

PRISONS (AMENDMENT) ACT, 1978, No. 155

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 155, 1978.

An Act to amend the Prisons Act, 1952, for the purpose of constituting the Corrective Services Commission of New South Wales and transferring to it the powers, authorities, duties and functions formerly conferred or imposed on the Commissioner of Corrective Services; and for other purposes.
[Assented to, 29th December, 1978.]

See also the Statutory and Other Offices Remuneration (Corrective Services) Amendment Act, 1978.

Prisons (Amendment).

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. **1.** This Act may be cited as the "Prisons (Amendment) Act, 1978".

Commence-ment. **2.** (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Sections 4 to 8 and Schedules 1 to 4 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules. **3.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION OF NEW SOUTH WALES.

SCHEDULE 2.—AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE CONSTITUTION OF THE CORRECTIVE SERVICES ADVISORY COUNCIL.

SCHEDULE 3.—AMENDMENTS TO THE PRISONS ACT, 1952, BY WAY OF STATUTE LAW REVISION.

SCHEDULE 4.—AMENDMENTS TO ACTS CONSEQUENT UPON THE CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION OF NEW SOUTH WALES.

Amendment of Act No. 9, 1952. **4.** The Prisons Act, 1952, is amended in the manner set forth in Schedules 1, 2 and 3.

Prisons (Amendment).

5. The Prisons Act, 1952, is further amended—
- (a) by omitting therefrom (sections 4, 6, 17, 29 (2), 41 (4) and 48D excepted) the word “Commissioner” wherever occurring and by inserting instead the word “Commission”;
- (b) by omitting from section 22 (1) the words “he may” and by inserting instead the words “it or he may”.
6. Each Act specified in Column 1 of the Table in Schedule 4 is amended in the manner set out opposite that Act in Column 2 of that Table.
7. A reference in any Act, in any instrument made under any Act or in any other instrument of any kind—
- (a) to the Comptroller-General of Prisons, the Deputy Comptroller-General of Prisons, the Commissioner of Corrective Services or the Deputy Commissioner of Corrective Services shall be read as a reference to the Corrective Services Commission of New South Wales; or
- (b) to the Department of Prisons shall be read as a reference to the Department of Corrective Services.
8. (1) Any thing done, omitted to be done or suffered by the Commissioner of Corrective Services or the Deputy Commissioner of Corrective Services before the day appointed and notified under section 2 (2) shall on and after that day have the same force and effect as it would have had if it had been done, omitted to be done or suffered by the Corrective Services Commission of New South Wales and if the provisions of sections 4 to 6 and Schedules 1 to 4 had been in force when it was done, omitted to be done or suffered.
- (2) Subsection (1) does not apply to a delegation made by the Commissioner of Corrective Services under section 48D of the Prisons Act, 1952, as in force at any time before the day appointed and notified under section 2 (2).

Further amendment of Act No. 9, 1952.

Consequential amendments.

References to Commissioner of Corrective Services, etc.

Transitional

Prisons (Amendment).

Sec. 4.

SCHEDULE 1.

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES.

(1) (a) Section 3 (1)—

Omit “the First Schedule to this Act”, insert instead
“Schedule 1”.

(b) Section 3 (4)—

Omit “the Second Schedule”, insert instead “Schedule
2”.

(2) (a) Section 4, definitions of “Chairman”, “Commission”,
“Commissioner”—

Omit the definition of “Commissioner”, insert
instead :—

“Chairman” means the Chairman of the Commis-
sion;

“Commission” means the Corrective Services Com-
mission of New South Wales;

“Commissioner” means a person holding office as
a member of the Commission;

(b) Section 4, definition of “Deputy Chairman”—

After the definition of “convicted prisoner”, insert :—

“Deputy Chairman” means the Deputy Chairman
of the Commission;

(c) Section 4, definition of “prison rules”—

After the definition of “prison”, insert :—

“prison rules” means rules that have been made
under section 49 and are in force;

Prisons (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES—*continued.*

(3) Section 5 (3)—

Omit the subsection.

