



New South Wales

# Crimes (Administration of Sentences) Amendment Bill 2008

## 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 *Crimes (Administration of Sentences) Act 1999* (*the Act*) as follows:

- (a) to establish residential facilities to accommodate certain inmates prior to release from custody and persons subject to non-custodial orders (such as good behaviour bonds) or parole orders, and to provide for the management and administration of these facilities,
- (b) to enable further regulations to be made in respect of the seizure and forfeiture of any property (including drugs) that is unlawfully in the possession of an inmate or other person, or that is brought into or found within a correctional centre or correctional complex,
- (c) to confirm that immigration detainees under the *Migration Act 1958* of the Commonwealth and persons sentenced to imprisonment under the *Defence Force Discipline Act 1982* of the Commonwealth may be held in correctional centres,
- (d) to provide that appointments to the Parole Authority are to be for a period not exceeding 3 years (instead of a 3 year fixed term),

- (e) to reduce the maximum number of community members who may attend a Parole Authority meeting (other than a general meeting) from 4 to 2, with no change to the number of community members that make up the pool of people who can be called on to attend meetings,
- (f) to allow a victim of a serious offender to authorise a person to act as his or her agent, with the written approval of the Commissioner, for the purpose of accessing documents held by the Parole Authority in relation to the offender,
- (g) to ensure that an inmate, who is not released on parole on reaching his or her initial parole eligibility date, becomes eligible for release on parole on each anniversary of that parole eligibility date, and no sooner,
- (h) to enable regulations to be made that require any of the functions of the Serious Offenders Review Council in relation to segregated and protective custody of inmates to be exercised by the Chairperson of the Council alone,
- (i) to make further provision in relation to community service orders and the extension of the maximum period of such orders,
- (j) to restrict the circumstances in which money must be held for an inmate,
- (k) to provide that correctional staff may be tested for steroids, in addition to alcohol and prohibited drugs,
- (l) to allow a person in custody under 18 years of age who is being transferred to a juvenile correctional centre to be held temporarily in a children's detention centre if it is necessary or convenient to do so,
- (m) to clarify the powers of a general manager of a correctional centre with respect to work performed by inmates,
- (n) to make other minor, consequential and ancillary amendments.

The Bill also:

- (a) amends the *Children (Detention Centres) Act 1987* to:
  - (i) provide for further circumstances in which a detainee aged between 18 and 21 years may not be detained in a children's detention centre, and
  - (ii) confirm that the Children's Court is to continue to exercise its functions as the Parole Authority in respect of the parole orders for certain detainees under 18 years of age who are being held in a correctional centre, and
- (b) makes an amendment to the *Summary Offences Act 1988* consequential on the amendments to the *Crimes (Administration of Sentences) Act 1999* described above.

## 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 that gives effect to the amendments to the Act set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the Acts set out in Schedule 2.

**Clause 5** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

## **Schedule 1      Amendment of Crimes (Administration of Sentences) Act 1999**

### **Residential facilities**

**Schedule 1 [32]** establishes a new type of facility for offenders, known as *residential facilities*, that will accommodate certain inmates prior to their release from custody and other offenders who are subject to non-custodial orders (such as good behaviour bonds) or parole orders (*non-custodial residents*). Residential facilities will be proclaimed by the Governor.

Part 2 of the Act (Imprisonment by way of full-time detention) will apply to residential facilities and to inmates (other than non-custodial residents) accommodated in residential facilities in the same way as it applies to correctional centres and inmates held in correctional centres, subject to minor modifications, and any other modifications prescribed by the regulations. The regulations may also provide for the application to residential facilities of other provisions of the Act that apply to correctional centres.

A manager of each residential facility is to be employed under the *Public Sector Employment and Management Act 2002*. The Commissioner may appoint persons to supervise residents of residential facilities, and may determine their functions from time to time, which may include the functions of a correctional officer.

