

Queensland



CORRECTIVE SERVICES (ADMINISTRATION) ACT 1988

**Reprinted as in force on 30 August 1996
(includes amendments up to Act No. 22 of 1996)**

Reprint No. 1B

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Information about this reprint

This Act is reprinted as at 30 August 1996. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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(ADMINISTRATION) ACT 1988**

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CORRECTIVE SERVICES (ADMINISTRATION) ACT 1988

[as amended by all amendments that commenced on or before 30 August 1996]

An Act to provide for the Queensland Corrective Services Commission, its functions and powers and for purposes related to the administration of corrective services

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Corrective Services (Administration) Act 1988*.

Objects

- 2.** The principal objects of this Act are to—
- (a) provide for the regulation of corrective services; and
 - (b) provide for the development and administration of corrective services by the Queensland Corrective Services Commission.

Dictionary

6. The dictionary in the schedule defines particular words used in this Act.¹

¹ In some Acts, definitions are contained in a dictionary that appears as the last schedule and forms part of the Act—*Acts Interpretation Act 1954*, section 14.

Administration

8. This Act and the *Corrective Services Act 1988* shall be administered by the Minister and subject thereto by the Commission.

PART 2—THE QUEENSLAND CORRECTIVE SERVICES COMMISSION*Division 1—Constitution of Commission***Constitution of Commission**

9.(1) There is constituted by this Act a Commission under the name and style ‘The Queensland Corrective Services Commission’.

(2) The Queensland Corrective Services Commission, by that name and style—

- (a) shall be a body corporate, with perpetual succession;
- (b) shall have a common seal;
- (c) shall be capable in law of suing and being sued and of acquiring, holding and disposing of land and other property, of granting and taking leases of land and other property and of doing and suffering all such other acts and things as bodies corporate may in law do and suffer;
- (d) shall be capable of compounding or proving in any court of competent jurisdiction all debts and sums of money due to it.

(3) All courts, Judges, justices and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document or writing and, until the contrary is proved, shall presume that the seal was duly affixed.

(4) The Commission is a unit of the public sector within the meaning of the *Public Sector Management Commission Act 1990*.

Commissioners

10.(1) The Commission consists of the following commissioners—

- (a) the chairperson;
- (b) the deputy chairperson;
- (c) 6 other commissioners.

(2) The commissioners are to be appointed by the Governor in Council.

(3) In deciding whether to appoint a person, the Governor in Council must have regard to the person's expertise in matters relevant to, or experience relevant to, the functions of the Commission.

(4) The Governor in Council may appoint a person to act as a commissioner during any period, or all periods, when the commissioner is absent or cannot, for another reason, perform the duties of the office.

Duration of appointment

11.(1) A commissioner is to be appointed for a term of not longer than 3 years.

(2) The office of a commissioner becomes vacant if the commissioner—

- (a) dies; or
- (b) resigns by signed notice given to the Minister; or
- (c) is absent from 3 consecutive meetings of the Commission without the Commission's leave and without reasonable excuse; or
- (d) is found guilty of an indictable offence or an offence against this Act or the *Corrective Services Act 1988*; or
- (e) becomes employed by, or a contractor of, the Commission; or
- (f) is removed from office under subsection (3).

(3) The Governor in Council may remove a commissioner from office if the commissioner—

- (a) engages in misbehaviour; or
- (b) becomes incapable of performing the duties of a commissioner

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because of physical or mental incapacity; or

- (c) is incompetent; or
- (d) does anything else that, in the Governor in Council's opinion, is a reasonable and adequate justification for removal from office.

(4) The Governor in Council may remove all or any commissioners from office if the Commission does not comply with a direction of the Minister given under section 23.

Fees and allowances

12. The commissioners are entitled to be paid by the Commission the fees and allowances decided by the Governor in Council.

Commission represents Crown

17. For the purposes of this Act and the *Corrective Services Act 1988* the Commission represents the Crown and has and may exercise all the rights, privileges and remedies of the Crown.

Division 2—Functions and powers

Functions of Commission

18.(1) Subject to this Act, the Commission shall be responsible for the exercise and discharge of the powers and authorities conferred and the functions and duties imposed on it by or under this or any other Act.

(2) Without limiting the generality of subsection (1) the Commission—

- (a) shall, subject to any direction of the Minister given under section 23, determine policy in relation to the administration, management and control of corrective services;
- (b) shall develop and administer services and programs for the purposes of assisting prisoners to be absorbed into the community and to assist and encourage them to acquire such skills as may be necessary or desirable for their integration with the community upon their release from prison;

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- (c) shall develop and administer services and programs for the purpose of counselling persons who, under the *Corrective Services Act 1988*, are subject to probation orders, community service orders or fine option orders;
- (d) shall develop and administer services and programs designed to encourage prisoners, and persons referred to in paragraph (c), to initiate, maintain and strengthen ties with members of their families and the community;
- (e) must develop and administer programs and services necessary to give effect to orders or directions under the *Juvenile Justice Act 1992* about detainees; and
- (f) must develop and administer programs and services to support, help, and reintegrate into the community detainees.

Powers of Commission

19.(1) The Commission has and may exercise such powers as are necessary or desirable to allow the proper discharge by it of its functions or any of them whether under this or any other Act.

