

Queensland



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ELIZABETHAE SECUNDAE REGINAE

No. 87 of 1988

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

[ASSENTED TO 1ST DECEMBER, 1988]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

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

2. Objects. 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.

3. Arrangement. This Act is arranged as follows:—

PART I—PRELIMINARY (ss. 1-8);

PART II—THE QUEENSLAND CORRECTIVE SERVICES COMMISSION (ss. 9-32);

Division 1—Constitution of Commission (ss. 9-17);

Division 2—Functions and Powers (ss. 18-23);

Division 3—Proceedings and Business (ss. 24-32);

PART III—PROVISIONS AFFECTING PERSONNEL (ss. 33-50);

PART IV—FINANCIAL PROVISIONS (ss. 51-60);

PART V—MISCELLANEOUS (ss. 61-72);

SCHEDULE.

4. Occupation of premises and assignment of assets. (1) On and from the appointed day all premises occupied by or on behalf of the prison service or the Office of the Chief Probation and Parole Officer immediately prior to that day shall be occupied by the Commission for the discharge of its functions and the exercise of its powers.

(2) On and from the appointed day all assets (including furniture, fittings and other Crown property but excluding land) used by the prison service or the Office of the Chief Probation and Parole Officer or used by the Department of Corrective Services and Administrative Services in connexion with the administration of corrective services, with the exception of such assets as the Minister and the Minister of the Crown having responsibility for the Department of Works jointly determine (if any) shall be assigned to and taken over by the Commission.

(3) Such books, documents, records and papers used by the prison service or the Office of the Chief Probation and Parole Officer, or by the Department of Corrective Services and Administrative Services in connexion with the administration of corrective services, shall on the appointed day be handed over to the Commission.

(4) On or before the appointed day or such later day as the Minister of the Crown having responsibility for the Department of Works determines, the Commission and that Minister shall agree upon the terms and conditions on which the Commission shall occupy the premises (other than prisons) referred to in subsection (1).

If the Commission and that Minister are unable to agree as to the terms and conditions of occupancy, such terms and conditions shall be as that Minister determines.

5. Certain references to be taken to refer to Commission. 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.

6. Interpretation. In this Act except where a contrary intention appears—

“Commission” means The Queensland Corrective Services Commission constituted by this Act;

“commissioner” means a commissioner of the Commission;

“community corrections” means—

- (a) services related to 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 related to 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 related to and programs for such persons or classes of persons as are from time to time prescribed by Order in Council;

“community corrections centre” has the meaning ascribed to that term by the *Corrective Services Act 1988*;

“corrective services” means community corrections and custodial corrections;

“custodial corrections” means—

- (a) prisons and services related to prisons;
- (b) programs for prisoners who are detained in a prison;

“Director-General” means the Director-General of Corrective Services appointed under this Act;

“employee” in relation to the Commission means a person employed by it on wages;

“Minister” means the Minister of the Crown for the time being charged with the administration of this Act and includes a Minister of the Crown who, for the time being, is performing the duties of the Minister;

“officer” in relation to the Commission means a person employed by it on salary, or engaged and appointed by it on a contract basis, on the basis of full time employment or part time employment;

“prison” has the meaning ascribed to that term by the *Corrective Services Act 1988*;

“prisoner” means a person in the custody of the Commission and includes a person released on parole;

“prison service” has the meaning ascribed to that term by the *Prisons Act 1958-1988*;

“secretary” means the secretary to the Commission and includes any person who for the time being performs the duties of that office.

7. Appointed day. For the purposes of this Act, the Governor in Council, by Order in Council, may appoint a date, which in this Act is referred to as the “appointed day”.

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

PART II—THE QUEENSLAND CORRECTIVE SERVICES COMMISSION

Division 1—Constitution of Commission

9. Constitution of Commission. (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.

10. Commissioners. (1) The Commission shall consist of eight commissioners at least being—

- (a) a person who shall be the Chairman;
- (b) a representative of a church or welfare organization who, in the Minister's opinion, has a special knowledge of corrective services in the State;
- (c) a barrister or solicitor who, in the Minister's opinion, has demonstrated an interest in corrective services and civil liberties in the State;
- (d) an Aborigine within the meaning of the *Community Services (Aborigines) Act 1984-1986* or an Islander within the meaning of the *Community Services (Torres Strait) Act 1984-1986* who, in the Minister's opinion, has demonstrated an interest in the affairs of Aborigines or Islanders;
- (e) a person who, in the Minister's opinion, has demonstrated an interest in the well being of the rural community;
- (f) a person who shall represent the officers of the Commission employed in connexion with custodial corrections;
- (g) a person who shall represent the officers of the Commission employed in connexion with community corrections;
- (h) the chief executive for the time being of the department of the Government of the State by which the Minister administers this Act who shall be a commissioner *ex officio*.

(2) The person holding the office of Director-General may be appointed a commissioner.

(3) A commissioner—

- (a) other than the commissioner *ex officio*, shall be appointed on the recommendation of the Minister by the Governor in Council by notification published in the Gazette;
- (b) except for the commissioner *ex officio*, shall not be an officer of the public service;
- (c) except for a commissioner referred to in paragraph (f) or (g) of subsection (1) or the Director-General, shall not be an officer of the Commission;
- (d) shall, subject to his being qualified as prescribed, be eligible for further appointment to the Commission.