**Schedule 1 [27]** provides that the Commissioner of Corrective Services (the *Commissioner*) has the care, direction, control and management of residential facilities.

**Schedule 1 [2], [34] and [35]** are consequential amendments.

### **Seizure and forfeiture of property**

At present, the Act permits the regulations to provide for the circumstances in which it is lawful for an inmate to acquire or retain property, and to provide for the seizure, forfeiture and disposal of property unlawfully brought into a correctional centre.

**Schedule 1 [9]** extends those regulation-making powers, so that the regulations may provide for the seizure, forfeiture and destruction or other disposal of:

- (a) any property (including money) found within, or sent to or delivered to, a correctional centre or correctional complex that it is unlawful for an inmate to acquire or retain possession of, and
- (b) any drug, or any thing reasonably suspected of being a drug, that is:
  - (i) in the possession of an inmate, or
  - (ii) in the possession of any other person in a correctional centre or correctional complex, or
  - (iii) found within a correctional centre or correctional complex, or
  - (iv) sent to or delivered to a correctional centre or correctional complex.

The Act also allows the Commissioner to confiscate any property unlawfully in the possession of an inmate and this property becomes the property of the State and may be disposed of as the Commissioner directs. **Schedule 1 [6]** makes it clear that such property may be destroyed or otherwise disposed of.

### **Immigration and Defence Force detainees**

**Schedule 1 [3]** puts it beyond doubt that Part 2 of the Act (which applies to full-time inmates in a correctional centre) applies:

- (a) to a person sentenced to imprisonment under the *Defence Force Discipline Act 1982* of the Commonwealth who is committed to a correctional centre to serve that sentence, and
- (b) to an immigration detainee within the meaning of the *Migration Act 1958* of the Commonwealth who is held in a correctional centre under that Act.

**Schedule 1 [4]** provides that a Defence Force detainee is a convicted inmate for the purposes of the Act. Section 6 of the Act provides that the general manager of a correctional centre can direct convicted inmates to perform work. **Schedule 1 [1]** amends the definition of *convicted inmate* accordingly.

### **Parole matters**

Currently, a victim of a serious offender is entitled to be given access to all documents held by the Parole Authority in respect of the offender relating to the measures the offender has taken, or is taking, to address his or her offending behaviour. **Schedule 1 [23] and [24]** provide that an agent of the victim, who is authorised in writing by the victim and the Commissioner, may access the documents on the victim's behalf. A victim may revoke an authorisation at any time by notice in writing to the Commissioner.

**Schedule 1 [15]–[22]** provide that an inmate, who is still in custody after his or her initial parole eligibility date, becomes eligible for release on parole on every anniversary of his or her parole eligibility date, and no sooner (subject to manifest injustice considerations). If the Parole Authority orders the release of the offender, on an annual review of the offender's case, the release order will not take effect until the anniversary of the offender's parole eligibility date.

**Schedule 1 [36]** provides that members appointed to the Parole Authority (that is, judicial members and community members) may be appointed for a period of up to 3 years. At present, appointed members have a fixed term of 3 years.

The Parole Authority is made up of at least 4 judicial members (including the Chairperson), at least 10 community members and at least 2 official members (from the NSW Police Force and the Probation and Parole Service). However, not all members attend each Parole Authority meeting. Currently, the Act provides that a meeting of the Parole Authority is to consist of the Chairperson, no more than 4 community members and no more than 2 official members (that is, a maximum total of 7 members at most meetings). **Schedule 1 [37]** provides that no more than 2 community members may attend a meeting, so that the maximum number of members at most Parole Authority meetings is 5. The Chairperson continues to be able to convene up to 6 meetings of the Parole Authority each year at which all community and official members may attend.