(4) Section 6—

Omit the section, insert instead :—

6. (1) There is hereby constituted a corporation under the name of the "Corrective Services Commission of New South Wales".

Constitu-
tion of
Corrective
Services
Commis-
sion of New
South Wales.

(2) Schedule 3 has effect with respect to the constitution and procedure of the Commission.

(5) Section 7A—

After section 7, insert :—

7A. (1) The Chairman—

Chairman's
powers,
authorities,
duties and
functions.

(a) as the chief executive officer of the Commission, shall be responsible for the management of the Department of Corrective Services in accordance with any directions given to him by the Commission; and

(b) subject to any limitations or restrictions specified in regulations made for the purposes of this paragraph, shall have and may exercise and perform such of the Commission's powers, authorities, duties and functions under this or any other Act, under regulations made under this or any other Act or under the prison rules as may be specified in regulations made for the purposes of this paragraph.

Prisons (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES—*continued.*

(2) A regulation made for the purposes of subsection (1) (b) may specify any power, authority, duty or function in general or particular terms or by reference to the provision of the Act, regulation or prison rules by which it is conferred or imposed on the Commission.

(3) Any thing done, omitted to be done or suffered by the Chairman while acting pursuant to subsection (1) (b) shall be deemed to have been done, omitted to be done or suffered by the Commission.

(4) An instrument purporting to be signed by the Chairman and relating to the purported exercise or performance of any power, authority, duty or function specified in regulations made for the purposes of subsection (1) (b) shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Commission under seal and, until the contrary is proved, shall be deemed to be an instrument signed by the Chairman.

(5) Nothing in subsection (1) prevents the Commission from exercising or performing any power, authority, duty or function specified in regulations made for the purposes of subsection (1) (b).

(6) Section 17—

Omit the section.

Prisons (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES—*continued.*

- (7) (a) Section 23—
Omit “or of a prison officer” wherever occurring, insert instead “, of a full-time Commissioner or of a prison officer”.
- (b) Section 23—
Omit “or a prison officer”, insert instead “, a full-time Commissioner or a prison officer”.
- (c) Section 23—
Omit “and prison officers”, insert instead “, the full-time Commissioners and prison officers”.
- (8) (a) Section 29 (1)—
Omit “Minister” wherever occurring, insert instead “Commission”.
- (b) Section 29 (2)—
Omit the subsection.
- (9) Section 29A—
Omit “subsection (1) or (2) of section 29”, insert instead “section 29 (1)”.
- (10) Section 30—
After “All”, insert “persons employed in the Department of Corrective Services and all”.
- (11) Section 41 (4)—
Omit “the Commissioner”, insert instead “any full-time Commissioner”.

Prisons (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES—*continued.*

(12) (a) Section 48A (1)—

Omit “Minister” wherever occurring, insert instead
“Commission”.

(b) Section 48A (2)—

Omit “approved by the Minister”.

(c) Section 48A (3)—

Omit “Minister”, insert instead “Commission”.

(13) Section 48c—

After “operation of the”, insert “Commission and the”.

(14) Section 48D—

Omit the section, insert instead :—

Delegation.

48D. (1) The Commission may, by resolution, delegate
to—

(a) a full-time Commissioner or an officer of the
Public Service employed in the administration of
this Act; or

(b) a person belonging to such class of officers of the
Public Service so employed as is specified in the
resolution,

the exercise or performance of such of the Commission’s
powers, authorities, duties or functions (other than this
power of delegation, a power, authority, duty or function
which the Chairman may, under section 7A (1) (b),
exercise or perform or the Commission’s power under

Prisons (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES—*continued.*

section 49) under this or any other Act, under regulations made under this or any other Act or under the prison rules as are specified in the resolution, and may, by a further resolution, revoke wholly or in part any such delegation.

(2) The Chairman may, by instrument in writing, delegate to—

- (a) either of the other full-time Commissioners or an officer of the Public Service employed in the administration of this Act; or
- (b) a person belonging to such class of officers of the Public Service so employed as is specified in the instrument of delegation,

the exercise or performance of such of the powers, authorities, duties or functions of the Chairman under section 7A (1) (b) as are specified in the instrument of delegation and may, by a further instrument in writing, revoke wholly or in part any such delegation.