(4) Before the Minister recommends a person referred to in paragraph (c), (f) or (g) of subsection (1) for appointment to the Commission he shall—

- (a) in the case of a person referred to in the said paragraph (c)—consult with the President of the Bar Association of

Queensland and the President of the Queensland Law Society Incorporated;

(b) in the case of a person referred to in the said paragraph (f)—consult with the President of the Queensland State Service Union of Employees;

and

(c) in the case of a person referred to in the said paragraph (g)—consult with the President of the Professional Officers' Association of Employees (Queensland),

in relation to the matter.

(5) One commissioner at least shall be a woman.

11. First appointment of commissioners. For the purpose of the first appointment only of commissioners—

(a) a reference in paragraph (f) of section 10 (1) to “officers of the Commission employed in connexion with custodial corrections” shall be construed as “officers of the public service employed in the prison service”;

(b) a reference in paragraph (g) of section 10 (1) to “officers of the Commission employed in connexion with community corrections” shall be construed as “officers of the public service employed in the Office of the Chief Probation and Parole Officer”;

and

(c) the persons appointed commissioners pursuant to the said paragraphs (f) and (g) as construed by this section may, notwithstanding paragraph (b) of section 10 (3), be officers of the public service.

12. Term of appointment of commissioners. (1) The commissioners appointed by the Governor in Council in the first appointment of commissioners shall be appointed for a term of two years.

(2) The commissioners appointed by the Governor in Council other than in the first appointment of commissioners shall be appointed for a term of three years.

(3) Notwithstanding subsections (1) and (2) if, at any time during the term of appointment of commissioners, other than the commissioner *ex officio*, the person holding the office of Director-General is appointed a commissioner his term of appointment shall be for the balance of the term of office of the other commissioners, other than the commissioner *ex officio*.

13. Deputy chairman. (1) The commissioners shall elect one of their number to be deputy chairman at their first meeting held after the commissioners referred to in paragraphs (a), (b), (c), (d), (e), (f) and

(g) of section 10 (1) are appointed or, where a vacancy occurs in the office of deputy chairman—

- (a) in a case where the Director-General or the commissioner *ex officio* was deputy chairman—at their first meeting held after the vacancy occurs;
- (b) in a case to which paragraph (a) does not apply—at their first meeting held after the appointment of a commissioner in the place of the commissioner who was deputy chairman.

14. Vacating commissioner's office. (1) A commissioner, other than the commissioner *ex officio* or a commissioner who is the Director-General, may, by writing addressed to the Minister, resign his office at any time.

(2) The Governor in Council may at any time remove a commissioner, other than the commissioner *ex officio*, from office.

(3) A commissioner shall be deemed to have vacated his office—

- (a) in the event of his resignation, upon the receipt by the Minister of his notice of resignation;
- (b) in the event of his removal, upon the issue by the Minister of notice of his removal;
- (c) where he is other than the commissioner *ex officio*, in the event of his absence without the Commission's leave first obtained from three consecutive ordinary meetings of the Commission of which notice has been duly given to him;
- (d) in the case of a commissioner who is the Director-General, in the event of his ceasing to be Director-General;
- (e) if he ceases to remain qualified as prescribed.

(4) For the purposes of subsection (3) (c)—

- (a) the non-attendance of a commissioner at the time and place appointed for an ordinary meeting shall not constitute absence from such meeting unless a meeting of the Commission at which a quorum is present is actually held on that day;
- (b) the attendance of a commissioner at the time and place appointed for an ordinary meeting shall be deemed to constitute presence at an ordinary meeting notwithstanding that by reason of the lack of a quorum a meeting is not actually held on that day;
- (c) the names of the commissioners who attend at the time and place appointed for an ordinary meeting shall be entered in the minute book provided pursuant to this Act.

15. Casual vacancy in office of commissioner. (1) A casual vacancy shall be taken to arise in the office of a commissioner, other than the commissioner *ex officio* and a commissioner who is the Director-General—

- (a) if he dies;
- (b) if his office becomes vacant as prescribed by section 14.

(2) Where a casual vacancy is taken to have arisen in the office of a commissioner during his term of office as a commissioner, the Governor in Council may appoint as prescribed another qualified person to fill the vacant office.

(3) A person appointed to fill a casual vacancy in the office of a commissioner shall be appointed for the balance of the term of office of his predecessor's term of office and shall hold office accordingly or until he sooner vacates the office.

16. Fees and allowances of commissioners. (1) Each commissioner shall be paid such fees and allowances as the Governor in Council determines.

(2) Fees and allowances may be paid pursuant to subsection (1) to a commissioner who is an officer of the public service or of the Commission in addition to any remuneration he receives as such an officer and if paid may differ in amount to the fees and allowances paid to a commissioner who is not such an officer.

(3) Each commissioner shall be paid such expenses as are necessarily incurred by him in the discharge of his duties as a commissioner and as the Commission approves.

17. Commission represents Crown. 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

18. Functions of Commission. (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;
- (c) shall develop and administer services and programs for the purpose of counselling persons 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.

19. Powers of Commission. (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 and prisoners, and for persons 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 of any investigation, study or research that, in the Commission's opinion, is necessary or desirable having regard to the purposes of this Act 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 or the *Corrective Services Act 1988*;
- (g) grant financial and other assistance to persons or bodies of persons concerned with the welfare of prisoners or persons 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) Where, pursuant to subsection (2) (f), the Commission engages a person or body of persons to conduct on its behalf any part of its operations it may, for the purpose of enabling the person or body to conduct those operations, by instrument in writing authorize any person to discharge such of the functions and exercise such of the powers of a general manager, custodial correctional officer or community correctional officer appointed under this Act as are specified in the instrument.