(2) Without limiting the generality of subsection (1) or the powers had by the Commission in its corporate capacity the Commission may—

- (a) acquire real and personal property for the conduct of its operations;
- (b) establish training facilities and provide courses and scholarships for officers, prisoners and detainees and for persons who, under the *Corrective Services Act 1988*, are subject to probation orders, community service orders or fine option orders;
- (c) arrange for an exchange of officers between the Commission and the authority in another country or in another State or a Territory of the Commonwealth that is responsible in that country, State or Territory for the operation of corrective services or any of them;
- (d) engage persons to advise it in respect of matters of a legal, financial or technical nature or that relate to security, buildings or the welfare of persons;
- (e) enter into arrangements with any person or body for the purpose

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of any investigation, study or research that, in the Commission's opinion, is necessary or desirable having regard to the purposes of this Act, the *Juvenile Justice Act 1992* or the *Corrective Services Act 1988*;

- (f) engage a person (other than a commissioner, or an officer or employee of the Commission) or a body of persons to conduct on the Commission's behalf any part of its operations whether under this Act, the *Juvenile Justice Act 1992* or the *Corrective Services Act 1988*;
- (g) grant financial and other assistance to persons or bodies of persons concerned with the welfare of prisoners, detainees or persons who, under the *Corrective Services Act 1988*, are subject to probation orders, community service orders or fine option orders or their families;
- (h) encourage improvement in the standard and method of work performed by its officers and employees by such means as to it seem appropriate including the establishment of awards for competence and innovation.

(3) The Commission may authorise a person or body of persons engaged under subsection (2)(f) to exercise the powers (other than the power of delegation) and perform the functions conferred on—

- (a) the Commission; or
- (b) an officer or employee of the Commission;

under this or another Act.

(4) An authorisation under subsection (3) may be given subject to any condition or limitation that is specified in the authorisation.

Rules

20.(1) The Commission may make rules, not inconsistent with this Act or the *Corrective Services Act 1988* or regulations made under either Act, providing with respect to—

- (a) the management, security and good order of prisons and community corrections centres;

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- (b) the safe custody, welfare and privileges of prisoners;
- (c) the duties, functions, powers, conduct and appearance of its officers and employees;
- (d) all matters that are required or permitted to be the subject of such rules whether under another provision of this Act or under the *Corrective Services Act 1988*.

(2) The power to make rules contained in subsection (1)(c) includes the power to prescribe a code of conduct for the Commission's officers and employees (whether on or off duty).

(3) The body of rules made under subsection (1), as amended and in force for the time being, shall be intitled the 'Commission's Rules'.

(4) The Commission shall cause the Commission's Rules to be brought to the notice of the persons to whom they apply.

(6) Evidence of a rule may be given by the production of a document certified under the seal of the Commission as a true copy of the rule.

(7) The commission can not make rules under this section for detention centres, detainees or the conduct of the commission's officers in relation to detention centres or detainees.

(8) The commission's power to make rules for detention centres, detainees or the conduct of the commission's officers in relation to detention centres and detainees is stated in the *Juvenile Justice Act 1992*, section 203.²

Delegations

21. The Commission may delegate the Commission's powers under this or another Act to—

- (a) a Commissioner; and
- (b) an officer or employee of the Commission; and
- (c) a person or body of persons engaged by the Commission under section 19(2)(f).

² *Juvenile Justice Act 1992*, section 203 (Management of detention centres)

Commission subject to direction of Minister

23.(1) The Minister may give written directions to the Commission in relation to the administration, management and control of corrective services.

(2) The Commission shall comply with the directions of the Minister given under subsection (1).

Division 3—Proceedings and business**Times and places of meetings**

24.(1) Meetings of the Commission are to be held at the times and places it decides.

(2) However, the Commission must meet at least once every month.

(3) The chairperson—

(a) may at any time call a meeting of the Commission; and

(b) must call a meeting if asked by 3 commissioners.

Presiding at meetings

25.(1) The chairperson of the Commission shall preside at every meeting of the Commission at which the chairperson is present and, in the chairperson's absence, the deputy chairperson, if present, shall preside.

(2) If both the chairperson and deputy chairperson are absent from a meeting, a commissioner elected by commissioners present at that meeting from amongst those present (if they constitute a quorum) shall preside.

(3) A commissioner elected to preside at a meeting, while so presiding, shall have and may exercise the powers and authorities and shall discharge the functions and duties of the chairperson.

Quorum at meetings

26. A quorum of the Commission shall consist of a majority of the number of commissioners for the time being holding office.

Notice of meetings

27.(1) Notice of every meeting or adjourned meeting, other than a meeting adjourned to a later hour of the same day on which such meeting was appointed to be held, shall be in writing and shall be given to each commissioner at least 7 days prior to the date appointed for such meeting.

(1A) However, in circumstances which in the opinion of the chairperson of the Commission or of 3 other commissioners constitute an emergency, the chairperson or, as the case may be, such 3 commissioners may upon notice to all the commissioners call a meeting of the Commission and the same may be validly held notwithstanding that the notice given is for less than the time prescribed for a notice of meeting.

(2) A notice of a meeting or an adjourned meeting may be given to a commissioner by leaving it at or by sending it by prepaid post letter addressed to the commissioner's place of business or residence last known to the person or persons giving the notice and such giving shall be deemed to have been effected at the time when the notice was left or, as the case may be, when it would be delivered in the ordinary course of post.

(3) Subsections (1) and (1A) shall not be construed as requiring notice of a meeting to be given to a commissioner in respect of any meeting proposed to be held while the commissioner is on leave of absence granted by the Commission.

Adjournment of meetings

28.(1) The commissioners present at a meeting of the Commission may adjourn the meeting from time to time.