### **Community service orders**

At present, section 110 of the Act provides that a community service order remains in force until the offender has performed the required number of hours of work, unless sooner revoked. **Schedule 1 [10]** provides that a community service order expires if the relevant maximum period (generally 12 or 18 months) expires, even if that occurs before the inmate has completed the required number of hours of work. **Schedule 1 [13]** provides, however, that if an application is made to the Local Court to extend the period of an order and the relevant maximum period expires before the application is determined, the community service order is taken to remain in force until the application is determined by the Court. **Schedule 1 [12] and [14]** ensure that an application to extend or revoke a community service order can still be heard if the relevant maximum period has expired. **Schedule 1 [11]** is a consequential amendment.

### **Inmates' money**

**Schedule 1 [7]** removes the requirement that money received by a correctional officer or other member of staff on an inmate's behalf must be deposited in an authorised deposit-taking institution and held for the inmate, if it is unlawful for the inmate to receive that money while in custody. The Act currently permits the regulations to provide for the circumstances in which an inmate may lawfully possess property while in custody. **Schedule 1 [8]** makes it clear that property includes any money, so that the regulations can prohibit inmates from receiving money while in custody.

### **Other amendments**

**Schedule 1 [26]** provides that the regulations may require any of the functions of the Serious Offenders Review Council that relate to segregated and protective custody of inmates to be exercised by the Chairperson alone. **Schedule 1 [25]** is a consequential amendment.

**Schedule 1 [28]–[31]** provide for correctional staff to be tested for steroids, as well as alcohol and prohibited drugs.

Section 252 of the Act provides that a person in custody may be accommodated in a correctional centre, police station or court cell complex while being transferred from one place or another, if it is necessary or convenient to do so. **Schedule 1 [33]** provides that a person under 18 years of age who is being transferred to a juvenile correctional centre may also be temporarily held in a children's detention centre.

**Schedule 1 [5]** makes it clear that the general manager of a correctional centre may direct a convicted inmate to perform community service or other work within the correctional centre, within the correctional complex but outside the correctional centre, or outside the correctional complex.

**Schedule 1 [4]** provides that an inmate, who is aged 21 years or more and who is sentenced to full-time imprisonment in a correctional centre by the Children's Court, is a convicted inmate. Under the Act, the general manager of a correctional centre may direct a convicted inmate to perform work. **Schedule 1 [1]** amends the definition of *convicted inmate* accordingly.

**Schedule 1 [38]** provides for the making of savings and transitional regulations consequent on the enactment of the proposed Act.

**Schedule 1 [39]** contains savings and transitional provisions.

## **Schedule 2      Amendment of other Acts**

### **Detention Centres**

Section 9A of the *Children (Detention Centres) Act 1987* provides that the following persons are not to be detained in a juvenile detention centre:

- (a) a person aged 21 years or over who is subject to an arrest warrant of any kind,
- (b) a person aged between 18 and 21 years who is subject to an arrest warrant of a certain kind (including, for example, a warrant for an alleged breach of a probation order, good behaviour bond or community service order or an alleged escape from custody).

Under Part 13 of the *Crimes (Administration of Sentences) Act 1999*, these persons may be held in correctional centres.

**Schedule 2.1 [2]** clarifies that section 9A applies to a person arrested in relation to an alleged escape from custody (under section 39 of the *Crimes (Administration of Sentences) Act 1999*) only if the person is arrested pursuant to a warrant.

**Schedule 2.1 [3]** extends the operation of section 9A to:

- (a) a person aged between 18 and 21 years who is the subject of an arrest warrant issued because of a suspension or revocation of parole or a failure to appear at a parole hearing, and
- (b) a person aged between 18 and 21 years who is the subject of an order or warrant made or issued for an escape from a detention centre.

Accordingly, a person between 18 and 21 years who is arrested pursuant to one of these warrants or orders is not to be detained in a children's detention centre. **Schedule 2.1 [1] and [5]** are consequential amendments.

**Schedule 2.1 [4]** provides that if a detainee, who is being detained as a result of the revocation of his or her parole by the Children's Court, is transferred to a correctional centre, the Children's Court is to continue to exercise the functions of the Parole Authority with respect to the revocation of that parole. This includes, for instance, the function of reviewing that revocation.