(3) A power, authority, duty or function, the exercise or performance of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.

(4) A delegation under this section may be made subject to conditions or limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstance.

(5) Notwithstanding any delegation under this section, the Commission or the Chairman, as the case may be, may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

Prisons (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES—*continued.*

(6) Any thing done, omitted to be done or suffered by a delegate while acting in the exercise of a delegation under this section shall be deemed to have been done, omitted to be done or suffered by the Commission or the Chairman, as the case may be.

(7) An instrument purporting to be signed by a delegate of the Commission or the Chairman in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Commission under seal or by the Chairman, as the case may be, and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Commission or the Chairman, as the case may be, under this section.

(15) First Schedule, heading—

Omit "FIRST SCHEDULE", insert instead "SCHEDULE 1".

(16) Second Schedule, heading—

Omit "SECOND SCHEDULE", insert instead "SCHEDULE 2".

Prisons (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES—*continued.*

(17) Schedule 3—

After the Second Schedule, insert :—

SCHEDULE 3.

Sec. 6.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE
COMMISSION.

1. (1) The Commission shall consist of 5 Commissioners appointed in accordance with subclause (2) of this clause. Composition
of the
Commis-
sion.

(2) Of the Commissioners—

(a) 3 shall be appointed, by an instrument in writing executed by the Governor, as full-time Commissioners; and

(b) 2 shall be appointed, by an instrument in writing executed by the Governor, as part-time Commissioners.

(3) The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a person as a Commissioner and a Commissioner, in his capacity as a Commissioner, is not, except as provided in subclause (4) of this clause, subject to the provisions of that Act during his term of office.

(4) If the terms and conditions on which a Commissioner is appointed so provide, any specified provisions of the Public Service Act, 1902, of the regulations thereunder, or of the Public Service (Amendment) Act, 1919 (with or without any specified modifications) apply, except to the extent of any inconsistency between any such provision and any provision of this Act, to and in respect of him as if he were an officer within the meaning of the Public Service (Amendment) Act, 1919.

2. A person who is of or above the age of 65 years shall not be appointed as a Commissioner or to act in the office of a Commissioner under clause 8 (4). Age of Com-
missioners.

3. (1) A Commissioner shall, subject to this Act, be appointed for such term, not exceeding 7 years, as may be specified in the instrument of his appointment. Terms of
office of
Commis-
sioners.

(2) A Commissioner is, subject to this Act, eligible for re-appointment from time to time for a further term not exceeding 7 years.

*Prisons (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES—*continued.*Chairman
and Deputy
Chairman.

4. One of the full-time Commissioners shall, by the instrument of his appointment as a Commissioner or by another instrument executed by the Governor, be appointed as Chairman and another of them as Deputy Chairman.

Provisions
relating to
full-time
Commissioners.

5. The full-time Commissioners shall devote the whole of their time to the duties of their offices.

Provisions
relating to
part-time
Commissioners.

6. (1) Where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, that provision does not operate to disqualify him from holding that office and also the office of a part-time Commissioner or from accepting and retaining any remuneration payable to a part-time Commissioner under clause 7 (2).

(2) The office of part-time Commissioner shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

Remunera-
tion of Com-
missioners.

7. (1) A full-time Commissioner is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

(2) A part-time Commissioner is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

Substitutes
for Com-
missioners.

8. (1) If at any time the office of Chairman is vacant or the Chairman is absent from his office on leave or through illness or any other cause and—

- (a) no person holds, under subclause (2) of this clause, an appointment to act in the office of the Chairman, the Deputy Chairman—
 - (i) shall act in the office of the Chairman; and
 - (ii) shall have and may exercise and perform the powers, authorities, duties and functions of, and shall be deemed to be, the Chairman; or

Prisons (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES—*continued.*

(b) a person holds, under subclause (2) of this clause, an appointment to act in the office of the Chairman, that person—

(i) shall act in the office of the Chairman; and

(ii) shall have and may exercise and perform the powers, authorities, duties and functions of, and shall be deemed to be, the Chairman.