An authorization under this subsection may be given subject to such conditions and limitations as are specified in the instrument.

(4) Where a person authorized pursuant to subsection (3) discharges a function or exercises a power pursuant to the instrument of authority such discharge or exercise shall have effect in law as if discharged or exercised by a general manager, custodial correctional officer or, as the case may be, community correctional officer appointed under this Act.

20. Rules. (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;
- (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.

(5) Rules made under this section may differ according to differences in time, place or circumstances or according to the persons or the classes of persons to whom they are expressed to 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.

21. Power of delegation. (1) Subject to this Act, the Commission may by writing under its seal either generally or otherwise as provided by the instrument of delegation delegate to any commissioner or to any officer or employee of the Commission all or any of its powers, authorities, functions and duties conferred or imposed on it by or under this or any other Act except this power of delegation.

The Commission may make such and so many delegations of the same power, authority, function or duty and to such number of persons as it considers necessary or desirable.

(2) A delegation under subsection (1) may be to—

- (a) a specified person;
- (b) the person for the time being holding a specified office in which case each person who holds or discharges the duties

of that office shall, while holding that office or discharging those duties, be the delegate.

(3) A delegation may be made subject to such terms or limitations as the Commission thinks fit including a requirement that the delegate shall report to it on the exercise or discharge of the delegated power, authority, function or duty.

(4) A power, authority, function or duty so delegated, if exercised or discharged by the delegate, shall be exercised or discharged in accordance with the instrument of delegation.

(5) An act or thing done or suffered by a delegate acting in accordance with a delegation has the same force and effect as if the act or thing had been done or suffered by the Commission.

(6) A delegation does not prevent or prejudice—

(a) the exercise of a delegated power or authority or the discharge of a delegated function or duty by the Commission;

or

(b) the exercise by the Commission of supervision of the carrying out by the delegate of the terms of the delegation to the extent of countermanding the delegate's exercise of a power or authority or discharge of a function or duty under the delegation.

(7) A delegation is revocable at the will of the Commission.

22. Delegation prior to appointed day. (1) The Commission may before the appointed day and pursuant to section 21 delegate any of its powers, authorities, functions or duties conferred or imposed on it by or under a provision of the *Corrective Services Act 1988* notwithstanding that at the time at which the delegation is made that provision has not commenced and any such delegation shall have effect according to its tenor on and from the date on which the provision does commence.

(2) A delegation made pursuant to section 21 before the appointed day (including a delegation referred to in subsection (1) of this section) may be expressed to be to the person for the time being holding a specified office notwithstanding that at the time the delegation is made no person holds that office and where such a delegation is so made it shall take effect according to its tenor whenever that office is occupied.

23. Commission subject to direction of Minister. (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

24. Meetings of Commission. The Commission shall hold its first meeting within one month after the first appointment of the

commissioners referred to in paragraphs (a), (b), (c), (d), (e), (f) and (g) of section 10 (1) at such time and place as the chairman appoints.

(2) Subject to subsection (3), the Commission shall, by its resolution, appoint the times and places at which its meetings will be held and shall hold its meetings as so resolved from time to time.

(3) The Commission shall meet at least once in each month.

25. Presiding at meetings. The chairman of the Commission shall preside at every meeting of the Commission at which he is present and, in his absence, the deputy chairman, if present, shall preside.

If both the chairman and deputy chairman 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.

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 chairman.

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

27. Notice of meetings. (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 seven days prior to the date appointed for such meeting: Provided that in circumstances which in the opinion of the chairman of the Commission or of three other commissioners constitute an emergency, the chairman or, as the case may be, such three 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 his 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) Subsection (1) 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.

28. Adjournment of meetings. The commissioners present at a meeting of the Commission may adjourn the meeting from time to time.

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

No provision of the preceding paragraph shall 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.

29. Conduct of Commission's affairs. (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.

The person who is duly presiding at a meeting, if he 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 (in this Act called the minute book), kept under the superintendence of the chairman 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.

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 chairman 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 chairman 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.

30. Custody of seal; authentication of documents. (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.

(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 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.

31. Validity of acts. Any act, proceeding, decision or determination of the Commission is not invalid or unlawful by reason only of any defect in the qualification, membership or appointment of a commissioner thereof or a vacancy in the office of a commissioner at the time of that act, proceeding, decision or determination.

32. Disclosure of interest. (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 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 or offender (not being a matter concerning prisoners or offenders generally or all prisoners or offenders in a class of prisoners 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 his association or, as the case may be, his 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 to the effect—

- (a) that he is or has been associated with a specified prisoner or offender shall, unless and until the notice is withdrawn, be a sufficient disclosure of his association with that prisoner or offender in relation to any matter concerning that prisoner or offender that may become the subject of consideration by the Commission after the date of the notice;
- (b) that he or his spouse or a member of his family is a member or an employee of a specified body corporate or that he or his spouse or a member of his 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 his 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.

Each notice given under this subsection 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 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 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 he proves that at the relevant time he was not aware and could not reasonably have been expected to be aware of his association or interest.

A commissioner who is convicted of an offence defined in this subsection is liable to a penalty of 10 penalty units and in addition upon conviction the commissioner's office as a commissioner shall thereby become vacant and such vacancy may be filled as a casual vacancy pursuant to section 15.

(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 the expression "offender" means a person subject to a probation order, a community service order or a fine option order.

PART III—PROVISIONS AFFECTING PERSONNEL

33. Appointment of Director-General and secretary. (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 his appointment, the salary and allowances which he is to be paid and the terms and conditions of his employment.

