (iv) paragraph (f) is **repealed**;
 - (v) for paragraph (g) **substitute**— 15
 - “(g) an indemnity by the contractor in favour of the Crown and the Director-General.”;
 - (vi) paragraph (h) is **repealed**.
- (2) For section 9 (3) of the Principal Act **substitute**— 20
- “(3) The agreement may contain—
- (a) a provision leaving any matter to be determined, approved or dispensed with by a specified person or body;
 - (b) a provision providing for the assignment to the Director-General or any other person of any right or interest; 25
 - (c) a provision providing for the Director-General to delegate powers and functions under the agreement; 30
 - (d) a provision providing for sub-contracting;
 - (e) a provision requiring the provision by the contractor of a performance bond;
 - (f) a provision providing for the suspension of obligations under the agreement in specified circumstances; 35

- 5
- (g) a provision providing for rights of access in relation to correctional services;
 - (h) any other provisions that are not inconsistent with this Act or the regulations.”.

10. *New Division 3 inserted in Part 2A*

After section 9 of the Principal Act insert—

**“Division 3—Agreements in respect of
Police Gaols**

10 **9AA. Custodial service agreements**

15 The Chief Commissioner of Police may, for and on behalf of the Crown, enter into an agreement with a person or body, including the Director-General, for the provision by that person or body of—

- 20
 - (a) custodial services in police gaols; or
 - (b) services related to the transport of persons to or from police gaols; or
 - (c) services related to court security in relation to persons in the custody of the Chief Commissioner of Police.

25 **9AB. Matters to be included in agreement**

(1) An agreement under section 9AA must provide for—

- 30
 - (a) compliance by the contractor with all relevant provisions of this Act or the regulations or of any other Act or instrument of a legislative character;
 - (b) objectives and performance standards in relation to the provision of services;

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- (c) the fees, costs and charges to be paid to the contractor;
 - (d) the submission of periodic reports in relation to the contractor's operations; 5
 - (e) an indemnity by the contractor in favour of the Crown and the Chief Commissioner of Police;
 - (f) the office the holder of which is to be the principal officer for the purposes of the application of the **Freedom of Information Act 1982** to the contractor; 10
 - (g) the office the holder of which is to be the principal officer for the purposes of the application of the **Ombudsman Act 1973** to the contractor; 15
 - (h) any other matter that may be prescribed. 20
- (2) An agreement under section 9AA may contain—
- (a) a provision leaving any matter to be determined, approved or dispensed with by a specified person or body; 25
 - (b) a provision providing for the assignment to the Chief Commissioner or any other person of any right or interest;
 - (c) a provision providing for the Chief Commissioner to delegate powers and functions under the agreement; 30
 - (d) a provision providing for sub-contracting;
 - (e) a provision requiring the provision by the contractor of a performance bond; 35

- 5
- 10
- (f) a provision providing for the suspension of obligations under the agreement in specified circumstances;
 - (g) a provision providing for rights of access in relation to correctional services;
 - (h) any other provisions that are not inconsistent with this Act or the regulations.

9AC. *Rights of access*

15

(1) A contractor or sub-contractor must give the Chief Commissioner of Police and any person authorised by the Chief Commissioner free and unfettered access at all times together with any assistants and equipment that the Chief Commissioner or the authorised person considers necessary—

20

(a) to any police gaol under the management or control of the contractor or sub-contractor (as the case requires); and

25

(b) to all persons detained or employed there; and

30

(c) to all documents in the possession of the contractor as a provider of services under this Act or under an agreement under section 9AA—

35

for the purpose of ensuring compliance with the Act or the regulations or ensuring that the safe custody and welfare of persons detained in the police gaol are maintained.

Penalty: 50 penalty units.

(2) An authorisation under sub-section (1) must be in writing and may be subject to

any conditions and limitations that the Chief Commissioner thinks fit.”

11. *Heading to Division 4 of Part 2A inserted*

Before section 9A of the Principal Act **insert—**

“Division 4—General provisions relating to agreements”.

5

12. *Authorisation of certain staff*

(1) In section 9A (1) of the Principal Act after “contractor” **insert** “under Division 1 or 2”.

(2) After section 9A (1) of the Principal Act **insert—**

10

“(1A) The Chief Commissioner of Police may, by instrument, authorise a person employed by a contractor under Division 3 to exercise all or any of the same functions or powers as may be exercised under the Corrections (Police Gaols) Regulations 1993 by a member of the police force.”

15

(3) In section 9A of the Principal Act—

(a) in sub-section (3) after “sub-section (1)” **insert** “or (1A)”;

20

(b) in sub-sections (4), (5), (6) and (7) after “Director-General” (wherever occurring) **insert** “or the Chief Commissioner of Police”;

(c) in sub-section (6) after “given” **insert** “by him or her”;

25

(d) in sub-section (7) after “authority” **insert** “given by him or her”.

