



New South Wales

Crimes (Administration of Sentences) Amendment Act 2002 No 36

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Crimes (Administration of Sentences) Act 1999 No 93	2
4 Monitoring of amendments by Ombudsman	2
Schedule 1 Amendments	4



New South Wales

Crimes (Administration of Sentences) Amendment Act 2002 No 36

Act No 36, 2002

An Act to amend the *Crimes (Administration of Sentences) Act 1999* with respect to escaped inmates, the seizure of property brought unlawfully into correctional centres and the making of oral submissions to the Parole Board by victims of serious offences; and for other purposes. [Assented to 25 June 2002]

See also *Summary Offences Amendment (Places of Detention) Act 2002*.

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *Crimes (Administration of Sentences) Amendment Act 2002*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Crimes (Administration of Sentences) Act 1999 No 93

The *Crimes (Administration of Sentences) Act 1999* is amended as set out in Schedule 1.

4 Monitoring of amendments by Ombudsman

(1) In this section:

the relevant provisions means:

- (a) the provisions of the *Crimes (Administration of Sentences) Act 1999* amended by this Act, and
- (b) the provisions of the *Summary Offences Act 1988* amended or inserted by the *Summary Offences Amendment (Places of Detention) Act 2002*.

(2) For the period of 2 years after the commencement of this section, the Ombudsman is to keep under scrutiny the operation of the relevant provisions.

(3) For that purpose, the Ombudsman may require the Department of Corrective Services or the Attorney General's Department to provide information concerning the Department's participation in the operation of the relevant provisions.

(4) The Ombudsman must, as soon as practicable after the expiration of that 2 year period, prepare a report as to the operation and effect of the relevant provisions and furnish a copy of the report to the Minister for Corrective Services and the Attorney General.

-
- (5) The Ombudsman may identify, and include recommendations in the report to be considered by the Minister for Corrective Services and the Attorney General about, amendments that might appropriately be made to the relevant provisions with respect to the operation of those provisions.
- (6) The Minister for Corrective Services is to lay (or cause to be laid) a copy of any report made or furnished to the Minister under this section before both Houses of Parliament as soon as practicable after the Minister receives the report.
- (7) If a House of Parliament is not sitting when the Minister for Corrective Services seeks to furnish a report to it, the Minister may present copies of the report to the Clerk of the House concerned.
- (8) The report:
- (a) on presentation and for all purposes is taken to have been laid before the House, and
 - (b) may be printed by authority of the Clerk of the House, and
 - (c) if printed by authority of the Clerk is for all purposes taken to be a document published by or under the authority of the House, and
 - (d) is to be recorded:
 - (i) in the case of the Legislative Council, in the Minutes of the Proceedings of the Legislative Council, and
 - (ii) in the case of the Legislative Assembly, in the Votes and Proceedings of the Legislative Assembly,on the first sitting day of the House after receipt of the report by the Clerk.

Schedule 1 Amendments

(Section 3)

[1] Section 39 Powers of arrest

Omit section 39 (2)–(4). Insert instead:

- (2) A police officer who arrests an inmate under subsection (1):
 - (a) in the case of an inmate who has escaped from custody—is to take the inmate before an authorised justice to be dealt with according to law, or
 - (b) in any other case—is to convey the inmate to the nearest appropriate correctional centre.
- (3) A correctional officer who arrests an inmate under subsection (1):
 - (a) in the case of an inmate who has escaped from custody—is to take the inmate to a police officer, or before an authorised justice to be dealt with according to law, or
 - (b) in any other case—is to convey the inmate to the nearest appropriate correctional centre.
- (4) If an inmate is taken before an authorised justice under subsection (2) (a) or (3) (a), the authorised justice may, by warrant, commit the inmate to the custody of:
 - (a) the person from whose custody the inmate escaped, or
 - (b) a correctional centre to be held pending the return of the inmate to the custody of that person, or
 - (c) any other person with lawful authority to hold the inmate in custody.
- (5) Subsection (4) does not limit the powers of an authorised justice to deal with an inmate according to law.
- (6) A warrant under subsection (4) is sufficient authority:
 - (a) for any police officer or correctional officer to convey the inmate to the person specified in the warrant, or to the correctional centre specified in the warrant, and to

deliver the inmate into the custody of that person or the governor of that correctional centre, and

- (b) for the governor of the correctional centre to keep the inmate in his or her custody pending the person's return to the custody of the person from whose custody the inmate escaped.

- (7) In this section:

authorised justice has the same meaning as in the *Search Warrants Act 1985*.

[2] Section 78 Use of dogs in maintaining good order and security

Insert at the end of section 78:

- (7) Nothing in this section limits the power of a correctional officer to use a dog under any other Act or law.

[3] Section 79 Regulations

Insert after section 79 (h1):

- (h2) the seizure, forfeiture and disposal of property brought into a correctional centre in contravention of this Act, the regulations or any other law,

[4] Section 147 Submissions by offender and victims

Omit "(but, in the case of victim submissions, only with the approval of the Parole Board)" from section 147 (3) (b).

[5] Section 190 Rights of parties making submissions

Insert after section 190 (2):

- (3) Subsection (2) (b) (ii) does not require a victim of a serious offender or his or her representative to obtain the approval of the Parole Board to make an oral submission to the Parole Board under section 147 (3).

[6] Section 263 Exclusion of personal liability

Insert "or any other Act" after "this Act" in section 263 (1) (c).

[7] Section 263 (1)

Insert “or any other Act” after “execution of this Act”.

[8] Schedule 5 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Crimes (Administration of Sentences) Amendment Act 2002

[Second reading speech made in—
Legislative Assembly on 8 May 2002
Legislative Council on 11 June 2002]