(2) If a quorum is not present at a meeting within 15 minutes after the time appointed for the meeting to commence, the commissioner or commissioners present or the majority of them if more than 2 are present may adjourn such meeting to any time not later than 14 days from the date of such adjournment.

(3) Subsections (1) and (2) shall not be construed to prevent the adjournment of a meeting to a later hour of the same day on which such meeting was appointed to be held.

Conduct of Commission's affairs

29.(1) The Commission shall exercise or discharge a power, authority, function or duty by majority vote of the commissioners present at a meeting and voting on the business in question.

(1A) The person who is duly presiding at a meeting, if the person is entitled to vote, shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

(2) The Commission shall cause to be recorded in a book provided for the purpose (the "**minute book**"), kept under the superintendence of the chairperson of the Commission—

- (a) particulars of all decisions of the Commission;
- (b) the names of the commissioners present at each meeting of the Commission;
- (c) the names of all commissioners voting on any question before the Commission on which a division is called.

(2A) Every entry in the minute book shall be signed at the meeting of the Commission next following the meeting at which the proceedings to which the entry relates were taken by the chairperson of the Commission or other person who duly presides at such next following meeting.

(3) Every entry in the minute book purporting to be signed as prescribed and every writing purporting to be a copy of or extract from such an entry (purporting to be signed by the chairperson of the Commission and sealed with the seal of the Commission) shall upon its production in any proceeding be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein without further proof of the regularity of the meeting to which the entry relates or of any other matter referred to therein.

Custody of seal; authentication of documents

30.(1) The common seal of the Commission shall be in the custody of the secretary.

(2) The common seal shall not be affixed to a document except under the authority of a resolution of the Commission.

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(3) Every document to which the common seal is affixed shall be signed by a commissioner or the secretary.

(4) The fact that a document has affixed thereto the common seal of the Commission and has been attested is evidence and, in the absence of evidence to the contrary, conclusive evidence that the document is one to which the common seal has been duly affixed.

(5) Except where it is by this Act otherwise prescribed, a document made or issued by the Commission for the purposes of this Act, the *Juvenile Justice Act 1992* or the *Corrective Services Act 1988* shall be sufficiently authenticated if it is made or, as the case may be, signed by a commissioner or the secretary.

Disclosure of interest

32.(1) If a commissioner—

- (a) is or has been associated (otherwise than as an officer of the Commission or of the public service) with a prisoner, detainee or an offender; or
- (b) has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter;

and is present at a meeting of the Commission at which—

- (c) a matter concerning that prisoner, detainee or offender (not being a matter concerning prisoners, detainees or offenders generally or all prisoners, detainees or offenders in a class of prisoners, detainees or offenders); or
- (d) the contract or proposed contract or other matter;

is to be considered the commissioner shall, at the meeting and as soon as practicable after its commencement, disclose the fact of the commissioner's association or, as the case may be, the commissioner's interest and shall not participate in the consideration of or vote on any question with respect to the matter or, as the case may be, contract, proposed contract or other matter and for the purpose of determining whether a quorum is present during the period of that consideration or at the time at which the vote was taken the presence of the commissioner at the meeting shall be disregarded.

(2) A general notice given in writing to the secretary by a commissioner

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to the effect—

- (a) that the commissioner is or has been associated with a specified prisoner, detainee or offender shall, unless and until the notice is withdrawn, be a sufficient disclosure of the commissioner's association with that prisoner, detainee or offender in relation to any matter concerning that prisoner, detainee or offender that may become the subject of consideration by the Commission after the date of the notice;
- (b) that the commissioner or the commissioner's spouse or a member of the commissioner's family is a member or an employee of a specified body corporate or that the commissioner or the commissioner's spouse or a member of the commissioner's family is a partner or an employee of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of the commissioner's interest in any contract, proposed contract or other matter made, proposed to be made or relating to that body corporate or person which may become the subject of consideration by the Commission after the date of the notice.

(2A) Each notice given under subsection (2) shall be tabled at the first meeting of the Commission held after it is given.

(3) Particulars of each disclosure made under subsection (1) and each notice given under subsection (2) shall be recorded—

- (a) in the minutes of the meeting at which the disclosure is made or, as the case may be, the notice is tabled;
- (b) by the secretary in a book kept for that purpose which book shall be open for inspection at all reasonable times by any commissioner.

(4) In circumstances where a commissioner present at a meeting is not permitted to participate in the consideration of or vote on any question with respect to a prisoner, detainee or offender or a contract, proposed contract or other matter by reason of subsection (1), the other commissioners present at that meeting (if they constitute a quorum) may by resolution exclude the commissioner from the meeting.

(5) A commissioner who is or has been associated with a prisoner,

detainee or offender or has an interest in any contract, proposed contract or other matter as prescribed by this section and who fails to comply with subsection (1) commits an offence against this Act unless the commissioner proves that at the relevant time the commissioner was not aware and could not reasonably have been expected to be aware of the commissioner's association or interest.

Maximum penalty—10 penalty units.

(6) For the purpose of this section the interest of a spouse of a commissioner, or of any member of the family of a commissioner, living with that commissioner in any contract, proposed contract or other matter shall, if known to that commissioner, be deemed to be also the interest of that commissioner.

(7) In this section—

“**offender**” means a person who, under the *Corrective Services Act 1988*, is subject to a probation order, a community service order or a fine option order.

PART 3—PROVISIONS AFFECTING PERSONNEL

Appointment of Director-General and secretary

33.(1) The Commission shall appoint a person to be the Director-General of Corrective Services and a person to be the secretary to the Commission.