34. Other officers of Commission. (1) The Commission may appoint and employ on salary or wages or engage and employ on a contract basis—

- (a) a Director of Custodial Corrections, a Director of Community Corrections and such general managers, managers, custodial correctional officers, community correctional officers and other persons as are necessary for the effectual administration of the *Corrective Services Act 1988*;
and
- (b) such persons as are necessary for the effectual administration of this Act and to facilitate the exercise of its powers and the discharge of its functions.

(2) Subject to any applicable award or industrial agreement within the meaning of the *Industrial Conciliation and Arbitration Act 1961-1987* or to the terms and conditions of a contract, persons employed by the Commission shall be paid salary, wages and allowances at such rates and shall be employed under such conditions of employment (including conditions as to leave entitlements) as the Commission determines.

(3) Upon the appointed day—

- (a) all persons who, immediately prior to that day, were officers of the public service employed in the prison service or the Office of the Chief Probation and Parole Officer;
and
- (b) such other persons as are determined by the Governor in Council who, immediately prior to that day, were officers of the public service employed in the Department of Corrective Services and Administrative Services,

shall cease to be officers of the public service and shall become and be officers employed by the Commission.

Each of those persons shall be paid initially salary at a rate not less than that appropriate to the salary classification on which he was employed within the public service immediately before the appointed day and he shall be employed in all other respects—

- (c) where there are officers of the public service performing similar duties—subject to such conditions of employment as are applicable in respect of those officers;
- (d) in a case to which paragraph (c) does not apply—subject to such conditions of employment as were applicable to him as an officer of the public service immediately before that day,

until such salary is or conditions are determined by the Commission pursuant to this section or by an applicable award or industrial agreement for an officer or employee of the Commission performing similar duties.

Salaries, wages, allowances and emoluments payable in respect of those persons shall be paid out of the funds of the Commission.

(4) A person, other than a person to whom section 36 (2) refers who is employed full time in a permanent capacity by the Commission is deemed to be an officer within the meaning of the *State Service Superannuation Act 1972-1988* and the provisions of that Act shall apply to and in respect of him accordingly unless the Governor in Council otherwise determines.

35. Conditions of employment on contract. Where a person is engaged and employed under this Act on a contract basis, the conditions of his employment shall not be subject to any industrial award or industrial agreement or any determination or rule of an industrial tribunal.

36. Rights of officers previously employed in the public service. (1) A person who pursuant to section 34 (3) is an officer of the Commission shall nevertheless, for as long as he continues in the employment of the Commission in a permanent capacity, retain and may claim against the Commission in respect of all leave entitlements that have accrued to him as an officer of the public service and for the purpose of the accrual of long service leave his service with the Commission and as an officer of the public service shall be deemed to be continuous service as an officer or employee of the Commission.

(2) Where a person is an officer of the Commission pursuant to section 34 (3) and was, immediately before becoming such an officer, an officer within the meaning of a superannuation Act, for as long as he continues in the full time employment of the Commission in a permanent capacity—

- (a) all entitlements (if any) which, immediately before the day on which he became an officer of the Commission, have accrued or are accruing in respect of him under that Act shall be retained;
and
- (b) he shall be deemed to continue to be an officer within the meaning of that Act and the provisions of that Act shall apply accordingly.

In this subsection the expression “superannuation Act” means—
the *Public Service Superannuation Act 1958-1988*;
the *State Service Superannuation Act 1972-1988*.

(3) Notwithstanding any other provision of this Act, for a period of five years commencing on the appointed day, a person who is an officer of the Commission pursuant to section 34 (3) shall for the purposes only of his being appointed to a position in the public service or of any provision of the *Public Service Management and Employment Act 1988* that confers or regulates a right of appeal against promotion, be deemed to continue to be an officer of the public service employed in the department of the Government of the State by which the Minister administers this Act upon the classification which he held immediately prior to the appointed day.

(4) For the purpose of calculating the entitlements to leave of a person appointed to a position in the public service pursuant to subsection (3), the period during which he was an officer of the Commission pursuant to section 34 (3) shall be deemed to be service in the public service and shall be deemed to be continuous with the service in the public service had by him prior to that period and service in the public service after that appointment.

(5) Where the contract of employment made with the Commission by an officer of the Commission who holds an office upon a contract basis is terminated otherwise than by way of disciplinary action pursuant to that contract the officer is entitled to elect to continue to be employed as an officer, though not upon a contract basis, at a level of salary determined by the Commission but not less than the level of salary at which he was employed at the time immediately before he first accepted employment upon a contract basis, adjusted to accord with movements in rates of salaries since that time and, if he does so elect, the officer shall renounce all entitlements secured to him by the contract of employment in the event of its termination in the circumstances in which the termination has occurred.

Every such election—

- (a) shall be made in writing signed by the officer and given to the Commission no later than 14 days after notice of termination of the contract has been given to the officer; and
- (b) upon being duly made, shall have the effect that the elector's services as an officer shall be deemed not to have been terminated by the termination of his contract of employment but to have continued in accordance with the terms of election prescribed by this subsection.

This subsection applies only in relation to an officer who became such pursuant to section 34 (3) and who at the time he was first appointed to an office upon a contract basis has been continuously employed full time in a permanent capacity in an office with the Commission, and whose service in the lastmentioned office and in any office or offices subsequently held by him until the termination of the contract in question has been continuous.