13. *Police inquiry and report*

(1) For section 9B (1) of the Principal Act **substitute—**

“(1) Before—

30

(a) the Minister enters into an agreement under section 8B (1); or

(b) the Director-General enters into an agreement under section 9 (1); or

(c) the Director-General authorises a person under section 9A (1) to exercise any functions or powers—

the Director-General must request the Chief Commissioner of Police to inquire into and report to him or her on the character, honesty and integrity of any relevant person.

(1A) Before the Chief Commissioner of Police—

(a) enters into an agreement under section 9AA; or

(b) authorises a person under section 9A (1A) to exercise any functions or powers—

the Chief Commissioner of Police must inquire into the character, honesty and integrity of any relevant person.”.

(2) After section 9B (3) of the Principal Act insert—

“(4) The Director-General must give a copy of a report under sub-section (3) to the Minister if it was sought in relation to a proposed agreement under section 8B (1).”.

14. *New sections 9CA and 9CB inserted*

After section 9C of the Principal Act insert—

“9CA. *Staff—police gaols*

A reference in the Corrections (Police Gaols) Regulations 1993 to a member of the police force includes, in relation to the exercise of any function or power under those Regulations, a reference to a person authorised under section 9A (1A) to exercise that function or power.”.

**9CB. Use of reasonable force by staff—police
gaols**

- (1) A person authorised under section 9A (1A) to exercise a function or power may, where necessary, use reasonable force to compel a person who is deemed under section 11 (7) to be in the custody of the Chief Commissioner of Police to obey an order given by the first-mentioned person in the exercise of that function or power. 5
10
- (2) Where a person uses force under the powers in sub-section (1), the person must report the fact to the Chief Commissioner of Police without delay. 15
- (3) A person who uses force in accordance with this section is not liable for injury caused by that use of force. ”.

15. Monitors

- In section 9D (4) of the Principal Act— 20
 - (a) after “contractor” (wherever occurring) **insert** “or sub-contractor”;
 - (b) in paragraph (a) before “9 (1)” **insert** “8B (1) or”.

16. Minimum standards 25

- (1) In section 9E (1) of the Principal Act before “9 (1)” **insert** “8B (1) or”.
- (2) For section 9E (2) of the Principal Act **substitute**— 30
 - “(2) The Chief Commissioner of Police must cause a written statement to be prepared setting out minimum standards in relation to the provision of services by a contractor under an agreement entered into under section 9AA.

- (3) The Director-General or Chief Commissioner of Police may from time to time amend the statement prepared by him or her.”.

17. Application of FOI

5 In section 9F (b) of the Principal Act for “9 (1)” substitute “8B (1), 9 (1) or 9AA”.

18. Investigation of administrative actions

In section 9G (b) of the Principal Act for “9 (1)” substitute “8B (1), 9 (1) or 9AA”.

10 **19. New section 17 substituted**

For section 17 of the Principal Act substitute—

“17. Powers of Director-General

- 15 (1) The Director-General has and may exercise all or any of the powers or functions of a Governor of a prison or a prison officer under this Act.
- 20 (2) The Director-General may exercise the powers and functions under sub-section (1) in relation to a particular prison or class of prisons or in relation to all prisons in Victoria.
- 25 (3) An exercise by the Director-General of any power or function under sub-section (1) in relation to a matter, prevails over the exercise by a Governor or prison officer of that power or function in relation to that matter.”.

20. Exclusion of visitors

(1) After section 43 (1) of the Principal Act insert—

30 “(1A) Without limiting any other power of the Director-General under this Act, if the

Director-General believes on reasonable grounds that the good order or security of prisons or the safety of prisoners or visitors to prisons is threatened, the Director-General may by order prohibit a person from entering all or any prisons in Victoria as a visitor.

5

(1B) An order under sub-section (1A) in relation to a matter prevails over any order under sub-section (1) or section 39 in relation to that matter.”.

10

(2) In section 43 (2) of the Principal Act for “a Governor’s order” substitute “an order”.

21. New Part 8A inserted

After Part 8 of the Principal Act insert—

‘PART 8A—INTERSTATE LEAVE OF ABSENCE FOR PRISONERS

15

80. Definitions

In this Part—

“**corresponding Director**” in relation to a participating State, means the officer responsible for the administration of prisons in that State;

20

“**interstate law**” means a law that under an Order in force under section 81 is declared to be an interstate law for the purposes of this Part;

25

“**participating State**” means any State in which an interstate law is in force;

30

“**permit**” means a custodial community permit issued under this Part;

“State” includes the Australian Capital Territory and the Northern Territory.

