

PRISONS (FURTHER AMENDMENT) ACT.

New South Wales



ANNO SEPTIMO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 42, 1968.

An Act relating to the detention in New South Wales of prisoners received from the Australian Capital Territory; for this and other purposes to amend the Prisons Act, 1952, as subsequently amended; and for purposes connected therewith [Assented to, 22nd November, 1968.]

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

Short title
and
citation.

1. (1) This Act may be cited as the "Prisons (Further Amendment) Act, 1968".

(2)

Prisons (Further Amendment).

(2) The Prisons Act, 1952, as subsequently amended **No. 42, 1968** and as amended by this Act, may be cited as the Prisons Act, 1952-1968.

2. The Prisons Act, 1952, as subsequently amended, is amended— Amendment of Act No. 9, 1952.

- (a) by inserting in section two next after the matter relating to Part VIII the following new matter :— Sec. 2. (Division into Parts.)

PART IX.

PRISONERS RECEIVED FROM THE AUSTRALIAN CAPITAL TERRITORY.

- (b) by inserting next after Part VIII the following new Part :— New Part IX.

PART IX.

PRISONERS RECEIVED FROM THE AUSTRALIAN CAPITAL TERRITORY.

53. (1) In this Part, unless the contrary intention appears— Interpretation.

“authorized person”, “constable”, “court”, “magistrate”, “order”, “prison” and “the Territory” have the respective meanings ascribed to those expressions by subsection one of section three of the Commonwealth Act;

“the Governor-General” has the meaning ascribed to that expression by the Acts Interpretation Act 1901, as subsequently amended, of the Parliament of the Commonwealth of Australia;

“warrant” means a warrant issued in accordance with the provisions of the Commonwealth Act.

(2)

Prisons (Further Amendment).

No. 42, 1968

(2) A reference in this Act to the Commonwealth Act is a reference to the Removal of Prisoners (Australian Capital Territory) Act 1968 of the Parliament of the Commonwealth of Australia and includes a reference to that Act as amended at any time, whether or not that Act or any Act amending that Act is, in all respects, a valid law of the Commonwealth of Australia.

(3) Where the Governor-General has commuted a sentence of death pronounced on a person to a term of imprisonment, this Part applies to and in relation to the person as if the sentence of death had been a sentence of imprisonment for that term.

(4) For the purposes of this Part, a reference to an order of a court or magistrate includes a reference to a warrant issued by a court or a magistrate, other than a warrant as defined by subsection one of this section.

Conveyance
and deten-
tion of
prisoners
from the
Territory.

54. (1) Where a constable has a person in custody in accordance with the terms of a warrant, it is lawful for the constable to hold and deal with the person in accordance with those terms.

(2) The governor of a prison or any other officer doing duty at a prison shall accept custody of any person delivered into his custody by a constable in accordance with a warrant, and the person shall thereafter, subject to this Part, be detained in that prison or any other prison in this State for the period, as referred to in the warrant, necessary for the execution of the order or sentence of the court or magistrate so referred to, unless his earlier release is authorized by the exercise of the Royal prerogative of mercy or by reason of the operation of any law of the Commonwealth of Australia, or of any law in force in the Territory, relating to the release of offenders.

(3) Subject to the provisions of the Commonwealth Act, a person referred to in subsection two of this section, until he is released from custody

or

Prisons (Further Amendment).

or delivered into the custody of a constable in accordance with a warrant, may be dealt with in the like manner, and is subject to the like laws, as if the order or sentence of the court or magistrate in respect of the person had been a like order or sentence made or pronounced under a law in force in this State. No. 42, 1968

55. Where a person (in this section referred to as the prisoner) is being detained in a prison under this Part and a constable has presented to the governor of the prison a warrant requiring the person in charge of the prison to deliver the prisoner into the custody of the constable and requiring the constable into whose custody the prisoner is delivered to convey the prisoner in custody to the Territory, the governor of the prison shall deliver the prisoner into the custody of the constable and the warrant shall be sufficient authority for the constable to convey the prisoner in custody to the Territory. Returns
of persons
to the
Territory.

56. This Part applies to and in relation to a person who was, before the commencement of this Part, placed in custody in a prison for the purpose of giving effect to an order or sentence of a court or magistrate and has not been released before that commencement, as if— Application
of this
Part to
prisoners
in custody
at com-
mencement
of this
Part.

- (a) the Commonwealth Act and this Part had been in force at the time the person was placed in custody;
- (b) the person had been delivered into the custody of the governor of that prison in accordance with the terms of a warrant issued in relation to that order or sentence; and
- (c) the detention of the person before the commencement of this Part had been detention in accordance with this Part.

57.

Prisons (Further Amendment).

No. 42, 1968

Validation.

57. (1) Where, before the commencement of this Part, a person has undergone a period of imprisonment in a prison by way of execution or purported execution of a sentence of imprisonment imposed under a law as in force in the Territory, whether or not the person is in a prison at the commencement of this Part, he shall be deemed to have duly served that period of imprisonment in accordance with that sentence or law.

(2) Where, before the commencement of this Part, a person has been detained in custody in this State for the purpose of giving effect to an order or sentence of a court or magistrate, that detention shall, for all purposes (including the purposes of any action or proceedings, whether instituted before or after the commencement of this Part) be deemed to have been as lawful as it would have been if the Commonwealth Act and this Part had been in force at the time of the detention and the detention had been in accordance with this Part.

Evidentiary
provision.

58. A document purporting to be a warrant and to be under the hand of an authorized person shall be admissible in any proceedings and shall, in all courts exercising jurisdiction in this State and upon all occasions, be prima facie evidence of the particulars stated in the document.

APPROPRIATION