### **Places of detention**

Part 4A of the *Summary Offences Act 1988* makes provision for offences relating to places of detention, which are defined as correctional centres, correctional complexes and periodic detention centres. **Schedule 2.2** amends the definition of *place of detention* to include a residential facility.





First print



New South Wales

# Crimes (Administration of Sentences) Amendment Bill 2008

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New South Wales

# Crimes (Administration of Sentences) Amendment Bill 2008

No. , 2008

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## A Bill for

An Act to amend the *Crimes (Administration of Sentences) Act 1999* and certain other Acts to make further provision for the establishment, control and management of correctional centres and other residential facilities for offenders, the detention of offenders and the administration of sentences.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Crimes (Administration of Sentences) Amendment Act 2008</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6
<b>3 Amendment of Crimes (Administration of Sentences) Act 1999 No 93</b>	7
The <i>Crimes (Administration of Sentences) Act 1999</i> is amended as set out in Schedule 1.	8 9
<b>4 Amendment of other Acts</b>	10
The Acts specified in Schedule 2 are amended as set out in that Schedule.	11 12
<b>5 Repeal of Act</b>	13
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	14 15
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	16 17

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<b>Schedule 1</b>	<b>Amendment of Crimes (Administration of Sentences) Act 1999</b>	1
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	(Section 3)	3
<b>[1] Section 3 Interpretation</b>		4
	Omit “or (c1)” from the definition of <i>convicted inmate</i> in section 3 (1).	5
	Insert instead “, (c1), (d1) or (d2)”.	6
<b>[2] Section 3 (1)</b>		7
	Insert in alphabetical order:	8
	<i>residential facility</i> means any premises declared to be a residential facility by a proclamation in force under section 236L.	9
		10
<b>[3] Section 4 Application of Part</b>		11
	Insert after section 4 (1) (d1):	12
	(d2) any person who is the subject of a warrant under section 170 (1) (a) of the <i>Defence Force Discipline Act 1982</i> of the Commonwealth by which an authorised officer under that Act has committed the person to a correctional centre pursuant to a punishment of imprisonment imposed under that Act, and	13
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	(d3) any person who is a detainee within the meaning of the <i>Migration Act 1958</i> of the Commonwealth and who is held in a correctional centre as referred to in paragraph (b) (ii) of the definition of <i>immigration detention</i> in section 5 of that Act, and	19
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		23
<b>[4] Section 4 (3)</b>		24
	Omit “or (c1)”. Insert instead “, (c1), (d1) or (d2)”.	25
<b>[5] Section 6 Work performed by inmates</b>		26
	Omit section 6 (2). Insert instead:	27
	(2) The general manager may direct a convicted inmate, or such classes or groups of convicted inmates as the Commissioner may from time to time determine, to carry out community service work, or any work for the Department or a public or local authority:	28
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	(a) within the correctional centre in which the inmate is imprisoned, or	33
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	(b) within the correctional complex in which the inmate is imprisoned but outside the correctional centre, or	1 2
	(c) outside the correctional complex in which the inmate is imprisoned.	3 4
<b>[6]</b>	<b>Section 75 Confiscation of property</b>	5
	Insert “destroyed or otherwise” after “to be” in section 75 (2).	6
<b>[7]</b>	<b>Section 76A Inmates’ money</b>	7
	Insert “(other than money that it is unlawful for the inmate to acquire or retain possession of while in custody)” after “behalf” in section 76A (1) (c).	8 9
<b>[8]</b>	<b>Section 79 Regulations</b>	10
	Insert “(including money)” after “property” in section 79 (h).	11
<b>[9]</b>	<b>Section 79 (h2) and (h3)</b>	12
	Omit section 79 (h2). Insert instead:	13
	(h2) the seizure, forfeiture and destruction or other disposal of any property (including money):	14 15
	(i) brought into a correctional centre or correctional complex by any person in contravention of this Act, the regulations or any other law, or	16 17 18
	(ii) found within, sent to or delivered to a correctional centre or correctional complex and that it is unlawful for an inmate to acquire or retain possession of under this Act, the regulations or any other law,	19 20 21 22 23
	(h3) the seizure, forfeiture and destruction or other disposal of any drug, or any thing reasonably suspected of being a drug:	24 25 26
	(i) in the possession of an inmate, or	27
	(ii) in the possession of any other person in a correctional centre or correctional complex, or	28 29
	(iii) found within a correctional centre or correctional complex, or	30 31
	(iv) sent to or delivered to a correctional centre or correctional complex,	32 33
<b>[10]</b>	<b>Section 110 Duration of community service order</b>	34
	Insert after section 110 (a):	35
	(b) until the expiry of the relevant maximum period, or	36