81. *Interstate laws*

- 5 (1) Subject to sub-section (2), the Governor in Council may, by Order published in the Government Gazette, declare that a law of a State other than Victoria is an interstate law for the purposes of this Part.
- 10
- (2) An Order must not be made under sub-section (1) in respect of the law of another State unless the Governor in Council is satisfied that the law—
- 15 (a) substantially corresponds to the provisions of this Part; and
- (b) contains provisions that are referred to in this Part as provisions of an interstate law that correspond to specified provisions of this Part.
- 20

82. *Custodial community permit*

The Director-General may issue a custodial community permit to a prisoner for leave to travel to a participating State—

25

- (a) to visit a person with whom the prisoner has had a long standing personal relationship if that person is seriously ill or in acute personal need; or
- 30 (b) to attend the funeral of a person with whom the prisoner had a long standing personal relationship; or
- (c) for any other compassionate purpose.
- 35

83. *Effect of permit*

(1) A permit issued to a prisoner—

(a) authorises the prisoner to be absent from the prison in the custody of a prison officer for the purpose and for the period stated in the permit; and

5

(b) authorises the prison officer appointed to escort the prisoner to take and keep custody of the prisoner for the purpose of escorting the prisoner to the participating State (whether or not across another State) and within the participating State for the purpose set out in the permit and returning the prisoner to the prison from which leave of absence was given; and

10

15

(c) is subject to the conditions set out in the regulations and any other conditions stated in the permit.

20

(2) The period stated in a permit must not exceed 3 days.

(3) A prisoner who is authorised to be absent from prison under a permit continues in the custody of the Director-General while absent.

25

(4) The Director-General may by instrument in writing appoint a prison officer to be an escort for the purposes of this Part.

30

84. *Variation or revocation of permit*

(1) The Director-General may before the prisoner is allowed to be absent from the

prison under a permit or at any time during the period of the permit—

(a) vary or revoke any condition of the permit or impose any additional condition; or

(b) subject to section 83 (2), vary the period of the permit; or

(c) revoke the permit.

(2) The revocation of a permit or the varying or revocation of a condition or the varying of the period of the permit or the imposing of an additional condition under this section takes effect immediately.

84A. Breach of permit

A prisoner who fails without reasonable excuse to comply with any conditions of a permit is guilty of an offence and liable to imprisonment for a term of not more than 3 years.

84B. Notice to participating State and transit States

(1) The Director-General must give notice in writing to the corresponding Director and the chief officer of police of a participating State of the issue of a permit permitting a prisoner to travel to that State and of the period of the permit.

(2) The Director-General must give notice in writing to the chief officer of police of any other State through which a prisoner is to travel by land to reach the participating State of the issue of a permit permitting the prisoner to travel to the participating State and of the period of the permit.

84c. Effect of permit issued under interstate law

(1) If—

(a) under an interstate law a permit is issued permitting a person imprisoned in a participating State to travel to Victoria for a purpose similar to a purpose set out in section 82 (a), (b) or (c); and

5

(b) pursuant to that permit an escort brings the person to Victoria—

10

the escort, while in Victoria, is authorised to hold, take and keep custody of the person for the purpose of escorting the prisoner for the purposes set out in the permit and returning the prisoner to the participating State.

15

(2) If—

(a) under an interstate law a permit is issued permitting a person imprisoned in a participating State (the first State) to travel to another participating State (the second State); and

20

(b) in the course of escorting the person to the second State or returning the person to the first State pursuant to the permit, an escort brings the person into Victoria—

25

the escort, while in Victoria, is authorised to hold, take and keep custody of the person for the purpose of escorting the person to the second State and returning him or her to the first State.

30

84d. Escape from custody of prisoner on leave of absence

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(1) A person in the custody of an escort pursuant to section 84C who escapes

from that custody may be apprehended without warrant by the escort, any member of the police force or any other person.

5 (2) If a person in custody pursuant to section 84C—

(a) has escaped and been apprehended;
or

(b) has attempted to escape—

10 that person may be taken before the Magistrates' Court which may, despite the terms of any permit issued under an interstate law, by warrant—

15 (c) order the person to be returned to the participating State in which the permit was issued; and

(d) for that purpose, order the person to be delivered to an escort.

20 (3) Sub-sections (1) and (2) do not apply to a person to whom section 47 of the Crimes Act 1914 of the Commonwealth applies.

(4) A warrant under sub-section (2) may be executed according to its tenor.

25 (5) A person who is the subject of a warrant issued under sub-section (2) may be detained in the custody of the Director-General as a prisoner until he or she is delivered into the custody of an escort in accordance with the warrant or until the expiration of a period of 7 days from the issuing of the warrant, whichever first occurs.

30 (6) If a person who is the subject of a warrant issued under sub-section (2) is not, in accordance with the warrant, delivered into the custody of an escort

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within a period of 7 days from the issuing of the warrant, the warrant has no further effect.

