

## PRISONS (AMENDMENT) ACT.

### Act No. 43, 1966.

An Act to make further provision in relation to the regulation and control, and the care and custody, of prisoners; for these and other purposes to amend the Prisons Act, 1952, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 13th October, 1966.]

Elizabeth II,  
No. 43, 1966

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

1. (1) This Act may be cited as the "Prisons (Amendment) Act, 1966".

Short title,  
citation  
and com-  
mencement.

(2) The Prisons Act, 1952, as amended by subsequent Acts and by this Act, may be cited as the Prisons Act, 1952-1966.

(3) The Prisons Act, 1952, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Principal Act is amended—

Amendment  
of Act No.  
9, 1952.

(a) by omitting from paragraph (a) of the definition of "convicted prisoner" in section four the words "subsection three of section sixty-five of the Lunacy Act,"

Sec. 4.  
(Defini-  
tions.)

**Prisons (Amendment) Act.**

No. 43, 1966

Act, 1898-1949” and by inserting in lieu thereof the words “subsection three of section twenty-three of the Mental Health Act, 1958, as amended by subsequent Acts”;

- (b) (i) by omitting from paragraph (d) of the same definition the figures “1901-1939” and by inserting in lieu thereof the figures and words “1901, as amended by subsequent Acts”;
- (ii) by inserting in the same paragraph after the figures “1964” the words “, as amended by subsequent Acts”;
- (c) by omitting from paragraph (b) of the definition of “prisoner” in the same section the letter and symbols “(e)” and by inserting in lieu thereof the letter and symbols “(d)”.

Further amendment of Act No. 9, 1952.

Sec. 7.  
(Duties of the Comptroller-General.)

**3. The Principal Act is further amended—**

- (a) by inserting at the end of section seven the following new paragraph :—

The Comptroller-General may, subject to this Act and subject to the direction of the Minister, either alone or in conjunction with other persons or organisations make provision for the training, welfare and aftercare of prisoners.

Sec. 9.  
(Medical officers.)

- (b) by omitting from section nine the figures “1902-1944” wherever occurring and by inserting in lieu thereof the figures and words “1902, as amended by subsequent Acts”.

Further amendment of Act No. 9, 1952.

Sec. 12.  
(Exercise.)

**4. The Principal Act is further amended—**

- (a) by inserting at the end of section twelve the following new subsection :—

(2) Prisoners may engage in such active sport or leisure activity as may be provided for them by the Comptroller-General and may participate with  
or

or compete against civilians or other prisoners in sport or leisure activities on prison grounds or elsewhere as approved by the Comptroller-General and may—

- (a) with, or
- (b) notwithstanding section twenty-nine of this Act, without,

orders as required by that section, be permitted to be temporarily absent from prison for such purposes.

- (b) by inserting at the end of subsection one of section sixteen the words “, and may be so supplied with such medical attendance, treatment and medicine as in the opinion of the Comptroller-General will alleviate or remedy any congenital or chronic condition which may be a hindrance to rehabilitation”; Sec. 16. (Medical attention.)
- (c) (i) by omitting from paragraph (a) of subsection two of section seventeen the figures “1902-1947” and by inserting in lieu thereof the figures and words “1902, as amended by subsequent Acts”; Sec. 17. (Venereal disease.)
- (ii) by inserting in subsection four of the same section after the words “free from” the words “infectious or contagious”;
- (d) (i) by omitting from subsection one of section eighteen the words “Such property” and by inserting in lieu thereof the words “The governor of the prison may require a prisoner to send away or to cause to be sent away from the prison any or all of his property surrendered as aforesaid. The property of a prisoner not sent away as aforesaid”; Sec. 18. (Private property.)
- (ii) by omitting from subsection two of the same section the words “as aforesaid and” and by inserting in lieu thereof the words “surrendered as aforesaid and sent away as aforesaid and in respect of property retained as aforesaid”;

(e)

**Prisons (Amendment) Act.**

No. 43, 1966

Sec. 20.

(Work to be performed by prisoners.)

(e) (i) by omitting subsection two of section twenty and by inserting in lieu thereof the following subsection : —

(2) Such convicted prisoners or such classes or groups of convicted prisoners as the Comptroller-General may from time to time determine may be set to work beyond the precinct of the prison in which they are imprisoned and while so beyond such precinct shall be deemed to be within the prison.

(ii) by omitting from subsection four of the same section the figures "1901-1939" and by inserting in lieu thereof the figures and words "1901, as amended by subsequent Acts";

(iii) by inserting in the same subsection after the figures "1964," the words "as amended by subsequent Acts,";

Sec. 21.

(Release of maintenance confinees.)

(f) (i) by omitting from subsection one of section twenty-one the figures "1901-1939" and by inserting in lieu thereof the figures and words "1901, as amended by subsequent Acts";

(ii) by inserting in the same subsection after the figures "1964," the words "as amended by subsequent Acts,";

Subst.  
sec. 22.

