

[Act 1997 No 18]



New South Wales

Correctional Centres Amendment (Inspector-General) 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* so as:

- (a) to establish the office of Inspector-General of Corrective Services, and
- (b) to set out the functions of that office, namely functions of an investigatory nature relating to the administration of the Department of Corrective Services, including correctional centres.

The Bill also makes related amendments to the *Defamation Act 1974*, *Freedom of Information Act 1989* and *Statutory and Other Offices Remuneration Act 1975*.

* Amended in committee—see table at end of volume.

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 *Defamation Act 1974*, *Freedom of Information Act 1989* and *Statutory and Other Offices Remuneration Act 1975* set out in Schedule 2.

Schedule 1 Amendments

Schedule 1 [3] inserts Part 2A into the Principal Act so as to provide for the appointment by the Governor of an Inspector-General of Corrective Services. The office of Inspector-General is responsible primarily for investigating and making recommendations on matters falling within the administration of the Department of Corrective Services (including correctional centres). The functions of the Inspector-General include:

- the investigation of complaints relating to matters within that administration, and
- the examination of reports provided by Official Visitors on correctional centres and by the monitor of the correctional centre privately managed under agreement with the Commissioner of Corrective Services, and
- the making of recommendations to the Minister in relation to such matters.

(proposed sections 11A–11E)

The Inspector-General has no functions in relation to the following matters:

- matters the subject of inquiries by Visiting Justices to correctional centres
- matters the subject of inquiries carried out by persons appointed by the Minister under section 11A of the Act on any matter relating to the security, good order, control or management of a correctional centre

- complaints about the conduct of public authorities if those complaints are outside the scope of the *Ombudsman Act 1979* (however this does not affect the power of the Inspector-General to recommend disciplinary action or criminal prosecution of an officer of the Department of Corrective Services)
- complaints about the Parole Board or the Serious Offenders Review Council
- complaints about the type or level of penalty imposed on an inmate of a correctional centre by the governor of the correctional centre.

(proposed section 11H)

The Inspector-General is to enter into arrangements with the Ombudsman as to the investigation of complaints and certain other matters within the administration of the Department of Corrective Services that could be the subject of a complaint under the *Ombudsman Act 1974*. (proposed section 11J)

The Inspector-General must report to the Independent Commission Against Corruption any matter concerning corrupt conduct. The Inspector-General is to enter into arrangements with the Commission for the handling of matters that involve possible misconduct of an officer of the Department of Corrective Services. (proposed section 11K)

Various investigatory powers are given to the Inspector-General and an offence of obstructing the Inspector-General is created. (proposed sections 11F, 11G, 11I and 11O)

Disclosures to the Inspector-General by public officials concerning corrupt conduct, maladministration or serious or substantial waste will be protected under the *Protected Disclosures Act 1994*. (proposed section 11L)

The Inspector-General or a person acting under the Inspector-General's direction is not personally liable for actions done in good faith for the purposes of executing the Act or any other Act. (proposed section 11P)

The Inspector-General is to report to the Minister and is to take account of Government policy in carrying out functions. (proposed sections 11M and 11N)

A review of the new provisions must be undertaken by the Minister after 5 years and the office of Inspector-General is not to be filled after the period of 5 years from the commencement of those provisions unless authorised by an Act of Parliament or a resolution of both Houses of Parliament. (proposed sections 11R and 11S)

Schedule 1 [1], [2] and [4]–[6] contain consequential amendments.

Schedule 1 [7] contains provisions relating to the appointment and term of office of the Inspector-General. Provisions are included to enable the appointment of the Inspector-General on a full-time or part-time basis.

Schedule 2 Amendment of other Acts

Schedule 2 contains the following amendments:

- (a) amendments to the *Defamation Act 1974* to protect the Inspector-General and persons acting under the direction of the Inspector-General from defamation actions,
- (b) amendments to the *Freedom of Information Act 1989* to exclude certain functions of the Inspector-General from the operation of that Act, and
- (c) amendments to the *Statutory and Other Offices Remuneration Act 1975* to bring the office of the Inspector-General under the provisions of that Act while the office is being held on a full-time basis.