(7) A reference in sub-section (2), (5) or (6) to an escort in relation to a person who was, at the time of his or her escape or attempted escape, being escorted under a permit issued in a participating State is a reference to—

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(a) the escort who had the custody of that person pursuant to that permit; or

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(b) a prison officer or a member of the police force of the participating State; or

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(c) a person appointed by the corresponding Director of the participating State by instrument in writing to be an escort for the purpose of escorting that person to the participating State—

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or any 2 or more of them.

84E. *Escape from custody—penalty*

(1) Any person who being in custody under a permit, escapes or attempts to escape from that custody while he or she is not within Victoria or the participating State to or from which he or she was being escorted under that permit is guilty of an indictable offence and is liable to imprisonment for a term not exceeding 7 years, to be served after the expiration of any term of imprisonment, penal servitude or detention to which he or she was subject at the time of his or her escape or attempt to escape.

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(2) Without limiting the generality of section 479C of the **Crimes Act 1958**, that section applies to a person—

(a) who is in custody under a permit; and

(b) who escapes from that custody while he or she is not within Victoria or the participating State to or from which he or she was being escorted under that permit—

in the same way as it applies to a person who escapes from lawful custody while undergoing a sentence involving deprivation of liberty in Victoria.

(3) Sub-sections (1) and (2) do not apply to a person to whom section 47 of the **Crimes Act 1914** of the Commonwealth applies.’.

22. New section 111A inserted

After section 111 of the Principal Act insert—

“111A. Supreme Court—limitation of jurisdiction

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court from—

(a) entertaining actions for compensation in respect of which section 8D provides that no compensation is payable; and

(b) entertaining actions for liability in relation to a matter in respect of which section 9CB provides that there is no liability.”.

**PART 3—AMENDMENT OF PRISONERS (INTERSTATE
TRANSFER) ACT 1983**

23. *Principal Act*

In this Part the **Prisoners (Interstate Transfer) Act 1983** is called the Principal Act.

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24. *Definitions*

In section 4 of the Principal Act—

(a) the definition of “Australian Capital Territory” is **repealed**;

(b) for the definition of “corresponding Minister” **substitute—**

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“**corresponding Minister**” in relation to a participating State, means the Minister of that State who is responsible for the administration of the interstate law of that State;’;

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(c) for the definition of “joint prisoner” **substitute—**

“**joint prisoner**” means a person on whom both—

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(a) any of the following—

(i) a State sentence of imprisonment; or

(ii) a State sentence of imprisonment as defined by an interstate law; or

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(iii) an ACT sentence of imprisonment as defined by the Prisoners (Interstate Transfer) Act 1993 of the Australian Capital Territory; or

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(iv) a Territory sentence of imprisonment as defined by the Prisoners (Interstate Transfer)

Act 1983 of the Northern Territory; and

(b) a Commonwealth sentence of imprisonment—

5 have been imposed;’

(d) for the definition of “participating State” **substitute**—

“**participating State**” means a State in which an interstate law is in force;’;

10 (e) for the definition of “sentence of imprisonment” **substitute**—

“**sentence of imprisonment**” means—

(a) a State sentence of imprisonment; or

15 (b) a State sentence of imprisonment as defined by interstate law; or

(c) an ACT sentence of imprisonment as defined by the Prisoners (Interstate Transfer) Act 1993 of the Australian Capital Territory; or

20 (d) a Territory sentence of imprisonment as defined by the Prisoners (Interstate Transfer) Act 1983 of the Northern Territory; or

25 (e) where relevant, a Commonwealth sentence of imprisonment;’;

(f) in the definition of “State” after “includes” **insert** “the Australian Capital Territory”;

(g) for the definition of “Territory” **substitute**—

30 “**Territory**” means the Territory of Norfolk Island, the Territory of Christmas Island, the Territory of the Cocos (Keeling) Islands or the Jervis Bay Territory;’.

25. Interpretation

For section 5 (4) of the Principal Act **substitute—**

“(4) In the case of a State other than the Australian Capital Territory or the Northern Territory, a reference in this Act to the Governor of a participating State includes a reference to any person exercising and performing all the powers and functions of the Governor of that State.

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(4A) In the case of the Australian Capital Territory—

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(a) the reference in section 28 (4) to the Governor of a participating State is a reference to the Governor-General; and

(b) the references in section 28 (5) (b) to the Governor of a participating State are references to the Governor-General or to the Executive within the meaning of the Australian Capital Territory (Self-Government) Act 1988 of the Commonwealth.

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(4B) In the case of the Northern Territory, a reference in this Act to the Governor of a participating State is a reference to the Administrator of the Northern Territory, and includes a reference to any person exercising and performing all the powers and functions of the Administrator.

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(4C) A reference in this Act to the Governor-General includes a reference to any person exercising and performing all the powers and functions of the Governor-General.”.

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