37. Participation in superannuation scheme pursuant to other Act. Nothing contained in section 34 or 36 shall be so construed as to prevent the Commission or any person from participating in any superannuation scheme pursuant to any other Act.

38. Contributions by Commission. (1) In respect of a person who contributes to the State Service Superannuation Fund and is referred to in section 34 (4) or 36 (2) the Commission shall pay to each fund referred to in the *Public Service Superannuation Act 1958-1988* or the *State Service Superannuation Act 1972-1988* such sums (if any) as would have been payable by or on behalf of the Crown by way of contribution to that fund had the contributor been an employee of the Crown and

had been paid salary at the rate paid to him at the material time by the Commission.

(2) Moneys payable by the Commission to a fund pursuant to subsection (1) and remaining unpaid may be recovered by action in a court of competent jurisdiction by the State Service Superannuation Board constituted under the *State Service Superannuation Act 1972-1988* as a debt due to that board.

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

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

40. Retirement. (1) An officer of the Commission—

- (a) shall retire from his employment with the Commission upon his attaining age 65 years;
- (b) may elect to retire from his employment with the Commission upon or at any time after his attaining age 55 years.

(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 his 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 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 his 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 his employment with the Commission.

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

42. Retrenchment. Where the Commission is satisfied that—

- (a) the services of an officer of the Commission can no longer be gainfully utilized in the office held by the officer because the office has become redundant;
 - (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.

43. Discipline. (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 his employment;
- (b) negligence, carelessness or indolence in the discharge of duties of office or attaching to his employment;
- (c) a contravention or failure to comply with a provision of the code of conduct prescribed pursuant to section 20 (2);
- (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 him by the Commission or by another person having authority over him;
- (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 paragraph (d) of subsection (1) 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 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 he be disciplined in a manner that appears to it to be warranted.

Without limiting the range of disciplines that may be imposed pursuant to this subsection, such disciplines may consist of—

- dismissal;
- reprimand;
- forfeiture or deferment of a salary increment or increase;

reduction in the officer's or employee's level of salary or wages; a deduction from the officer's or employee's salary or wages of an amount not exceeding 2 penalty units.

Every order made pursuant to this subsection shall take effect in law and shall be given effect.

(4) For the purpose of subsection (3) a penalty unit shall have the value assigned to a penalty unit by the *Penalty Units Act 1985-1988*.

44. Implementation or order. 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.

45. Suspension. (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 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 he does not perform the duties of his office or attaching to his 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 his suspension, if he resumes duty as an officer or employee of the Commission upon the lifting of his suspension, shall be entitled to receive a sum equivalent to the amount of salary or wages he would have received had he not been suspended diminished by the amount of salary, wages or fees (if any) to which he became entitled from any other source during the period of his suspension, unless the Commission otherwise determines.

46. Appeal tribunal. (1) There shall be constituted from time to time as the occasion requires an appeal tribunal consisting of three members, namely—

- (a) the chairman of the Commission;
- (b) the chief executive for the time being of the department of the Government of the State by which the Minister administers this Act;
- (c) a person nominated pursuant to section 47 and appointed in writing by the Commission.

(2) The appointment of a person as a member of an appeal tribunal pursuant to subsection (1) (c) shall be for such general or limited duration as is specified in the instrument of his appointment.

(3) An officer of the public service appointed a member of an appeal tribunal pursuant to subsection (1) (c) shall be granted special leave on full salary from his employment as such an officer for the purpose of his attending any meeting of the appeal tribunal.

(4) The secretary to the Commission shall be the secretary to each appeal tribunal.

(5) A finding or determination made by an appeal tribunal in respect of an appeal shall be by majority vote of its members and shall be made known at the hearing of the appeal.

47. Nomination of persons who may be appointed members of appeal tribunal. (1) The President for the time being of the Professional Officers' Association of Employees (Queensland) and the President for the time being of the Queensland State Service Union of Employees shall each nominate, from time to time as prescribed, 6 persons any of whom may from time to time be appointed a member of an appeal tribunal.

(2) A person is not eligible to be nominated pursuant to subsection (1) if he is an officer or employee of the Commission and unless he is—

- (a) a member of the executive of the association or union of which his nominator is president;
- or
- (b) an officer of the public service and a member of the association or union of which his nominator is president.

(3) Where a president referred to in subsection (1) refuses or fails to nominate pursuant to that subsection any person at all who is eligible to be nominated by him or nominates an insufficient number of eligible persons, the Commission may nominate 6 persons or, as the case may be, such number of persons as will rectify the insufficiency in lieu of the persons who might have been nominated by the president or, as the case may be, though nominated by him were not eligible to be so nominated.

Persons nominated by the Commission pursuant to this subsection—

- (a) shall not be officers or employees of the Commission;
- (b) need not be persons who would if nominated by the president have been required to possess the qualifications referred to in paragraph (a) or (b) of subsection (2);
- (c) may from time to time be appointed a member of an appeal tribunal.

48. Fees and allowances of members of appeal tribunal. (1) Each member of an appeal tribunal shall be paid such fees and allowances as the Commission determines.

(2) Fees and allowances shall not be paid to a member who is an officer of the public service in respect of his attendance at a meeting of the tribunal during his ordinary hours of duty as such an officer.

(3) Each member of an appeal tribunal shall be paid such expenses as are necessarily incurred by him in the discharge of his duties as a member and as the Commission approves.