(2) The Director-General shall be engaged and employed on a contract basis and the contract shall set out the duration of the Director-General's appointment, the salary and allowances which the Director-General is to be paid and the terms and conditions of the Director-General's employment.

Other officers of commission

34.(1) The commission may employ persons it considers necessary or convenient for the administration of this Act, the *Corrective Services Act 1988* or for the commission's functions and powers under any Act.

(2) Employment by the commission is to be—

- (a) on salary or wages; or
- (b) under a contract.

(3) The employment conditions of a person employed on salary and wages are decided by the commission, subject to any applicable industrial award.

(4) The employment conditions of a person employed under a contract are the contract conditions agreed between the commission and the person and industrial awards do not apply.

(5) In this section—

“**industrial award**” includes an industrial or other agreement under the *Industrial Relations Act 1990* and any decision about employment conditions under that Act.

Superannuation schemes

35.(1) The commission may—

- (a) establish or amend superannuation schemes; or
- (b) join in establishing or amending superannuation schemes; or
- (c) take part in superannuation schemes.

(2) The auditor-general may audit the schemes.

(3) Subsection (2) is subject to the *Financial Administration and Audit Act 1977*, part 6.³

Resignation

39.(1) An officer of the Commission whose conditions of employment are governed by a contract of employment that provides for the officer's resignation and the manner thereof may resign the officer's employment in accordance with the contract of employment.

³ *Financial Administration and Audit Act 1977*, part 6 (Audit of public accounts and public sector entities)

(2) An officer of the Commission other than one referred to in subsection (1) may at any time resign the officer's employment.

Retirement

40.(1) An officer of the Commission may elect to retire on or after turning 55.

(2) If the Commission suspects on reasonable grounds that an officer of the Commission by reason of mental or physical infirmity has not the capacity or is unfit—

- (a) to discharge efficiently the duties of the office; and
- (b) to discharge efficiently any other duties that the Commission might reasonably direct the officer to discharge;

the Commission shall obtain medical opinion on the officer's condition and to that end may appoint any medical practitioner or medical practitioners to examine the officer and report to the Commission upon the officer's mental or physical condition or both and may direct the officer to submit himself or herself to such examination.

(3) If the Commission believes on reasonable grounds that an officer of the Commission by reason of mental or physical infirmity has not the capacity or is unfit as prescribed by subsection (2), the Commission may call upon the officer to retire from the officer's employment with the Commission within the time specified by the Commission.

(4) If an officer of the Commission called upon pursuant to subsection (3) to retire does not retire within the time specified, the Commission may dismiss the officer from the officer's employment with the Commission.

Mode of resignation or retirement

41. The resignation or retirement of an officer of the Commission shall be effected by signed written notice given to the Commission and take effect as prescribed by the regulations.

Retrenchment

42. Where the Commission is satisfied that—

- (a) the services of an officer of the Commission can no longer be gainfully utilised in the office held by the officer because the office has become redundant; and
- (b) it is not practicable to retrain or redeploy the officer; and
- (c) the redundancy arrangements approved by the Governor in Council have been complied with in relation to the officer;

the Commission may terminate the services of the officer by way of retrenchment in accordance with those redundancy arrangements.

Discipline

43.(1) An officer or employee of the Commission, other than an officer employed upon a contract basis, is liable to disciplinary action upon any of the following grounds shown to the satisfaction of the Commission to exist, namely—

- (a) incompetence or inefficiency in the discharge of the duties of office or attaching to the employee's employment;
- (b) negligence, carelessness or indolence in the discharge of duties of office or attaching to the employee's employment;
- (c) a contravention of a code of conduct under section 20(2)⁴ or a rule, direction, code, standard or guideline under the *Juvenile Justice Act 1992*, section 203(2);⁵
- (d) absence from duty except—
 - (i) upon leave duly granted; or
 - (ii) with reasonable cause;
- (e) wilful failure to comply with a lawful direction issued to the officer or employee by the Commission or by another person having authority over the officer or employee;

⁴ Section 20(2) (Rules)

⁵ *Juvenile Justice Act 1992*, section 203(2) (Management of detention centres)

(f) conviction, whether in or outside Queensland, of an offence.

(2) Where action against an officer or employee is contemplated on a ground referred to in subsection (1)(d) the Commission may appoint any medical practitioner or medical practitioners to examine the officer or employee and to report to the Commission upon the officer's or employee's mental or physical condition or both, and may direct the officer to submit himself or herself to such examination.

(3) Where the Commission is satisfied that an officer or employee should be disciplined pursuant to subsection (1), the Commission may order that the officer or employee be disciplined in a manner that appears to it to be warranted.

(4) Without limiting the range of disciplines that may be imposed pursuant to subsection (3), such disciplines may consist of—

- (a) dismissal;
- (b) reprimand;
- (c) forfeiture or deferment of a salary increment or increase;
- (d) reduction in the officer's or employee's level of salary or wages;
- (e) a deduction from the officer's or employee's salary or wages of an amount not exceeding 2 penalty units.

(5) Every order made pursuant to subsection (3) shall take effect in law and shall be given effect.

Implementation of order

44. An order made by the Commission pursuant to section 43 shall not be implemented—

- (a) where an appeal is instituted pursuant to this Act in respect of the disciplinary action to which the order relates—until after the determination of the appeal or the withdrawal of the appeal, whichever event sooner occurs;
- (b) where an appeal is not so instituted—until the time in which such an appeal may be instituted has expired.