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<b>[11] Section 110 (2)</b>	1
Insert at the end of section 110:	2
(2) This section is subject to section 114.	3
<b>[12] Section 114 Extension of period of community service order</b>	4
Insert after section 114 (1):	5
(2) Such an application may be made even if the relevant maximum period for the community service order has expired.	6 7
<b>[13] Section 114 (4)</b>	8
Insert after section 114 (3):	9
(4) If an application to the Local Court for an extension of the relevant maximum period is made:	10 11
(a) by the offender’s assigned officer, or by the offender with the written consent of the offender’s assigned officer, and	12 13
(b) before the expiry of the relevant maximum period,	14
the community service order is taken to remain in force, even if the relevant maximum period expires, until the application is determined by the Local Court.	15 16 17
<b>[14] Section 115 Revocation of community service orders</b>	18
Insert after section 115 (2A):	19
(2B) For the purpose only of determining an application under this section, a community service order is taken to be in force even if the relevant maximum period has expired.	20 21 22
<b>[15] Section 137A Consideration of parole in subsequent years</b>	23
Omit “the anniversary of an offender’s parole eligibility date” from section 137A (1).	24 25
Insert instead “an offender’s annual review date”.	26
<b>[16] Section 137A (1A)</b>	27
Insert after section 137A (1):	28
(1A) For the purposes of this section, an <i>offender’s annual review date</i> occurs on each anniversary of the offender’s parole eligibility date.	29 30 31

<b>[17] Section 137A (2)</b>	1
Omit “the anniversary of the offender’s parole eligibility date”.	2
Insert instead “the offender’s annual review date”.	3
<b>[18] Section 138 Release of offender on parole</b>	4
Insert after section 138 (1AA) (a):	5
(a1) if the order is made following an application by the offender referred to in section 137A, and is made before the offender’s annual review date (within the meaning of that section), a period beginning no earlier than the offender’s annual review date and ending no later than 35 days after that date, and	6 7 8 9 10 11
<b>[19] Section 143A Consideration of parole in subsequent years</b>	12
Omit “the anniversary of a serious offender’s parole eligibility date” from section 143A (1).	13 14
Insert instead “an offender’s annual review date”.	15
<b>[20] Section 143A (1A)</b>	16
Insert after section 143A (1):	17
(1A) For the purposes of this section, an <i>offender’s annual review date</i> occurs on each anniversary of the offender’s parole eligibility date.	18 19 20
<b>[21] Section 143A (2)</b>	21
Omit “the anniversary of the offender’s parole eligibility date”.	22
Insert instead “the offender’s annual review date”.	23
<b>[22] Section 151 Release of serious offender on parole</b>	24
Insert after section 151 (1) (a):	25
(a1) if the order is made following an application by the offender referred to in section 143A, and is made before the offender’s annual review date (within the meaning of that section), a period beginning no earlier than the offender’s annual review date and ending no later than 35 days after that date, and	26 27 28 29 30 31
<b>[23] Section 193A Access to documents held by Parole Authority</b>	32
Insert “, or a victim’s authorised agent,” after “serious offender” in section 193A (2).	33 34