49. Appeals against promotional appointments, disciplinary action and suspension. (1) An appeal on the merits lies to an appeal tribunal in accordance with this section, and not otherwise, in respect of—

- (a) all disciplinary action taken pursuant to section 43;
- (b) every appointment to an office that involves the appointee's promotion except—
 - (i) an office where the person appointed to that office was not, immediately before the appointment, an officer of the Commission;
 - (ii) an office the duties attaching to which are to be performed on a part time basis;
 - (iii) an office to which appointment is made upon a contract basis;
 - (iv) an office or one of a class of office declared by the Commission to be an office or a class of office in respect of appointment to which no appeal lies;
- (c) all suspensions imposed under section 45 where the officer or employee is not entitled to salary or wages for the period of his suspension.

(2) An officer or employee who may exercise the right of appeal is—

- (a) in the case of an appeal in respect of disciplinary action or suspension from duty, he who is aggrieved by the decision that has resulted in disciplinary action against him or, as the case may be, his suspension from duty;
- (b) in the case of an appeal against an appointment, he who satisfies the requirements of the regulations in respect of appeals of the class of appeal in question.

(3) An appeal in respect of disciplinary action may relate to the decision that has resulted in the action being taken or to the nature of the punishment or both.

(4) Jurisdiction is hereby conferred on an appeal tribunal to hear and determine—

- (a) all matters relevant to an appeal duly instituted in relation to disciplinary action or a suspension from duty;
and
- (b) all matters relevant to an appeal duly instituted in relation to an appointment.

The institution and conduct of an appeal provided for by this section shall be as prescribed by the regulations or, in so far as the regulations do not so prescribe, as an appeal tribunal determines from time to time having regard to the principles—

- (c) that legal representation shall not be permitted to a party to an appeal;
and
- (d) that the proceedings upon an appeal shall be informal and simple.

No appeal lies from a finding or determination made by an appeal tribunal upon an appeal to it.

50. Determination of appeal. (1) By way of determining an appeal in relation to disciplinary action or a suspension from duty an appeal tribunal may confirm or set aside the Commission's decision in issue and may make any determination and order that the Commission could have properly made under this Act with respect to the matter in question.

The decision of the appeal tribunal shall be given effect to.

(2) By way of determining an appeal in relation to an appointment to an office an appeal tribunal may dismiss or uphold the appeal and—

- (a) in a case where there is only one appeal in relation to the appointment and that appeal is upheld—the appellant shall upon that determination and by virtue of this subsection, and without any further or other appointment, be appointed to the office in question;
- (b) in a case where there are two or more appeals in relation to the appointment but only one such appeal is upheld—the successful appellant shall upon the determination of all the appeals and by virtue of this subsection, and without any further or other appointment, be appointed to the office in question;
- (c) in a case where there are two or more appeals in relation to the appointment and more than one such appeal is upheld—upon the determination of all the appeals the secretary shall advise the Commission of the names of the successful

appellants and the Commission shall, as soon as is practicable, appoint one of those appellants to the office in question.

(3) Where an appellant is appointed to an office by or pursuant to subsection (2)—

- (a) the appellant shall be—
 - (i) entitled to be paid salary at the rate attaching to that office on and from the date of appointment, notwithstanding any delay in taking up duty in that office; and
 - (ii) eligible to receive any applicable salary increment on the anniversary date of the appointment in relation to which he successfully appealed;
- (b) the officer originally appointed to that office shall revert to the office from which he was so appointed: Provided that if the last mentioned office is not still vacant the officer shall be retained at a level of salary not less than the level of salary attaching to that office until he is appointed to another office.

PART IV—FINANCIAL PROVISIONS

51. Commission entitled to certain moneys. On the appointed day the Commission is entitled to receive—

- (a) all moneys appropriated by Parliament to the Department of Corrective Services and Administrative Services for the purpose of corrective services and not expended by that department for that purpose;
- (b) all moneys that, immediately before that day, stood to the credit of the fund called the “Prisons Department Special Standing Fund” kept at the Treasury;
- (c) all moneys that, immediately before that day, stood to the credit of the fund called the “Prisoners’ Amenities Trust Fund” kept by the Comptroller-General of Prisons;
- (d) all moneys that, immediately before that day, are held to the credit of any prisoner pursuant to the *Prisons Act 1958-1988*.

52. Funds to be maintained. The Commission shall establish and at all times maintain in accordance with this Act the following funds:—

- a General Fund;
- a Trust Fund;
- a Prisoners’ Trust Fund.

53. General Fund. (1) There shall be paid into the General Fund—

- (a) the moneys to which the Commission is entitled under section 51 (a) and (b);
- (b) all moneys appropriated by Parliament from time to time for the purposes of and paid to the Commission;
- (c) all moneys received by the Commission by way of commission;
- (d) all moneys arising from any source when such moneys are not required by this Act or the *Corrective Services Act 1988* to be paid into any other fund.

(2) Moneys from time to time forming the General Fund shall be applied to—

- (a) expenditure incurred in the exercise and discharge of the Commission's powers, authorities, functions and duties;
- (b) expenditure incurred by the Department of Corrective Services and Administrative Services in respect of corrective services before the appointed day and remaining unpaid at that day;
- (c) crediting, in accordance with the regulations, moneys to a fund kept pursuant to section 56.

(3) Except to the extent approved by the Minister either generally or in a particular case, the Commission shall not make payments in respect of its General Fund in excess of the moneys from time to time standing to the credit of that fund.

54. Trust Fund. (1) There shall be paid into the Trust Fund—

- (a) the moneys to which the Commission is entitled under section 51 (c);
- (b) moneys paid to the Commission by way of deposit;
- (c) moneys paid to the Commission in trust for any persons other than moneys required by section 55 to be paid into the Prisoners' Trust Fund;
- (d) interest earned on moneys from time to time forming the Prisoners' Trust Fund.

