

Passed by both Houses



New South Wales

Crimes (Administration of Sentences) Amendment Bill 2010

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2010*



New South Wales

Crimes (Administration of Sentences) Amendment Bill 2010

Act No , 2010

An Act to amend the *Crimes (Administration of Sentences) Act 1999* and other legislation with respect to the making of parole orders for Norfolk Island prisoners, corrective services dogs and the provision of information; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes (Administration of Sentences) Amendment Act 2010*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Crimes (Administration of Sentences) Act 1999 No 93

[1] Section 48 Conveyance and detention of prisoners from Norfolk Island

Insert “, the *Sentencing Act 2007* of Norfolk Island and Division 4A of Part 6 of this Act” after “Norfolk Island Act” in section 48 (6).

[2] Sections 107, 235E (1) and 235F (2)

Omit “*community service field officer*” wherever occurring.

Insert instead “*community offender services field officer*”.

[3] Sections 112 (1) (b), 117 (g) and 235E (2)

Omit “community service field officers” wherever occurring.

Insert instead “community offender services field officers”.

[4] Part 6, Division 4A

Insert after Division 4:

Division 4A Parole orders for prisoners received from Norfolk Island

160AB Definitions

In this Division:

modification includes addition, exception, omission or substitution.

Norfolk Island Act means the *Sentencing Act 2007* of Norfolk Island.

offender means a person who is serving in New South Wales a sentence by way of full-time detention imposed under a law in force in Norfolk Island.

160AC Parole orders for prisoners from Norfolk Island

(1) The Parole Authority has, and may exercise, in relation to an offender the functions of a Board under Part 6 of the Norfolk Island Act.

(2) This Act and the regulations apply to and in respect of the parole of an offender, and a parole order made by the Parole Authority for an offender under the Norfolk Island Act, in the same way as they apply to any other offender or parole order to which Part 6 of this Act applies. However, this Act and the regulations do not

apply to the extent to which they are inconsistent with the Norfolk Island Act.

Note. Section 151 (10) of the Norfolk Island Act requires the Parole Authority, when making a parole order, to exercise its duties in accordance with the legislation, rules and procedures applicable under the *Crimes (Administration of Sentences) Act 1999*.

- (3) The regulations may provide that any specified provision of this Act or the regulations:
 - (a) does or does not apply to the parole of an offender or a parole order for an offender, or
 - (b) applies to and in respect of the parole of an offender or a parole order for an offender with such modifications as the regulations may prescribe.
- (4) The Probation and Parole Service has the same functions in respect of an offender as it has in respect of any other offender to which Part 6 of this Act applies.
- (5) Despite any other provision of this section, the Parole Authority and the Probation and Parole Service are not required to exercise any functions in respect of an offender who is not in New South Wales unless they are doing so in accordance with an agreement with the Administration of Norfolk Island.

[5] Section 235E Functions of community offender services field officers

Omit “Community service field officers” from section 235E (3).

Insert instead “Community offender services field officers”.

[6] Section 235F Common work sites

Omit “community service field officer” from section 235F (1) (a) and (b) wherever occurring.

Insert instead “community offender services field officer”.

[7] Section 256 Victims Register

Insert after section 256 (4):

- (4A) Members of staff of the government agency that keeps the Victims Register may assist:
 - (a) the Review Council and the Parole Authority to give notices to victims under sections 67 and 145, and
 - (b) the Parole Authority to give a victim of a serious offender or a victim’s authorised agent access to documents specified by the Parole Authority for the purposes of section 193A, and

- (c) the Review Council and the Parole Authority to carry out other ancillary functions relating to the matters referred to in paragraphs (a) and (b).