Suspension**45.(1)** Where—

- (a) it appears on reasonable grounds to the Commission that an officer or employee of the Commission is liable to disciplinary action under section 43 or is suspected of involvement in circumstances such that the proper and efficient discharge by the Commission of its functions or duties or the security and good order of a prison or detention centre might be prejudiced if the officer's or employee's services are continued; or
- (b) an officer or employee of the Commission is charged in Queensland with having committed an indictable offence or is charged elsewhere with having committed an offence which if it had been committed in Queensland would be an indictable offence;

the officer or, as the case may be, employee may be suspended from duty by the Commission.

(2) A suspension imposed by the Commission pursuant to subsection (1) may be lifted at any time by the Commission.

(3) An officer or employee suspended from duty shall not be entitled to receive salary or wages for any period during which the officer or employee does not perform the duties of the officer's office or attaching to the employee's employment, unless the Commission otherwise determines.

(4) An officer or employee suspended from duty who is not entitled to salary or wages for the period of suspension, if the officer or employee resumes duty as an officer or employee of the Commission upon the lifting of the suspension, shall be entitled to receive a sum equivalent to the amount of salary or wages the officer or employee would have received had the officer or employee not been suspended diminished by the amount of salary, wages or fees (if any) to which the officer or employee became entitled from any other source during the period of suspension, unless the Commission otherwise determines.

PART 4—FINANCIAL PROVISIONS

Funds to be maintained

51.(1) The commission must maintain—

- (a) a prisoners trust fund; and
- (b) a detainees trust fund.

(2) All amounts received by a commission officer, or anyone else under an arrangement with the commission, for a prisoner must be paid into the prisoners trust fund.

(3) All amounts received by a commission officer, or anyone else under an arrangement with the commission, for a detainee must be paid into the detainees trust fund.

(4) Amounts in a prisoners or detainees trust fund to the credit of a prisoner or detainee—

- (a) may be spent by the prisoner or detainee, with the commission's consent; and
- (b) must be paid to the public trustee, if the public trustee is managing the prisoner's or detainee's estate and the public trustee requests the payment; and
- (c) must be paid to the prisoner or detainee on being discharged or being released on parole or under an immediate or fixed release order under the *Juvenile Justice Act 1992*.

PART 5—MISCELLANEOUS

Secrecy

61.(1) A commissioner or other person shall not, without the prior approval of the Commission, produce in any court or provide to any person any document, or disclose to any court or person any information, that has come into his or her possession or to his or her knowledge in the discharge

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of his or her functions or the exercise of his or her powers under a prescribed Act unless—

- (a) the commissioner or other person does so for the purposes of a prescribed Act or the *Juvenile Justice Act 1992*; or
- (b) the commissioner or other person is required to do so by order of any court or Judge or otherwise by law.

(2) A person who fails to comply with subsection (1) commits an offence against this Act.

Maximum penalty—10 penalty units.

(3) For the purposes of subsection (1) each of the following Acts is a prescribed Act—

- (a) this Act;
- (b) *Corrective Services Act 1988*;
- (c) *The Prisons Act of 1958*;
- (d) *Penalties and Sentences Act 1992*;
- (e) *Prisoners (Interstate Transfer) Act 1982*;
- (f) *Parole Orders (Transfer) Act 1984*;
- (g) an Act prescribed by regulation for the purpose of subsection (1).

Protection for acts done pursuant to Acts

62.(1) No matter or thing done or omitted to be done—

- (a) by any person pursuant to this Act or the *Corrective Services Act 1988*; or
- (b) bona fide and without negligence for the purposes of this Act or the *Corrective Services Act 1988*;

shall subject that person to any liability.

(2) A person (and any person assisting the person) who, in the discharge of a function or the exercise of a power under Part 2 of the *Corrective Services Act 1988*, uses force to a person that is reasonable in the circumstances and that does not cause and that is not likely to cause death or grievous bodily harm is not liable to be charged with any offence in respect

of the use of that force.

(3) Where any question arises as to whether a person's liability for any act or omission, the subject of any proceedings, is negatived under subsection (1) and the person claims to have acted pursuant to or for the purposes of this Act or the *Corrective Services Act 1988*, the burden of proof of negligence and the absence of good faith shall lie upon the person alleging to the contrary.

(4) Any proceedings taken against any person for any act or omission that the person alleges was done or not done pursuant to or for the purposes of this Act or the *Corrective Services Act 1988* may, upon application to the court in which they are taken, be stayed if the court is satisfied that there is no reasonable ground for alleging negligence or, as alleged, want of faith or both or, without limiting the provisions of any other Act, that the proceedings are frivolous or vexatious.

(5) Nothing in this section shall be so construed as to deprive any person of any defence that the person would have independently of this section.

Commission deemed to be owner of property

63.(1) For the purpose of any proceedings—

- (a) every prison, detention centre and community corrections centre; and
- (b) anything (whether animate or inanimate) appropriated to the use of commissioners, or officers or employees of the Commission, or prisoners, detainees or persons, who, under the *Corrective Services Act 1988* are, subject to probation orders, community service orders or fine option orders or anything, not being the private property of any person, used by a commissioner, or an officer or employee of the Commission, in an official capacity;

shall on and from the appointed day be deemed to be the property of the Commission.

(2) In any proceedings a certificate purporting to be signed by a commissioner, the Director-General or the secretary stating that in respect of any property—

- (a) the Commission is or was at any time or during any specified

period the owner of the property; or

- (b) no consent has been given to the act or breach of duty specified in the certificate alleged to have been committed in relation to the property;

shall upon its production be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters stated.