(2) If at any time the office of the Chairman is vacant or the Chairman is absent from his office on leave or through illness or any other cause, a person may be appointed by an instrument in writing executed by the Minister to act in the office of the Chairman while the office of Chairman is vacant or the Chairman is absent from his office on leave or through illness or other cause.

(3) If at any time the office of a full-time Commissioner (other than the Chairman) is vacant or such a Commissioner is absent from his office on leave or through illness or any other cause, a person may be appointed by an instrument in writing executed by the Minister to act in the office of that full-time Commissioner and the person so appointed, while so acting, shall have and may exercise and perform the powers, authorities, duties and functions of, and shall be deemed to be, a full-time Commissioner.

(4) The Minister may appoint any person to act in the office of a part-time Commissioner while the part-time Commissioner is absent from his office on leave or through illness or any other cause, and the person so appointed, while so acting, shall have and may exercise and perform the powers, authorities, duties and functions of, and shall be deemed to be, a part-time Commissioner.

(5) A Commissioner shall, for the purposes of subclause (4) of this clause, be deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with clause 10.

(6) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a Commissioner or the Chairman or Deputy Chairman, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same

*Prisons (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES—*continued.*

consequences as if they had been done or omitted to be done by that Commissioner or by the Chairman or Deputy Chairman, as the case may be.

**Vacation
of office.**

9. (1) A Commissioner shall be deemed to have vacated his office—

- (a) if he dies;
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;
- (c) if he is absent from 3 consecutive ordinary meetings of the Commission of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;
- (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
- (f) if he resigns his office by writing under his hand addressed to the Governor;
- (g) if he is removed from office by the Governor under subclause (2) of this clause; or
- (h) upon his attaining the age of 65 years.

(2) The Governor may remove a Commissioner from office for any cause which to him seems sufficient.

Prisons (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES—*continued.*

10. On the occurrence of a vacancy in the office of a Commissioner, the Governor may, subject to clause 3, appoint a person to the vacant office.

Filling of casual vacancy in office of Commissioner.

11. Three Commissioners constitute a quorum at a meeting of the Commission.

Quorum.

12. (1) A duly convened meeting of the Commission at which a quorum is present shall be competent to transact any business of the Commission.

Meetings.

(2) Questions arising at a meeting of the Commission shall be determined by a majority of votes of the Commissioners present and voting.

(3) The Chairman shall preside at all meetings of the Commission at which he is present.

(4) If the Chairman is not present at a meeting of the Commission at which the Deputy Chairman is present, the Deputy Chairman shall preside at that meeting.

(5) If both the Chairman and the Deputy Chairman are not present at a meeting of the Commission at which the remaining full-time Commissioner is present, that full-time Commissioner shall preside at that meeting.

(6) The person presiding at a meeting of the Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

13. The Commission shall cause full and accurate minutes to be kept of its proceedings at meetings and shall submit to the Minister a copy of the minutes of each meeting within 14 days after the date on which the meeting is held.

Minutes.

14. The procedure for the calling of, and for the conduct of business at, meetings of the Commission shall, subject to any procedure that is specified in this Act or prescribed, be as determined by the Commission.

General procedure.

*Prisons (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES—*continued.*Protection
from
liability.

15. No matter or thing done, and no contract entered into, by the Commission, and no matter or thing done by a Commissioner or by any other person acting under the direction or as delegate of the Commission or the Chairman shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, the regulations made under this Act or the prison rules, subject a Commissioner or person personally to any action, liability, claim or demand.

Preservation
of rights of
full-time
Commis-
sioners.

16. (1) In this clause—

“statutory body” means any body declared under clause 18 to be a statutory body for the purposes of this Schedule;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Subject to subclause (3) of this clause and to the terms of his appointment, where a full-time Commissioner was, immediately before his appointment as a full-time Commissioner—

(a) an officer of the Public Service;

(b) a contributor to a superannuation scheme;

(c) an officer employed by a statutory body; or

(d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

(e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;

(f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a full-time Commissioner; and

(g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be such an officer, contributor or person during his service as a full-time Commissioner, and—

(h) his service as a full-time Commissioner shall be deemed to be service as an officer or employee for the purpose of

Prisons (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES—*continued.*

any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and

- (i) he shall be deemed to be an officer or employee ~~for~~ the purpose of the superannuation scheme to which he is entitled to contribute under this clause.