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<b>[24] Section 193A (3) and (4)</b>	1
Insert after section 193A (2):	2
(3) In this section, <i>authorised agent</i> means a person who is authorised in writing by a victim and by the Commissioner to act as agent for that victim.	3 4 5
(4) A victim may revoke an authorisation under this section at any time by notice in writing to the Commissioner.	6 7
<b>[25] Section 197 Functions of Review Council</b>	8
Omit section 197 (3).	9
<b>[26] Section 197A</b>	10
Insert after section 197:	11
<b>197A Review Council constituted by Chairperson alone in certain circumstances</b>	12 13
(1) The regulations may require any of the Review Council's functions under Division 2 (Segregated and protective custody) of Part 2, in relation to a specified class of inmate, to be exercised by the Chairperson.	14 15 16 17
(2) Accordingly, in such a case, the Review Council is taken to be constituted by the Chairperson alone.	18 19
(3) Any functions of the Review Council under Division 2 of Part 2 that are not required by the regulations to be exercised by the Chairperson may be delegated by the Review Council to the Chairperson or a judicial member nominated by the Chairperson.	20 21 22 23
<b>[27] Section 232 Commissioner</b>	24
Omit "and periodic detention centres" from section 232 (1) (a).	25
Insert instead ", periodic detention centres and residential facilities".	26
<b>[28] Section 236E Definitions</b>	27
Insert in alphabetical order in section 236E (1):	28
<i>steroid</i> means anabolic and androgenic steroidal agents included in Schedule 4 of the Poisons List under the <i>Poisons and Therapeutic Goods Act 1966</i> .	29 30 31
<b>[29] Section 236F Testing of staff for alcohol, prohibited drugs and steroids</b>	32
Insert "or steroids" after "drugs" wherever occurring in section 236F (1) (b) and (3) (b).	33 34

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<b>[30] Section 236H Protection from liability</b>	1
Insert “or steroid” after “drug” in section 236H (1).	2
<b>[31] Section 236I Regulations</b>	3
Insert “or steroids” after “drugs” wherever occurring in section 236I (e), (g) and (k).	4 5
<b>[32] Part 11, Division 7</b>	6
Insert after Division 6:	7
<b>Division 7 Residential facilities</b>	8
<b>236L Residential facilities</b>	9
(1) The Governor may, by proclamation, declare any premises specified or described in the proclamation to be a residential facility for the purposes of this Act.	10 11 12
(2) The Governor may, by the proclamation by which any premises are declared to be a residential facility or by a subsequent proclamation, give a name to the residential facility.	13 14 15
(3) The Governor may, by proclamation, vary or revoke any proclamation under this section.	16 17
<b>236M Accommodation of offenders in residential facilities</b>	18
(1) The Commissioner may approve the use of a residential facility for any of the following purposes:	19 20
(a) accommodating inmates (or an approved class of inmates) prior to release from custody,	21 22
(b) accommodating other persons who are the subject of non-custodial orders (referred to as <i>non-custodial residents</i> ).	23 24 25
(2) Part 2, and the regulations relating to that Part, apply to a residential facility in the same way as they apply to a correctional centre, subject to this section and any modifications prescribed by the regulations.	26 27 28 29
(3) For the purposes of the application of Part 2 to a residential facility:	30 31
(a) a reference in that Part to an inmate includes an inmate residing in a residential facility, but does not include a non-custodial resident, and	32 33 34