Surrender of equipment

64.(1) Upon a person ceasing to be a commissioner, or an officer or employee of the Commission, the person shall surrender to the Commission—

- (a) any form of identification; and
- (b) any firearm or other weapon; and
- (c) any other thing prescribed by the Commission's Rules for the purposes of this section;

issued to that person in the person's capacity as a commissioner, officer or employee and if the person fails to do so the person commits an offence against this Act and is liable to a penalty of 10 penalty units.

(2) A justice may, upon the complaint of the chairperson of the Commission or a commissioner authorised in that behalf by the chairperson, issue the justice's warrant authorising the person named in it or a member of a class of person specified in it to search for and seize on behalf of the Commission anything specified in subsection (1) and not surrendered as required by that subsection and for that purpose to enter any premises or place in which the thing sought is believed to be by the person executing the warrant and to break open any receptacle that is capable of containing the thing sought.

Service of documents on Commission

65. Where by or under any Act any application, notice or other document is required or authorised to be given to or served on the Commission the application, notice or document shall be taken to have been so given or served if given to the secretary.

Prosecutions

66.(1) A prosecution for an offence against this Act shall be by way of summary proceedings under the *Justices Act 1886* on complaint by a person authorised in that behalf, either generally or in the particular case, by the Commission.

(2) The authority of a person to make a complaint referred to in subsection (1) shall be presumed until the contrary is proved.

(3) Proceedings for an offence against this Act may be instituted within 12 months after the commission of the offence or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

Certificate of secretary evidence of Commission's decisions

67. Where in any proceedings it is relevant to prove the decision or determination of the Commission given in respect of any matter (whether under this or any other Act) a certificate purporting to be signed by the secretary and setting out the decision or determination of the Commission shall upon its production in the proceedings be evidence and, in the absence of evidence to the contrary, conclusive evidence of the decision or determination.

Protection of Commission's name

68.(1) Unless it has the prior written permission of the Commission to do so an association or body of persons (whether corporate or unincorporate), other than the Commission, shall not have the expression 'Queensland Corrective Services Commission' or 'Corrective Services Commission' or an expression resembling either of those expressions as or as part of its name.

(2) Where a contravention of subsection (1) occurs in respect of an association or body of persons (whether corporate or unincorporate) each of the members of the governing body of that association or body (by whatever name called) shall be deemed to have contravened that subsection and thereby to have committed an offence against this Act.

(3) A person deemed to have committed an offence pursuant to

subsection (2) may be proceeded against for that offence and if convicted is liable to a penalty of 10 penalty units.

Grant in fee simple of certain lands to Commission

69. The power conferred by the *Land Act 1962* on the Governor in Council to grant in fee simple any Crown land within Queensland includes power to make such a grant to the Commission for the purpose of corrective services in priority to and to the exclusion of all other persons notwithstanding the provisions of that Act.

Annual report

70.(1) The Commission shall, as soon as practicable after 30 June in each year, prepare and forward to the Minister a report containing details of its operations and its administration of this Act, the *Corrective Services Act 1988* and the *Juvenile Justice Act 1992* during the period of 12 months ending on that date together with details of such other matters as the Minister may direct.

(2) The Minister shall lay the report before the Legislative Assembly within 14 sitting days after the day on which the Minister receives it.

Regulations

71.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may make provision with respect to—

- (a) all matters that arise in connection with the entitlements, responsibilities, authorities, obligations and liabilities of officers and employees of the Commission;
- (b) the engagement of a person or body of persons to conduct on the Commission's behalf any part of its operations and in respect thereof the training of persons for the purpose of their being authorised under section 19(3) and all matters that arise in connection with the responsibilities, obligations and liabilities of such persons while undergoing such training or so authorised;
- (c) the circumstances in which a commissioner is to be taken to be or

to have been associated with another person for the purposes of section 32;

- (d) all matters that, in the Governor in Council's opinion, are necessary or convenient to be prescribed for the proper exercise and discharge by the Commission of its functions and powers.

Review of Acts

72.(1) The Minister shall carry out a review of the operation of this Act and the *Corrective Services Act 1988* during the final 6 months of the term of appointment of the commissioners appointed in the second appointment of commissioners and shall carry out a further review within 5 years after carrying out the first review.

(2) In carrying out a review under subsection (1) the Minister shall consider and have regard to—

- (a) the effectiveness of the operations of the Acts and the Commission;
- (b) the need for the continuation of the Commission;
- (c) such other matters as appear to the Minister to be relevant to the operation and effectiveness of the Acts.

(3) The Minister shall, as soon as is reasonably practicable, prepare a report based on the Minister's review of the Acts and shall lay the report before the Legislative Assembly within 14 sitting days after the report is prepared.

PART 6—TRANSITIONAL

Definitions

73. In this part—

“amendment Act” means the *Juvenile Justice Legislation Amendment Act 1996*.

“changeover day” means a day fixed under a regulation.

“department” means the Department of Families, Youth and Community Care.

“transferred person” means a person transferred to the commission under section 74(2).⁶

Transfer of staff to commission

74.(1) The purpose of this section is to transfer officers of the public service to the commission because of the change to the commission’s functions under the amendment Act.

(2) On the changeover day the following persons are transferred to the commission—

- (a) persons who, immediately before the day were officers of the public service employed as members of the staff of detention centres; and
- (b) persons decided by the Governor in Council who, immediately before the day, were officers of the public service.

(3) On transfer, a transferred person stops being an officer of the public service and becomes an officer of the commission.

(4) Until the commission decides the employment conditions of a transferred person under section 34(3) or (4),⁷ a transferred person is entitled to salary and other entitlements the person would have had if the person’s employment as an officer of the public service had continued.