Segregation of prisoners.

(g) by omitting section twenty-two and by inserting in lieu thereof the following section : —

22. (1) Where the Comptroller-General, or the governor of a prison, is of opinion that the continued association of a prisoner with other prisoners constitutes a threat to the personal safety of any other prisoner or of a prison officer, or to the security of the prison, or to the preservation of good order and discipline within the prison, he may direct the segregation of such first mentioned prisoner, whereupon such prisoner shall be detained away from association with other prisoners or, where the Comptroller-General so approves, in association only with such other prisoners as the Comptroller-General may determine.

(2)

(2) Where the governor of a prison gives a direction pursuant to subsection one of this section he shall immediately report the fact in writing to the Comptroller-General. A prisoner segregated pursuant to the direction of the governor of a prison shall not be so segregated for a longer period than two weeks unless the Comptroller-General otherwise directs. No. 43, 1966

(3) During any period of segregation, the prisoner so segregated shall not suffer reduction of diet, nor shall he be deprived of any rights or privileges other than those which may be determined by the Comptroller-General either generally or in any particular case.

(4) No prisoner shall continue in segregation pursuant to this section for a period exceeding three months without further direction by the Comptroller-General and no continuous period of such segregation shall exceed six months without the sanction of the Minister.

5. The Principal Act is further amended—

Further amendment of Act No. 9, 1952.

(a) by inserting in section twenty-three after the words “prison discipline” the words “whether such offences are committed within a prison or outside a prison whilst in custody or deemed to be in custody”; Sec. 23.  
(Offences against prison discipline.)

(b) by inserting next after section twenty-three the following new section :— New sec. 23A.

23A. Where a prisoner has committed or is suspected to have committed an offence against prison discipline of the nature referred to in paragraph (j), (k), (l), (n), (o), (p) or (q) of section twenty-three of this Act, and such prisoner admits the facts alleged against him in respect of such offence Certain offences against prison discipline may be dealt with by governor of prison.

No. 43, 1966

offence to be true or consents in writing to the governor of the prison hearing and determining the matter, such governor may hear and determine the matter.

If the governor of the prison finds that such prisoner has committed an offence against prison discipline as aforesaid, he may order that such prisoner be confined to cell for a period not exceeding three days, or be deprived of such rights or privileges as he may specify during such period not exceeding one month as he may determine.

Sec. 24.  
(Offences  
against  
prison  
discipline—  
now dealt  
with.)

(c) (i) by inserting at the end of subsection one of section twenty-four the words "and such offence has not been dealt with under section 23A of this Act";

(ii) by omitting paragraphs (a) and (b) of subsection three of the same section and by inserting in lieu thereof the following paragraphs:—

(a) to confinement to cell for a term not exceeding—

(i) fourteen days where the complaint is heard and determined by the Visiting Justice alone, or

(ii) twenty-eight days where the complaint is heard and determined by the Visiting Justice and some other justice nominated as aforesaid, or

(b) to such forfeiture of remission of sentence which would otherwise be granted to him in accordance with this Act, as to the Visiting Justice or to the Visiting Justice and other justice, as the case may be, may seem fit;

Sec. 25.  
(Offences  
may be  
dealt with  
summarily  
or upon  
indictment.)

(d) by omitting from section twenty-five the figures "1902-1947" wherever occurring and by inserting in lieu thereof the figures and words "1902, as amended by subsequent Acts";

(e)

- (e) by inserting in section twenty-six after the words "Where the" the words "governor of a prison, the".

No. 43, 1966  
Sec. 26.  
(Punish-  
ment of  
offences  
to be  
recorded.)

6. The Principal Act is further amended—

Further  
amendment  
of Act No.  
9, 1952.

- (a) by omitting from subsection one of section twenty-eight the words "made on the recommendation of the medical officer" and by inserting in lieu thereof the words "where it appears to the Comptroller-General or the governor of the prison, as the case may be, that medical attendance and treatment for the prisoner is necessary or desirable";
- (b) by omitting section twenty-nine and by inserting in lieu thereof the following sections :—

Sec. 28.  
(Removal  
of prisoners  
to hospital.)

Subst.  
sec. 29  
and new  
sec. 29A.

29. (1) Any prisoner may, by order of the Minister, be taken temporarily from any prison to any place in the State or be permitted to be absent temporarily from any prison for any purpose in aid of the administration of justice, or for the purpose of—

Absence  
from  
prison in  
certain cir-  
cumstances  
permitted.

- (a) attending the funeral or obsequies of any near relative;
- (b) visiting a near relative suffering serious illness or disability;
- (c) applying for work or interviewing an employer or prospective employer;
- (d) attending a place of education or training in connection with any course of education or training;
- (e) engaging in employment specified in the order, or

for any other purpose which the Minister deems to be justified.

(2) The Comptroller-General may, with the approval of the Minister, give in such circumstances or cases as the Minister may determine like orders

No. 43, 1966

orders as may be given by the Minister under subsection one of this section and any order so given by the Comptroller-General shall have the like effect as an order given by the Minister under that subsection.