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|-------------|--|----------------------|
| (b)         | a reference in that Part to the general manager of a correctional centre is taken to be a reference to the manager of the residential facility, and  | 1<br>2<br>3          |
| (c)         | the functions of a Visiting Magistrate under that Part with respect to a residential facility may be exercised by any Visiting Magistrate appointed under section 227.   | 4<br>5<br>6          |
| (4)         | The regulations may provide for the application to residential facilities of other provisions of this Act that apply in respect of correctional centres.   | 7<br>8<br>9          |
| (5)         | In this section, a <i>non-custodial order</i> means an order under Division 3 of Part 2 of the <i>Crimes (Sentencing Procedure) Act 1999</i> or a parole order.  | 10<br>11<br>12       |
| <b>236N</b> | <b>Managers of residential facilities</b>  | 13                   |
| (1)         | A manager of each residential facility is to be employed under Chapter 1A of the <i>Public Sector Employment and Management Act 2002</i> .   | 14<br>15<br>16       |
| (2)         | The manager of a residential facility:   | 17                   |
| (a)         | has the care, direction, control and management of the residential facility, and   | 18<br>19             |
| (b)         | has all other functions conferred or imposed on the manager by or under this or any other Act or law.  | 20<br>21             |
| (3)         | In the exercise of the functions referred to in subsection (2) (a) and (b), the manager is subject to the direction and control of the Commissioner.   | 22<br>23<br>24       |
| (4)         | The manager of a residential facility may delegate to any person any of the manager's functions, other than this power of delegation and other than any function delegated to the manager by the Commissioner.   | 25<br>26<br>27<br>28 |
| <b>236O</b> | <b>Residential facility officers</b>   | 29                   |
| (1)         | The Commissioner may appoint any member of staff of the Department to supervise persons residing at a residential facility or to exercise other functions in relation to a residential facility (referred to as a <i>residential facility officer</i> ). | 30<br>31<br>32<br>33 |
| (2)         | The functions of residential facility officers are to be as determined from time to time by the Commissioner.  | 34<br>35             |
| (3)         | Those functions may include functions of a correctional officer.   | 36                   |
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(4)	To the extent that the functions of a residential facility officer include the functions of a correctional officer, the residential facility officer has all the immunities of a correctional officer.	1 2 3
(5)	A residential facility officer may exercise a function of a correctional officer only in respect of the residential facility where the residential facility officer is employed.	4 5 6
(6)	Residential facility officers must at all times exercise their functions in such manner as the Commissioner, having regard to current circumstances, may from time to time direct.	7 8 9
(7)	A residential facility officer may be appointed as a compliance and monitoring officer under section 235G in relation to any offenders (within the meaning of that section) who are residing in the residential facility.	10 11 12 13
<b>[33]</b>	<b>Section 252 Places where persons in custody may be kept during transfer</b>	14 15
	Insert at the end of the section:	16
(2)	If a person being transferred is under the age of 18 years, the person may also be accommodated in a detention centre (within the meaning of the <i>Children (Detention Centres) Act 1987</i> ) if it is necessary or convenient to do so.	17 18 19 20
(3)	A person detained in a detention centre under this section is taken to be a detainee (within the meaning of the <i>Children (Detention Centres) Act 1987</i> ), as if the person were a person on remand, for the period during which the person is detained in a detention centre under this section.	21 22 23 24 25
<b>[34]</b>	<b>Section 260 Evidentiary certificates</b>	26
	Insert “, or in the custody of the manager of a residential facility” after “periodic detention centre” in section 260 (a).	27 28
<b>[35]</b>	<b>Section 261 Address of warrant</b>	29
	Insert after section 261 (5):	30
(6)	This section applies in respect of a residential facility and a manager of a residential facility in the same way as it applies to a correctional centre and a general manager of a correctional centre.	31 32 33 34