(2) Moneys from time to time forming the Trust Fund shall be applied—

- (a) in the case of moneys referred to in subsection (1) (a) and interest earned on moneys from time to time forming the Prisoners' Trust Fund, to providing sporting and other recreational amenities for prisoners;
- (b) in the case of moneys received by way of deposit, according to the terms on which the deposit is held;
- (c) in the case of moneys held in trust for any persons, to payments on account of those persons.

(3) In subsection (1) (b) the expression "moneys paid to the Commission by way of deposit" refers to money paid by way of earnest

and does not refer to a deposit of money by way of loan, subsidy or grant.

55. Prisoners' Trust Fund. (1) There shall be paid into the Prisoners' Trust Fund—

- (a) all moneys that, immediately before the appointed day, are held by any Superintendent in charge of a prison on behalf of any prisoner;
- (b) the moneys to which the Commission is entitled under section 51 (d);
- (c) all moneys received by the general manager of a prison on behalf of a prisoner;
- (d) all moneys credited to prisoners under subsection (2).

(2) There shall be credited to a prisoner who—

- (a) was, immediately before the appointed day, a prisoner within the meaning of the *Prisons Act 1958-1988*;
and
- (b) would, but for the commencement of the *Corrective Services Act 1988*, have been eligible, upon release or discharge, to be paid an amount pursuant to regulation 349 of The Prisons Regulations of 1959,

an amount equal to the amount which he would have been paid pursuant to that regulation if—

- (c) the *Corrective Services Act 1988* had not commenced;
- (d) he was eligible to be discharged or released on the appointed day;
and
- (e) the period of his sentence was the period of imprisonment actually served by him as at that day.

(3) Moneys held in the Prisoners' Trust Fund to the credit of a prisoner—

- (a) may, with the consent of the Commission, be expended by the prisoner;
- (b) shall, if the Public Trustee is managing the prisoner's estate and the Public Trustee so directs, be paid to the Public Trustee;
- (c) shall be paid to the prisoner upon his being discharged or released on parole.

56. Other prescribed funds. (1) The regulations may prescribe that one or more other funds be established and kept by the Commission and the purposes for which such funds are to be applied.

(2) The Commission shall establish and maintain all such funds as are so prescribed and shall cause the moneys for the time being

forming such a fund to be applied to the purpose prescribed in respect of that fund.

57. Budget of Commission. (1) As soon as practicable after it is first constituted the Commission shall, in respect of the General Fund, adopt and present to the Minister a budget showing its estimates of its receipts and disbursements in respect of the balance of the financial year in which the budget is presented and thereafter the Commission shall, in respect of that fund, before the commencement of each succeeding financial year adopt and present to the Minister a budget showing its estimates of its receipts and disbursements in respect of that succeeding financial year.

(2) A budget of the Commission shall be of no force or effect until it is approved by the Minister.

(3) The Minister may amend a budget of the Commission in such a way as he thinks fit and shall amend it where necessary and in any item so that it shall as nearly as possible balance for the financial year to which it relates having regard to the sums that may be appropriated by Parliament to the Commission and to any other revenues reasonably expected by it for that financial year.

(4) When the Minister has approved of a budget of the Commission the budget as approved, whether or not it has been amended pursuant to subsection (3), shall be binding upon the Commission.

58. Observance of budget. (1) Subject to subsection (2), the Commission shall confine its disbursements from the General Fund throughout a financial year within the items and amounts contained in its budget for that financial year as approved by the Minister.

(2) If during any financial year it appears to the Commission that an extraordinary circumstance has arisen which requires the Commission to make a disbursement in that financial year from the General Fund that was not provided for in the budget (as approved) for that financial year or that exceeds the amount estimated in respect of that disbursement in the budget (as approved) for that financial year the Commission shall, before making the disbursement or excess disbursement—

(a) by resolution, approve that the disbursement or excess disbursement be made;

and

(b) obtain the approval of the Minister for an amendment to the budget.

(3) The Commission shall ensure that the budget in respect of the General Fund as amended and approved will not then be exceeded in particular or in total by the disbursement or excess disbursement referred to in subsection (2).

59. Treatment of surplus and deficit. (1) If at the close of any year for which a budget is framed there is a surplus or deficit in the General Fund the same shall be carried forward and taken into account in

framing the budget for the next following year unless, in the case of a deficit, it is extinguished by money paid to the Commission by the Treasurer for that purpose.

(2) At the close of each year for which a budget is framed all authorizations of expenditure for any item provided for in the budget so framed shall lapse but may be re-authorized.

60. Payment of grants to Commission. Subject to appropriation by Parliament of money for the purpose the Treasurer may pay to the Commission by way of grant moneys in such amount and for such purpose as is approved by the Governor in Council on the recommendation of the Treasurer.

PART V—MISCELLANEOUS

61. Secrecy. (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 possession or to his knowledge in the discharge of his functions or the exercise of his powers under a prescribed Act unless—

(a) he does so for the purposes of a prescribed Act;

or

(b) he 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.

Penalty: 10 penalty units.

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

this Act;

Corrective Services Act 1988;

The Prisons Act of 1958;

Offenders Probation and Parole Act 1980;

Prisoners (Interstate Transfer) Act 1982;

Parole Orders (Transfer) Act 1984;

an Act prescribed by Order in Council for the purpose of subsection (1).