(5) A transferred person may claim against the commission all entitlements accrued as an officer of the public service and not used.

(6) A transferred person’s long service leave entitlements are to be calculated as if service as an officer of the public service and service with the commission were continuous service with the commission.

(7) For 5 years after being transferred to the commission, a transferred person has the same rights to appeal against someone else’s employment promotion in the public service as if the transfer had not happened.

⁶ Section 74(2) (Transfer of staff to commission)

⁷ Section 34(3) or (4) (Other officers of commission)

PART 6—TRANSITIONAL PROVISIONS

Certain references to be taken to refer to Commission

73. On and from the appointed day a reference in any Act (other than this Act or the *Corrective Services Act 1988*) or in any instrument made under any Act (other than this Act or the *Corrective Services Act 1988*) to the Comptroller-General of Prisons, the Chief Probation Officer, the Chief Probation and Parole Officer, the Prisons Department, the prison service or the Probation and Parole Service shall be read as a reference to the Commission.

Prisons Act 1890 or 1958 references

74. In an Act or document, a reference to the *Prisons Act 1890* or the *Prisons Act 1958* may, if the context permits, be taken to be a reference to this Act or the *Corrective Services Act 1988*.

SCHEDULE**DICTIONARY**

section 6

“commission” means the Queensland Corrective Services Commission.

“commissioner” means a commissioner of the commission.

“community corrections” means the following—

- (a) services about prisoners who are released on parole and persons subject to probation orders, community service orders or fine option orders;
- (b) community corrections centres and services about community corrections centres;
- (c) programs for prisoners who are living or working outside of a prison and for persons subject to probation orders, community service orders or fine option orders;
- (d) services about, and programs for, persons prescribed under a regulation;

“community corrections centre” means a community corrections centre under the *Corrective Services Act 1988*, section 12.⁸

“corrective services” means community corrections and custodial corrections.

“custodial corrections” means the following—

- (a) prisons and services related to prisons;
- (b) detention centres and services related to detention centres;
- (c) programs for prisoners who are held in a prison;
- (d) programs for detainees.

⁸ *Corrective Services Act 1988*, section 12 (Establishment of community corrections centres)

SCHEDULE (continued)

“**detainee**” means someone who is in the commission’s custody under the *Juvenile Justice Act 1992* other than a person serving a term of imprisonment under that Act.

“**detention centre**” means a detention centre under the *Juvenile Justice Act 1992*, section 201.⁹

“**director-general**” means the director-general of Corrective Services appointed under this Act.

“**employee**”, of the commission, means a person employed by the commission on wages.

“**officer**”, of the commission, means a person employed by the commission on salary, or engaged or appointed by it on a contract basis, for full-time or part-time employment

“**prison**” means a prison under the *Corrective Services Act 1988*, section 11.¹⁰

“**prisoner**” means someone, other than a detainee, who is—

(a) in the commission’s custody; or

(b) released on parole under the *Corrective Services Act 1988*.

“**secretary**” means the secretary to the commission.

⁹ *Juvenile Justice Act 1992*, section 201 (Establishment of detention centres and other places)

¹⁰ *Corrective Services Act 1988*, section 11 (Establishment of prisons)

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 30 August 1996. Future amendments of the Corrective Services (Administration) Act 1988 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 29 of 1994	7 July 1994
1A	to Act No. 57 of 1995	9 July 1996

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Corrective Services (Administration) Act 1988 No. 87

date of assent 1 December 1988

commenced on date of assent

as amended by—

Public Sector Management Commission Act 1990 No. 5 s 7.12 sch

date of assent 4 April 1990

commenced on date of assent (proc pubd gaz 4 April 1990 p 1675)

Justice Legislation (Miscellaneous Amendments) Act 1991 No. 42 s 1–3 sch

date of assent 5 August 1991

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 s 1–3 sch 2

date of assent 17 December 1991

commenced on date of assent

Justice Legislation (Miscellaneous Provisions) Act 1992 No. 40 pt 1, s 163 sch 1

date of assent 14 August 1992

amendment 9 commenced 22 June 1992 (see s 2(2))

remaining amendments commenced on date of assent

Penalties and Sentences Act 1992 No. 48 ss 1–2, 207 sch

date of assent 24 November 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 18 December 1992 (1992 SL No. 393)

Corrective Services (Administration) Amendment Act 1994 No. 22 pts 1–2, s 3 sch

date of assent 10 May 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 3 June 1994 (1994 SL No. 190)

Anti-Discrimination Amendment Act 1994 No. 29 ss 1–3 sch

date of assent 28 June 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1994 (see s 2)

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Juvenile Justice Legislation Amendment Act 1996 No. 22 pts 1, 3

date of assent 15 August 1996

commenced on date of assent

7 List of annotations

Arrangement

s 3 om R1 (see RA s 36)

Occupation of premises and assignment of assets

s 4 om 1991 No. 97 s 3 sch 2

Certain references to be taken to refer to Commission

s 5 reloc as s 73 1995 No. 57 s 4 sch 1

Dictionary

s 6 sub 1996 No. 22 s 90

Appointed day

s 7 om 1994 No. 22 s 3 sch

Constitution of Commission

s 9 amd 1994 No. 22 s 4

Commissioners

s 10 amd 1991 No. 42 s 3 sch; 1991 No. 97 s 3 sch 2
sub 1994 No. 22 s 5
(5)–(7) exp 3 June 1994 (see s 10(7))