(3) If a full-time Commissioner would, but for this subclause, be entitled under subclause (2) of this clause to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme he shall not be so entitled upon his becoming (whether upon his appointment as a full-time Commissioner or at any later time while he holds office as a full-time Commissioner) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) of this clause cease to apply to or in respect of him in any case where he becomes a contributor to such another superannuation scheme.

(4) Subclause (3) of this clause does not prevent the payment to a full-time Commissioner upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of that scheme.

(5) A full-time Commissioner shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

17. (1) In this clause—

“retiring age” means—

- (a) in relation to a person who was, immediately before his appointment as a full-time Commissioner, an officer of the Public Service—the age of 60 years; and
- (b) in relation to a person who was, immediately before his appointment as a full-time Commissioner, an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which that person belonged

Full-time Commissioner entitled to re-appointment in former employment in certain cases.

Prisons (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES COMMISSION
OF NEW SOUTH WALES—*continued.*

immediately before his appointment as a full-time Commissioner), as the case may be, of that statutory body are entitled to retire;

“statutory body” means any body declared under clause 18 to be a statutory body for the purposes of this Schedule.

(2) A person who ceases to be a full-time Commissioner, otherwise than pursuant to clause 9 (1) (paragraph (h) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as a full-time Commissioner, he was—

- (a) an officer of the Public Service—to some office in the Public Service; or
- (b) an officer or employee of a statutory body—to some office in the service of that body,

not lower in classification and salary than that which he held immediately before his appointment as a full-time Commissioner.

Declaration
of statutory
bodies.

18. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

Presump-
tions.

19. In proceedings by or against the Commission, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Commission;
 - (b) the passing of any resolution of the Commission;
 - (c) the appointment of any Commissioner; or
 - (d) the presence of a quorum at any meeting of the Commission.
-

Prisons (Amendment).

SCHEDULE 2.

Sec. 4.

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES ADVISORY
COUNCIL.

(1) Section 4, definition of "Council"—

After the definition of "convicted prisoner", insert :—

"Council" means the Corrective Services Advisory Council constituted under section 7B;

(2) Sections 7B, 7C, 7D—

Before section 8, insert :—

7B. (1) There shall be constituted a Council, to be called the Corrective Services Advisory Council.

Constitution of
Corrective
Services
Advisory
Council.

(2) The Council shall consist of not more than 15 members appointed by the Minister of whom—

(a) one shall be a Judge of the Supreme Court of New South Wales or the District Court of New South Wales; and

(b) the remaining members shall be persons who have had experience in at least one of the following disciplines or activities, namely, criminology, religion, sociology, behavioural science, social work, law, medicine, psychiatry, psychology, public administration, education, representation of employees or representation of employers, or in any similar or related discipline or activity.

(3) The Chairman of the Council shall be the person appointed under subclause (2) (a) of this clause.

*Prisons (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES ADVISORY
COUNCIL—*continued.*

(4) A Commissioner or a person employed as an officer of the Department of Corrective Services is not eligible to be a member of the Council.

(5) A member of the Council shall, subject to this Act, hold office for a period of 3 years from the date of his appointment and shall be eligible for re-appointment.

(6) Schedule 4 has effect with respect to the Council.

Powers and
duties of
the Council.

7c. (1) The Council—

- (a) shall investigate and report to the Minister on such policies, practices and programmes of the Commission and other matters relating to the powers, authorities, duties and functions of the Commission as are referred to it by the Minister for investigation and report; and
- (b) may, with the approval of the Minister, investigate and report to the Minister on any policies, practices or programmes of the Commission or other matters relating to the powers, authorities, duties and functions of the Commission.

(2) The Minister may publish any report made to him by the Council and any statements or documents accompanying it.