[8] Schedule 5 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Crimes (Administration of Sentences) Amendment Act 2010

[9] Schedule 5

Insert at the end of the Schedule with appropriate Part and clause numbering:

**Part Provision consequent on enactment of
Crimes (Administration of Sentences)
Amendment Act 2010**

**Validation of acts and omissions relating to Norfolk Island
prisoners**

Anything done or omitted by or on behalf of the Parole Authority or the Probation and Parole Service in respect of an offender within the meaning of Division 4A of Part 6 (as inserted by the *Crimes (Administration of Sentences) Amendment Act 2010*), and that would have been valid had that Division been in force when the thing was done or omitted, is taken to be (and always to have been) validly done or omitted.

Schedule 2 Amendment of other Acts and instruments

2.1 Companion Animals Act 1998 No 87

[1] Section 5 Definitions

Omit “and police dogs” from the note to the definition of *companion animal* in section 5 (1).

Insert instead “, police dogs and corrective services dogs”.

[2] Section 5 (1)

Insert in alphabetical order:

corrective services dog means a dog that is being used on official duty by a correctional officer (within the meaning of the *Crimes (Administration of Sentences) Act 1999*).

Note. This Act contains special exemptions for corrective services dogs. Because this definition requires that the dog is being used on official duty by a correctional officer, the exemptions apply only when the dog is “on duty”.

[3] Section 13 Responsibilities while dog in public place

Insert after section 13 (5) (e):

(e1) a corrective services dog, or

[4] Section 14 Dogs prohibited in some public places

Insert after section 14 (8) (b):

(c) a corrective services dog.

[5] Sections 16 (3) and 25 (3)

Insert “or a corrective services dog” after “police dog” wherever occurring.

[6] Section 17 Dog must not be encouraged to attack

Insert “or correctional officer (within the meaning of the *Crimes (Administration of Sentences) Act 1999*)” after “police officer” in section 17 (2) (b).

2.2 Companion Animals Regulation 2008

[1] Clause 16 Exemptions from registration requirement

Insert after clause 16 (h):

- (h1) a dog that is ordinarily used on official duty by a correctional officer (within the meaning of the *Crimes (Administration of Sentences) Act 1999*),

[2] Clause 33A Dog attack information on the Register

Insert “or corrective services dog” after “police dog” in clause 33A (4) (c).

2.3 Crimes (Administration of Sentences) Regulation 2008

[1] Clause 188 Conduct at work sites

Omit “community service field officer” from clause 188 (b), (c) and (e) wherever occurring.

Insert instead “community offender services field officer”.

[2] Clause 220 Appointment of community offender services field officers

Omit “community service field officer” from clause 220 (1).

Insert instead “community offender services field officer”.

[3] Clause 221 Community offender services field officer to report to assigned officer

Omit “community service field officer”.

Insert instead “community offender services field officer”.

[4] Clause 241A

Insert after clause 241:

241A Norfolk Island parole orders

- (1) The following provisions of the Act apply to and in respect of the parole of an offender and a Norfolk Island parole order in the same way as they apply to and in respect of the parole of any other offender or parole order to which Part 6 of the Act applies:
 - (a) sections 139–141A,
 - (b) sections 145–154,
 - (c) sections 169, 179, 180 and 182.

- (2) The following provisions of the Act do not apply to or in respect of the parole of an offender or a Norfolk Island parole order:
- (a) sections 128–128B, 130 and 132,
 - (b) Division 3 of Part 6 of the Act,
 - (c) sections 160, 160A, 170–172A and 181.
- (3) In this clause:
- Norfolk Island parole order* means a parole order issued by the Parole Authority in respect of an offender under the functions conferred by section 160AC (1) of the Act.
- offender* has the same meaning as in Division 4A of Part 6 of the Act.

[5] Clause 325 Attendance of inmates before courts and court officers

Insert after clause 325 (2) (e):

- (f) the Mental Health Review Tribunal.

2.4 Criminal Records Act 1991 No 8

Section 15 Employment in certain occupations

Omit “prison officer” from section 15 (1).

Insert instead “member of staff of Corrective Services NSW (within the meaning of the *Crimes (Administration of Sentences) Act 1999*)”.