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<b>[36] Schedule 1 Parole Authority</b>	1
Omit “3 years” from clause 4.	2
Insert instead “a period (not exceeding 3 years) specified in the member’s instrument of appointment”.	3 4
<b>[37] Schedule 1, clause 14</b>	5
Omit “4” wherever occurring in clause 14 (1) and (2). Insert instead “2”.	6
<b>[38] Schedule 5 Savings, transitional and other provisions</b>	7
Insert at the end of clause 1 (1):	8
<i>Crimes (Administration of Sentences) Amendment Act 2008</i>	9
<b>[39] Schedule 5</b>	10
Insert with appropriate Part and clause numbering at the end of the Schedule:	11
<b>Part Provisions consequent on enactment of Crimes (Administration of Sentences) Amendment Act 2008</b>	12 13 14
<b>Definition</b>	15
In this Part, <i>amending Act</i> means the <i>Crimes (Administration of Sentences) Amendment Act 2008</i> .	16 17
<b>Community service orders</b>	18
An amendment made to Subdivision 1 or 3 of Division 1 of Part 5 of this Act by the amending Act extends to a community service order made before the commencement of the amendment but does not extend to an application for an extension of the relevant maximum period made before the commencement of the amendment.	19 20 21 22 23 24
<b>Parole orders</b>	25
An amendment made to Subdivision 2 or 3 of Division 2 of Part 6 of this Act by the amending Act applies only to an order made by the Parole Authority on or after the commencement of the amendment.	26 27 28 29

**Term of office for appointed members of Parole Authority**

An appointed member who was appointed before, and who held office immediately before, the commencement of the amendment made to clause 4 of Schedule 1 by the amending Act, is taken to have been appointed for a period of 3 years from the date of the member's original appointment (or most recent re-appointment, if applicable).

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**Delegation of Review Council functions**

Any delegation made under section 197 (3) that was in force immediately before the repeal of that subsection by the amending Act, is taken, on that repeal, to be a delegation made under section 197A (3), as inserted by the amending Act.

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<b>Schedule 2</b>	<b>Amendment of other Acts</b>	1
	(Section 4)	2
<b>2.1</b>	<b>Children (Detention Centres) Act 1987 No 57</b>	3
<b>[1]</b>	<b>Section 9A Certain persons not to be detained in detention centres</b>	4
	Insert “or order” after “arrest warrant” in section 9A (2).	5
<b>[2]</b>	<b>Section 9A (2) (d)</b>	6
	Omit “his or her arrest”. Insert instead “a warrant issued”.	7
<b>[3]</b>	<b>Section 9A (2) (f) and (g)</b>	8
	Insert at the end of section 9A (2) (e):	9
	, or	10
	(f) a warrant issued under section 172A (1) (b), 180 (1) (b) or	11
	181 (1) (a) of the <i>Crimes (Administration of Sentences) Act</i>	12
	<i>1999</i> , or	13
	(g) an order or warrant issued under section 38.	14
<b>[4]</b>	<b>Section 29 Application of Crimes (Administration of Sentences) Act 1999 to detainees</b>	15
	Insert at the end of the section:	16
	(2) If a detainee who is being detained as a result of the revocation or	18
	suspension of a parole order by the Children’s Court is	19
	transferred to a correctional centre, this section (subsection	20
	(1) (a) excluded) continues to apply in relation to the parole order	21
	as if the transferred detainee were still a detainee. Accordingly,	22
	the Children’s Court is to continue to exercise the functions of the	23
	Parole Authority under Division 4 of Part 7 of the <i>Crimes</i>	24
	<i>(Administration of Sentences) Act 1999</i> with respect to the	25
	detainee’s parole order.	26
<b>[5]</b>	<b>Section 38 Arrest of escapees etc</b>	27
	Insert after section 38 (6):	28
	(7) This section is subject to section 9A.	29
	<b>Note.</b> Under section 9A, a person who is of or above the age of 18 years	30
	who is arrested under this section is not to be detained in a detention	31
	centre. Part 13 of the <i>Crimes (Administration of Sentences) Act 1999</i>	32
	provides that such a person may be detained in a correctional centre.	33

<b>2.2 Summary Offences Act 1988 No 25</b>	1
<b>Section 27A Definitions</b>	2
Omit “or periodic detention centre” from the definition of <i>place of detention</i> .	3
Insert instead “, periodic detention centre or residential facility”.	4