Duration of appointment

s 11 prev s 11 om 1992 No. 40 s 163 sch 1
pres s 11 ins 1994 No. 22 s 5

Fees and allowances

s 12 amd 1991 No. 42 s 3 sch; 1992 No. 40 s 163 sch 1
sub 1994 No. 22 s 5

Deputy chairperson

s 13 amd 1991 No. 42 s 3 sch
om 1994 No. 22 s 5

Vacating commissioner's office

s 14 amd 1991 No. 42 s 3 sch
om 1994 No. 22 s 5

Casual vacancy in office of commissioner

s 15 amd 1991 No. 42 s 3 sch
om 1994 No. 22 s 5

Fees and allowances of commissioners

s 16 om 1994 No. 22 s 5

Functions of Commission

s 18 amd 1996 No. 22 s 91

Powers of Commission

s 19 amd 1992 No. 40 s 163 sch 1; 1996 No. 22 s 92

Rules

s 20 amd 1994 No. 22 s 3 sch; 1996 No. 22 s 93

Delegations

s 21 sub 1992 No. 40 s 163 sch 1

Delegation prior to appointed day

s 22 om 1992 No. 40 s 163 sch 1

Times and places of meetings

s 24 sub 1994 No. 22 s 3 sch

Custody of seal; authentication of documents

s 30 amd 1996 No. 22 s 94

Validity of acts

s 31 om 1994 No. 22 s 3 sch

Disclosure of interest

s 32 amd 1994 No. 22 s 3 sch; 1996 No. 22 s 95

Other officers of commission

s 34 om 1996 No. 22 s 96(1)
AIA s 20A applies (see 1996 No. 22 s 96(2))
sub 1996 No. 22 s 96(1)

Superannuation schemes

s 35 om 1996 No. 22 s 96(1)
AIA s 20A applies (see 1996 No. 22 s 96(2))
sub 1996 No. 22 s 96(1)

Rights of officers previously employed in the public service

s 36 amd 1990 No. 5 s 7.12(1) sch
om 1996 No. 22 s 96(1)
AIA s 20A applies (see 1996 No. 22 s 96(2))

Participation in superannuation scheme pursuant to other Act

s 37 om 1996 No. 22 s 96(1)
AIA s 20A applies (see 1996 No. 22 s 96(2))

Contributions by Commission

s 38 om 1996 No. 22 s 96(1)
AIA s 20A applies (see 1996 No. 22 s 96(2))

Retirement

s 40 amd 1994 No. 29 s 3 sch

Discipline

s 43 amd 1992 No. 40 s 163 sch 1; 1996 No. 22 s 97

Suspension

s 45 amd 1996 No. 22 s 98

Appeal tribunal

s 46 amd 1991 No. 42 s 3 sch
om 1994 No. 22 s 6

Nomination of persons who may be appointed members of appeal tribunal

s 47 om 1994 No. 22 s 6

Fees and allowances of members of appeal tribunal

s 48 om 1994 No. 22 s 6

Appeals against promotional appointments, disciplinary action and suspension

s 49 om 1994 No. 22 s 6

Determination of appeal

s 50 om 1994 No. 22 s 6

Funds to be maintained

s 51 sub 1996 No. 22 s 99

Funds to be maintained

s 52 om 1996 No. 22 s 99

General Fund

s 53 om 1996 No. 22 s 99

Trust Fund

s 54 om 1996 No. 22 s 99

Prisoners' Trust Fund

s 55 om 1996 No. 22 s 99

Other prescribed funds

s 56 om 1996 No. 22 s 99

Budget of Commission

s 57 om 1996 No. 22 s 99

Observance of budget

s 58 om 1996 No. 22 s 99

Treatment of surplus and deficit

s 59 om 1996 No. 22 s 99

Payment of grants to Commission

s 60 om 1996 No. 22 s 99

Secrecy

s 61 amd 1992 No. 48 s 207 sch; 1994 No. 22 s 3 sch; 1996 No. 22 s 100

Commission deemed to be owner of property

s 63 amd 1996 No. 22 s 101

Grant in fee simple of certain lands to Commission

s 69 amd 1992 No. 40 s 163 sch 1

Annual report

s 70 amd 1996 No. 22 s 102

Regulations

s 71 amd 1992 No. 40 s 163 sch 1; 1994 No. 22 s 3 sch

PART 6—TRANSITIONAL

pt hdg ins 1996 No. 22 s 103

Definitions

s 73 ins 1996 No. 22 s 103

Transfer of staff to commission

s 74 ins 1996 No. 22 s 103

PART 6—TRANSITIONAL PROVISIONS

pt hdg ins 1995 No. 57 s 4 sch 1

Certain references to be taken to refer to Commission

s 73 pres s 73 (prev s 5) reloc 1995 No. 57 s 4 sch 1

Prisons Act 1890 or 1958 references

s 74 ins 1995 No. 57 s 4 sch 1

SCHEDULE—DICTIONARY

prev sch om 1992 No. 40 s 163 sch 1

pres sch ins 1996 No. 22 s 103

8 Transitional and savings provisions

Juvenile Justice Legislation Amendment Act 1996 s 96(2)–3 provides—

(2) The *Acts Interpretation Act 1954*, section 20A,¹¹ applies to provisions, omitted by subsection (1), about persons who, immediately before the commencement of this section, were officers of the commission under section 34(3) as it existed at that time.

(3) Subsection (2) and this subsection expire the day after they commence.

¹¹ *Acts Interpretation Act 1954*, section 20A (Repeal does not end saving, transitional or validating effect etc.)