

Corrections (Amendment) Bill

EXPLANATORY MEMORANDUM

OUTLINE

The Bill provides powers for the Minister and the Chief Commissioner of Police in relation to agreements relating to correctional services and police gaols, to establish the office of Commissioner, to provide for leave of absence for prisoners to travel interstate to attend a funeral or to visit a seriously ill family member or close personal friend, to provide for improvements to the administration of the Act and to amend the Prisoners (Interstate Transfer) Act to give recognition to the Australian Capital Territory as a State under the prisoners interstate transfer scheme.

NOTES ON CLAUSES

Clause 1 sets out the purposes of the Act.

Clause 2 provides for the commencement of the Act.

Clause 3 provides that the **Corrections Act 1986** is the Principal Act in Part 2.

Clause 4 provides for a new definition of “contractor” to include persons contracting with the Minister, the Director-General or the Chief Commissioner of Police and amends the definition of “correctional services” to include services related to prisoners.

Clause 5 provides that the Director-General may delegate to the Commissioner, any officer or employee of the Department of Justice or officer under Part 5 or Part 9 of the Act statutory or contractual powers, functions or responsibilities relating to correctional services.

Clause 6 provides that the Director-General may appoint a Commissioner under the **Public Sector Management Act 1992** who is responsible for the impartial monitoring of the performance of correctional services, and other functions as determined by the Director-General.

Clause 7 makes provision for the Minister to enter into correctional services agreements with the written approval of the Treasurer and provides for matters which are to be included in the agreements. The Minister may also enter into ancillary agreements including agreements for financial accommodation which can provide for the owner of the land to transfer the land to the Minister. Land transferred in this manner is deemed to be unalienated land of the Crown and no compensation is payable in respect of the transfer except as expressly provided for in the agreement. A contractor or sub-contractor of a contractor must give the Minister, Director-General, an administrator, and any authorised person rights of access to any correctional service, and to certain persons and documents. A penalty of 50 penalty units applies to a failure by the contractor or sub-contractor to comply with a request for access.

The Minister may intervene in the management of a correctional service in an emergency or where the contractor has failed to provide a competent service, and appoint an administrator to manage the correctional service on behalf of the Minister. The

administrator may exercise powers and functions under the Act, and any person employed by the contractor or a sub-contractor of the contractor must comply with any direction given by the administrator. Non-compliance carries a penalty of 50 penalty units. Sections 30, 73 and 218 of the **Building Act 1993** do not apply to building works carried out under an agreement for correctional services.

Clause 8 provides for a heading to Division 2 of Part 2A of the Principal Act.

Clause 9 provides for various amendments to be made to section 9 of the Principal Act dealing with management agreements entered into by the Director-General.

Clause 10 provides for the Chief Commissioner of Police to enter into custodial service agreements relating to police gaols, and outlines the matters to be included in an agreement. The contractor must give the Chief Commissioner of Police and any authorised person rights of access to a police gaol, all persons employed or detained there, and all documents relating to the service.

Clause 11 inserts a heading to Division 4 of Part 2A of the Principal Act.

Clause 12 provides for general provisions relating to agreements entered into by the Chief Commissioner of Police, including the power to authorise a person to exercise powers and functions under the Corrections (Police Gaols) Regulations 1993.

Clause 13 amends section 9B to provide for inquiries to be made on the character and honesty of any relevant person relating to an agreement entered into by the Minister or the Chief Commissioner of Police.

Clause 14 provides that any person authorised to exercise powers and functions under the Corrections (Police Gaols) Regulations 1993 has the status of a member of the police force, but does not hold the position of a member of the police force. Such an authorised person may use reasonable force to compel a detained person to obey a direction and is not liable for injury caused, which must be reported to the Chief Commissioner of Police.

Clause 15 provides for a monitor to be given access by a contractor or sub-contractor.

Clause 16 provides for the Chief Commissioner of Police to issue minimum standards for services provided in police gaols.

Clause 17 extends the application of the **Freedom of Information Act 1982** to contractors under agreements entered into under the Principal Act by the Minister and the Chief Commissioner of Police and to sub-contractors of those contractors.

Clause 18 extends the application of the **Ombudsman Act 1973** to contractors under agreements entered into under the Principal Act by the Minister and the Chief Commissioner of Police and to sub-contractors of those contractors.

Clause 19 enables the Director-General to exercise all or any of the powers or functions of a Governor or prison officer.

Clause 20 provides for the confidentiality of information under agreements.

Clause 21 enables the Director-General on reasonable grounds to exclude any visitor from entering all or any prisons in Victoria.

Clause 22 inserts Part 8A in the Principal Act to provide for the interstate leave of absence for prisoners. The Director-General may issue a custodial community permit to a

prisoner for leave to travel interstate to attend a funeral, or to visit a seriously ill family member or close personal friend. A custodial community permit is issued for not more than three days, and authorises a prison officer to escort a prisoner. The Director-General may vary or revoke a permit, and any breach of the permit will render a prisoner guilty of an offence and liable to a term of imprisonment of not more than three years. The Director-General must notify all transit States and the participating State that a permit has been issued for travel interstate. If a prisoner in the custody of an escort escapes while interstate, the prisoner is guilty of an indictable offence and liable to imprisonment for a term not exceeding seven years.

Clause 23 provides a limitation on the jurisdiction of the Supreme Court entertaining actions for liability arising from the use of reasonable force in police gaols and in actions for compensation where no compensation is provided for in ancillary agreements which provide for the transfer of land to the Minister.

Clause 24 provides that the **Prisoners (Interstate Transfer) Act 1983** is the Principal Act in Part 3.

Clause 25 provides for various definitions to be included in the Principal Act to recognise the Australian Capital Territory as a participating State.

Clause 26 provides for the interpretation of provisions in the Principal Act.

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