

[Act 1998 No 2]



New South Wales

Correctional Centres Amendment Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Correctional Centres Act 1952*:

- (a) to specify who has custody of an inmate while the inmate is absent from a correctional centre, and
- (b) to enable a person while in lawful custody to be given into the keeping of a correctional officer engaged in court security or escort duties, and
- (c) to provide that in such circumstances a person designated by the Commissioner of Corrective Services is taken to have custody of the person and to have the powers of the governor of a correctional centre in relation to the person.

The Bill also amends the *Periodic Detention of Prisoners Act 1981* to allow correctional officers to take identifying particulars of persons who are the subject of orders for periodic detention.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Correctional Centres Act 1952* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Periodic Detention of Prisoners Act 1981* set out in Schedule 2.

Schedule 1 Amendment of Correctional Centres Act 1952

Custody of inmates while absent from correctional centres

Currently, section 29A of the Principal Act provides that, in certain circumstances when an inmate is absent from a correctional centre, the inmate is taken to continue to be in the custody of the governor of the correctional centre. **Schedule 1 [2]** substitutes section 29A of the Principal Act to include other circumstances authorised by the Act where an inmate is absent from a correctional centre, for example, where an inmate is removed from a correctional centre to another correctional centre, or from part of a correctional centre to other premises that form part of that correctional centre, or where an inmate is removed to a hospital for treatment. The new section also provides that if the inmate is being escorted by a correctional officer of a correctional centre, the inmate is taken to be in the custody of the governor of that correctional centre. If the inmate is being escorted by a correctional officer not employed in a particular correctional centre, the inmate is taken to be in the custody of a person designated by the Commissioner of Corrective Services.

Schedule 1 [1] and **[9]** contain consequential amendments.

Persons in custody may be kept in court cells during transit

Schedule 1 [3] inserts proposed section 29D into the Principal Act to enable persons in lawful custody in certain circumstances to be accommodated in court cells, lock-ups or police stations during transit if it is necessary or convenient to do so.

Offences in places of detention

At present, Part 7 of the Principal Act contains offences relating to the unauthorised introduction of articles (including drugs, syringes and implements to aid escapes) into a correctional centre. **Schedule 1 [4]–[8]** extend those offences to places where a person is kept in lawful custody in certain specified circumstances (for example while awaiting trial or during court proceedings).

Management of persons in lawful custody

Schedule 1 [10] inserts proposed section 42A into the Principal Act which allows a person to be transferred into the keeping of certain correctional officers during specified circumstances when the person is in lawful custody and to be kept in a correctional centre, lock-up, police station, court cell or any other place specified by a court. A person is taken to be in the custody of an officer designated by the Commissioner of Corrective Services while in such keeping and the designated officer has all the powers of a governor of a correctional centre in relation to the person as if the person were an inmate. Regulations may be made limiting the powers of the designated officer and the additional rights of an inmate conferred on the person in custody.

The proposed section enables a warrant or court order committing a person to lawful custody to be executed by a correctional officer engaged in court security or escort duties even though the warrant or order on the face of it may authorise some other officer to execute it.

Other minor amendments

Schedule 1 [11] contains an amendment by way of statute law revision.

Schedule 1 [12] enables regulations to be made of a savings and transitional nature consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Periodic Detention of Prisoners Act 1981

Schedule 2 amends the *Periodic Detention of Prisoners Act 1981* to enable correctional officers to take identifying particulars of a person where a court authorises the particulars to be taken on the making of an order for periodic detention in respect of the person. At present this power is restricted to police officers and other persons that a court specifically authorises.