62. Protection for acts done pursuant to Acts. (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 him) who, in the discharge of a function or the exercise of a power under Part II 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 he 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 he would have independently of this section.

63. Commission deemed to be owner of property. (1) For the purpose of any proceedings—

(a) every prison 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 or persons 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 his 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.

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

- (a) any form of identification;
- (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 his capacity as a commissioner, officer or employee and if he fails to do so he 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 chairman of the Commission or a commissioner authorized in that behalf by the chairman, issue his warrant authorizing 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.

65. Service of documents on Commission. Where by or under any Act any application, notice or other document is required or authorized 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.

66. Prosecutions. (1) A prosecution for an offence against this Act shall be by way of summary proceedings under the *Justices Act 1886-1988* on complaint by a person authorized 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.

67. Certificate of secretary evidence of Commission's decisions. 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.

68. Protection of Commission's name. (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.

69. Grant in fee simple of certain lands to Commission. (1) The reservation and setting apart for public purposes under and for the purposes of *The Land Act of 1962* or that Act as amended from time to time of all land described in the Schedule shall terminate on the day appointed by Proclamation for the purposes of this subsection and upon such termination the land is Crown land which may be dealt with as authorized by the *Land Act 1962-1988* in respect of Crown land.

(2) Any lease to which Division II of Part XI of the *Land Act 1962-1988* applies of any land described in the Schedule or any part of that land shall on the day referred to in subsection (1) be terminated by virtue of this subsection and the lessee shall forthwith vacate the land and have no right or claim to compensation whatsoever.

(3) The power conferred by the *Land Act 1962-1988* 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.

(4) The Governor in Council shall on the day referred to in subsection (1) grant all land described in the Schedule in fee simple to the Commission.

70. Annual report. (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 and the *Corrective Services Act 1988* 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 he receives it.

71. Regulations. (1) The Governor in Council may make regulations not inconsistent with this Act providing with respect to—

- (a) all matters that arise in connexion 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 authorized under section 19 (3) and all matters that arise in connexion with the responsibilities, obligations and liabilities of such persons while undergoing such training or so authorized;
- (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 are required or permitted by this Act to be prescribed;
- (e) all matters that in his opinion are necessary or convenient to be prescribed for the proper administration of this Act or for the proper exercise and discharge by the Commission of its powers and functions;
- (f) all matters that in his opinion are necessary or convenient to be prescribed to achieve the objects and purposes of this Act.

(2) Notwithstanding the provisions of any Act or rule of law, where a regulation or a provision of a regulation confers a benefit on officers or employees of the Commission, it may specify a date for its commencement or by its terms indicate that it is to take effect from a date, in either case being a date before the regulation or provision is made, and in that case the regulation or provision shall be deemed to have taken effect on and from the date specified or indicated and shall have retrospective effect accordingly.

72. Review of Acts. (1) The Minister shall carry out a review of the operation of this Act and the *Corrective Services Act 1988* during the final six months of the term of appointment of the commissioners appointed in the second appointment of commissioners and shall carry out a further review within five 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 him 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 his review of the Acts and shall lay the report before

the Legislative Assembly within 14 sitting days after the report is prepared.

SCHEDULE

(s. 69)

THE BRISBANE LAND AGENT'S DISTRICT

Reserve for Prison (R. 699)

County of Stanley, parish of South Brisbane, city of Brisbane

Area, 7.669 hectares

Portion 205 as shown on plan SL8028 held in the Department of Geographic Information;

Reserve for Prison

County of Stanley, parish of Oxley

Area, about 334.211 hectares

R.1905, being Lot 487 on plan SL11955 and Lot 631 on plan SL12390 held in the Department of Geographic Information;

Reserve for Prison

County of Stanley, parish of North Brisbane

Area, 1 359 square metres

R.2971, as shown on plan SL8939 held in the Department of Geographic Information;

Reserve for Prison

County of Ward, parish of Numinbah

Area, 779.4168 hectares

R.362, being Lot 221 on plan WD6225 held in the Department of Geographic Information;

Reserve for Prison (R. 205)

County of Ward, parish of Beaudesert

Area, about 53 acres 3 roods 20 perches

Portion 75 as shown on plan Wd. 1901 held in the Department of Geographic Information;

Reserve for Prison Purposes (R. 947)

County of Canning, parish of Durundur

Area, 367 acres 2 roods 37 perches

Portions 334, 335 and 336 as shown on plans Cg. 535 and Cg. 2364 held in the Department of Geographic Information.

THE IPSWICH LAND AGENT'S DISTRICT

Reserve for Prison Purposes

County of Churchill, parish of Walloon

Area, 92.681 hectares

R.2573, being Lot 121 on plan CC248 held in the Department of Geographic Information.

THE ROCKHAMPTON LAND AGENT'S DISTRICT

Reserve for Prison

County of Livingstone, parish of Fitzroy

Area, 447.689 hectares

R.771, being portion 145, as shown on plan Ln. 2427 held in the Department of Geographic Information.

THE TOWNSVILLE LAND AGENT'S DISTRICT

Reserve for Prison

County of Elphinstone, parish of Beor

Area, 677.803 hectares

R.84, being Lot 56 on plan EP1573 and Lot 57 on plan EP2061 held in the Department of Geographic Information.

THE CAIRNS LAND AGENT'S DISTRICT

Reserve for Prison

County of Nares, parish of Tinaroo

Area, 902.044 hectares

R.1902, being Lots 864 and 866 on plan NR5315 held in the Department of Geographic Information.