Absent prisoners deemed to be in custody.

29A. A prisoner taken or absent from a prison pursuant to subsection two of section twelve of this Act or under an order pursuant to subsection one or two of section twenty-nine of this Act, and whether he be escorted by an officer or not, shall, while he is absent from such prison, be deemed to be in the custody of the governor of the prison from which he is so taken or absent, and any failure by such prisoner to return to the prison upon the expiration of his temporary absence pursuant to the said subsection two of section twelve, or in accordance with the order, or upon revocation of the order, shall be deemed to be an escape within the meaning of section thirty-four of this Act.

Further amendment of Act No. 9, 1952.

7. The Principal Act is further amended—

Sec. 35.  
(Permitting escape.)

- (a) by omitting from section thirty-five the words “wilfully or negligently” and by inserting in lieu thereof the following words :—

“(a) wilfully permits him to escape from custody, shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding seven years; or

(b) negligently”;

New sec. 38A.

- (b) by inserting next after section thirty-eight the following new section :—

Prosecutions under sections 37 and 38.

38A. Proceedings for an offence against section thirty-seven or thirty-eight of this Act may be commenced within six months from the time when the facts first came to the knowledge of the Comptroller-General.



## 8. The Principal Act is further amended—

No. 43, 1966

Further  
amendment  
of Act No.  
9, 1952.

- (a) by inserting at the end of section forty-one the following new subsections :—

Sec. 41.

(Expiration  
of  
sentence.)

(3) Prisoners shall be granted remission of sentences as prescribed by regulations under this Act.

Such regulations may include provisions for or with respect to—

- (a) the circumstances in which and the conditions (including conditions as to conduct, industry and behaviour) subject to which such remissions may be granted;
- (b) the period in respect of which such remissions may be granted;
- (c) the forfeiture of entitlement to remissions;
- (d) the procedures and methods of calculation of remissions.

The determination as to remission to be granted under the foregoing provisions shall be made by the Comptroller-General and shall be final and without appeal.

(4) A prisoner granted remission pursuant to the foregoing provisions may be released from prison unconditionally or upon such conditions, and applicable during such period, as the Minister may order. Any such period shall not exceed the unexpired portion of the sentence or the aggregate of the sentences he was serving immediately before his release.

Where a person who has been so released contravenes or fails to comply with any conditions upon which he has been so released the Comptroller-General may, by warrant under his hand, authorise  
any

352 Prisons (Amendment) Act.

No. 43, 1966

any member of the police force to apprehend such person and to return him to a prison to serve the unexpired portion of his term of imprisonment, and such warrant shall be sufficient authority for the apprehension of such person and his return to and retention in a prison.

(5) A prisoner granted remission pursuant to the foregoing provisions may, in such circumstances as may be prescribed or as the Minister deems to be justified, be released from prison not more than fourteen days or in any particular case such longer period as the Minister determines before the date on which his release would otherwise be operative.

New sec. 41A.

- (b) by inserting next after section forty-one the following new section :—

Royal prerogative of mercy preserved.

41A. Nothing in this Act shall be so construed as to limit or affect in any manner the Royal prerogative of mercy.

Sec. 42.  
(Address of warrant.)

- (c) by inserting at the end of section forty-two the following new paragraph :—

A warrant of commitment addressed to the governor or keeper of any prison may be received by the governor or keeper of any other prison.

New secs. 48A, 48B.

- (d) by inserting next after section forty-eight the following new sections :—

Research work—records and information.

48A. (1) Any person or organisation, who or which satisfies the Minister that he or it is undertaking investigations or research work in connection with the administration of prisons, the rehabilitation of prisoners and the circumstances relating to their convictions and terms of imprisonment, or some other aspect of penology, may be supplied by the Comptroller-General with such records and information relating to prisoners and persons who have been imprisoned or the administration of prisons as the

Minister

Minister may direct. Any such records or information shall not be used otherwise than in accordance with such directions and shall not be used in a manner which would disclose the identity of the persons to whom such records relate or information relates. No. 43, 1966

(2) The Department of Prisons may either alone or in conjunction with a University body or other persons or organisations approved by the Minister undertake the like investigations or research work as is referred to in subsection one of this section.

(3) Any person or organisation who or which uses or discloses any records or information supplied to him or it in contravention of any direction of the Minister or of subsection one of this section shall be liable to a penalty not exceeding two hundred dollars.

48B. The Minister may, out of moneys provided by Parliament for the purpose, make payments to such bodies or organisations undertaking the provision of aid and assistance to discharged prisoners and the relatives of prisoners as he may approve. Any such payments shall be subject to such terms and conditions as the Minister may impose. Funds payable to certain organisations.

(e) by inserting next after subsection one of section fifty the following new subsection :— Sec. 50. (Regulations.)

(1A) Any such regulations may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class of subject matter.