(3) For the purpose of the exercise or performance of the powers and duties of the Council, any member of the Council—

- (a) may visit and examine any prison at any time he thinks fit; and

Prisons (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES ADVISORY
COUNCIL—*continued.*

(b) may examine any files or records of the Department of Corrective Services other than personal files relating to officers employed in the Department or in any prison.

(4) The Commission shall, at the request of any member of the Council, afford him the opportunity of conferring with any person employed as an officer of the Department of Corrective Services.

7D. (1) The Council may establish sub-committees for the purpose of advising the Council on any matters relating to its powers and functions, and may dissolve any such sub-committee or terminate the appointment of a member of any such sub-committee at any time and for any reason it thinks fit. Sub-committees.

(2) A person employed as an officer of the Department of Corrective Services shall not be appointed as a member of such a sub-committee except with the concurrence of the Chairman of the Commission.

(3) Schedule 4—

After Schedule 3, to be inserted by section 4 and Schedule 1 (16), insert :—

SCHEDULE 4.

Sec. 7B.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE
COUNCIL.

1. Meetings of the Council shall be held at least once every calendar month. Meetings of the Council.

Prisons (Amendment).

SCHEDULE 2—*continued.*
**AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES ADVISORY
COUNCIL—*continued.***
**Chairman
of the
Council.**

2. (1) The Chairman of the Council shall preside at all meetings of the Council at which he is present.

(2) If the Chairman of the Council is absent from any meeting, the members of the Council present shall appoint one of their number to preside at that meeting.

Quorum.

3. Six members constitute a quorum at a meeting of the Council.

**Vacation
of office.**

4. (1) A member of the Council shall be deemed to have vacated his office if he—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) is removed from office by the Minister under subclause (2) of this clause; or
- (d) is absent from 3 consecutive meetings of the Council of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings.

(2) The Minister may remove any member of the Council from office—

- (a) if that member discloses any information obtained in connection with the exercise or performance of his functions as such a member unless that disclosure is made—
 - (i) in connection with the exercise or performance of his functions as such a member;
 - (ii) for the purpose of any legal proceedings arising out of this Act or of any report of any such proceedings; or
 - (iii) with other lawful excuse; or
- (b) for any other cause of any kind whatsoever that to the Minister seems sufficient.

Prisons (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, RELATING TO THE
CONSTITUTION OF THE CORRECTIVE SERVICES ADVISORY
COUNCIL—*continued.*

5. Each member of the Council shall receive such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

6. The procedure for the calling of, and for the conduct of business at, meetings of the Council shall, subject to any that is prescribed, be as determined by the Council.

SCHEDULE 3.

Sec. 4.

AMENDMENTS TO THE PRISONS ACT, 1952, BY WAY OF STATUTE
LAW REVISION.

(1) (a) Section 3 (2) (b)—

Omit “, or of any Act amending the said Acts”
wherever occurring.

(b) Section 3 (2) (c)—

Omit “Superannuation Acts, 1916–1951”, insert
instead “Superannuation Act, 1916”.

(2) Section 4, definition of “convicted prisoner”—

From paragraph (a), omit “subsection (3) of section 23
of the Mental Health Act, 1958, as amended by sub-
sequent Acts”, insert instead “section 23 (3) of the Mental
Health Act, 1958”.

Prisons (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRISONS ACT, 1952, BY WAY OF STATUTE
LAW REVISION—*continued.*

- (3) (a) Section 9 (2)—
Omit “or of any Act amending that Act,”.
- (b) Section 9 (2)—
Omit “of any such Act”, insert instead “of that Act”.
- (c) Section 9 (4) and (5)—
Omit “as amended by subsequent Acts,” wherever occurring.
- (4) Section 11—
Omit “Chairman of Quarter Sessions”, insert instead “District Court”.
- (5) Section 23A—
Omit “paragraph (j), (k), (l), (n), (o), (p) or (q) of section 23”, insert instead “section 23 (j), (k), (l), (n), (o), (p) or (q)”.
- (6) Section 24 (3)—
Omit “subsection (3) of section 20”, insert instead “section 20 (3)”.
- (7) (a) Section 25—
Omit “subsection (1) of section 35”, insert instead “section 35 (1)”.

Prisons (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRISONS ACT, 1952, BY WAY OF STATUTE
LAW REVISION—*continued.*

(b) Section 25—

Omit “, as amended by subsequent Acts” wherever occurring.

(8) (a) Section 29A—

Omit “subsection (2) of section 12” where firstly occurring, insert instead “section 12 (2)”.

(b) Section 29A—

Omit “the said subsection (2) of section 12”, insert instead “section 12 (2)”.

(9) Section 30—

Omit “, or of any Act amending the same”.

(10) (a) Section 50 (1A)—

Omit the subsection, insert instead :—

(1A) A provision of a regulation may—

(a) apply generally or be limited in its application by reference to specified exceptions or factors;

(b) apply differently according to different factors of a specified kind; or

(c) authorise any matter or thing to be from time to time determined, applied or regulated by any person or body specified or described in the regulation,

or may do any combination of those things.

Prisons (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRISONS ACT, 1952, BY WAY OF STATUTE
LAW REVISION—*continued.*

(b) Section 50 (3)—

Omit the subsection, insert instead :—

(3) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this Act as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(11) (a) Section 53 (1), definitions of “authorized person”, “constable”, “court”, “magistrate”, “order”, “prison” and “the Territory”—

Omit “subsection (1) of section 3”, insert instead “section 3 (1)”.

(b) Section 53 (1), definition of “the Governor-General”—
Omit “Acts Interpretation Act 1901, as subsequently amended, of the Parliament of the Commonwealth of Australia”, insert instead “Acts Interpretation Act 1901 of the Parliament of the Commonwealth”.

(c) Section 53 (2)—

Omit “of Australia” wherever occurring.

(12) Section 54 (2)—

Omit “of Australia”.

Prisons (Amendment).

SCHEDULE 4.

Sec. 6.

AMENDMENTS TO ACTS CONSEQUENT UPON THE CONSTITUTION
OF THE CORRECTIVE SERVICES COMMISSION OF NEW SOUTH
WALES.

TABLE.

Column 1. Act.		Column 2.
Year and No.	Short title.	Amendment.
1912, No. 41 ..	Parliamentary Electorates and Elections Act, 1912.	Section 41 (2) (a)— Omit "Commissioner of Corrective Services", insert instead "Corrective Services Commission of New South Wales".
1957, No. 19 ..	Habitual Criminals Act, 1957.	Section 5 (2) (a) (i)— Omit "the Comptroller-General of Prisons, or the Deputy Comptroller of Prisons," insert instead "any full-time member of the Corrective Services Commission of New South Wales".
1966, No. 41 ..	Parole of Prisoners Act, 1966.	Section 8 (1), (2) (a)— Omit "Commissioner of Corrective Services" wherever occurring, insert instead "Corrective Services Commission of New South Wales".
1970, No. 90 ..	Periodic Detention of Prisoners Act, 1970.	Section 2, definition of "Commission"— Omit the definition of "Commissioner", insert instead:— "Commission" means the Corrective Services Commission of New South Wales; Section 5 (4)— Omit "Commissioner", insert instead "Commission". Section 6 (1) (a), (b)— Omit "Commissioner" wherever occurring, insert instead "Commission". Section 7 (1)— Omit "Commissioner", insert instead "Commission". Section 10 (2)— (a) Omit "the Commissioner or a person nominated by him", insert instead "a person nominated by the Commission". (b) Omit "The Commissioner or the person nominated by him", insert instead "The person nominated by the Commission". Section 10 (3)— Omit "Commissioner" wherever occurring, insert instead "Commission".

Act No. 155, 1978.

*Prisons (Amendment).*SCHEDULE 4—*continued.*AMENDMENTS TO ACTS CONSEQUENT UPON THE CONSTITUTION
OF THE CORRECTIVE SERVICES COMMISSION OF NEW SOUTH
WALES—*continued.*TABLE—*continued.*

Column 1. Act.		Column 2.
Year and No.	Short title.	Amendment.
1977, No. 18 ..	Jury Act, 1977..	Schedule 2 (5)— After "person", insert "who is a member of the Corrective Services Commission of New South Wales or is".