

Queensland



ANNO TRICESIMO SEPTIMO

ELIZABETHAE SECUNDAE REGINAE

No. 89 of 1988

**An Act to provide for and in respect of corrective services,
the release of prisoners on parole, the making of
probation orders, community service orders and fine
option orders and for related purposes**

[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 Act 1988*.

2. Commencement. (1) Section 1 and this section shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Subject to subsection (1), this Act shall commence on the date appointed under section 7 of the *Corrective Services (Administration) Act 1988*, referred to in this Act as the "appointed day".

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

PART I—PRELIMINARY (ss.1-10);

PART II—PRISONS, COMMUNITY CORRECTIONS CENTRES AND PRISONERS (ss.11-130);

Division 1—Establishment of Prisons and Community Corrections Centres (ss. 11-12);

Division 2—Management of Prisons and Community Corrections Centres (ss. 13-21);

Subdivision A—Responsibility for Prisons, Community Corrections Centres and Prisoners (ss. 13-19);

Subdivision B—Volunteers and Chaplains (ss. 20-21);

Division 3—Official Visitors (ss. 22-26);

Division 4—Inspectors (ss. 27-31);

Division 5—Prisoners (ss. 32-85);

Subdivision A—Admission and Accommodation of Prisoners (ss. 32-43);

Subdivision B—Control and Management of Prisoners (ss. 44-53);

Subdivision C—Prison Dogs (ss. 54-58);

Subdivision D—Prison Programs (ss. 59-60);

Subdivision E—Absence, Transfer and Removal of Prisoners (ss. 61-74);

Subdivision F—Custody of Appellants in Prison (ss. 75-79);

Subdivision G—Discharge (ss. 80-85);

Division 6—Home Detention (ss. 86-91);

Division 7—Offences and Breaches of Discipline by Prisoners (ss. 92-103);

Subdivision A—Unlawful Assembly, Riot and Mutiny (s. 92);

Subdivision B—Prisoner Offences (ss. 93-96);

- Subdivision C—Breaches of Discipline (ss. 97-103);
Division 8—Control of Persons other than Prisoners
 (ss. 104-110);
 Subdivision A—Offences by Persons other than Prisoners
 (ss. 104-107);
 Subdivision B—Powers of Search and Seizure (ss. 108-110);
Division 9—Emergency (ss. 111-112);
Division 10—Prisoner of a Court (ss. 113-121);
Division 11—General (ss. 122-130);
 PART III—COMMUNITY CORRECTIONS BOARDS
 (ss. 131-161);
Division 1—Queensland Community Corrections Board
 (ss. 131-142);
Division 2—Regional Community Corrections Boards
 (ss. 143-152);
Division 3—General (ss. 153-161);
 PART IV—PAROLE (ss. 162-196);
 PART V—COURT ORDERS RELATING TO CONVICTED
 PERSONS (ss. 197-261);
Division 1—Probation Orders (ss. 197-213);
Division 2—Community Service Orders (ss. 214-229);
Division 3—Fine Option Orders (ss. 230-246);
Division 4—General (ss. 247-261);
 PART VI—MISCELLANEOUS (ss. 262-270);
 SCHEDULES.

4. **Repeals and references.** (1) The Acts specified in Part A of Schedule 1 are repealed.

(2) The *Public Service Management and Employment Act 1988* is amended to the extent specified in Part B of Schedule 1 and, as amended, may be cited as the *Public Service Management and Employment Act 1988*.

(3) In this Act, other than in Schedule 1, a reference to *The Prisons Act of 1958* or the *Offenders Probation and Parole Act 1980* includes a reference to that Act as amended and in force from time to time.

5. **Savings and transitional—general.** (1) On the appointed day a person who immediately before that day—

- (a) held the office of prison officer under *The Prisons Act of 1958* shall be deemed to be appointed to the office of custodial correctional officer under the *Corrective Services (Administration) Act 1988*;
- (b) held the office of probation officer or parole officer under the *Offenders Probation and Parole Act 1980* shall be deemed

to be appointed to the office of community correctional officer under the *Corrective Services (Administration) Act 1988*;

- (c) was an honorary probation officer or an honorary parole officer under the *Offenders Probation and Parole Act 1980* shall be deemed to be appointed as a voluntary community correctional officer under this Act;
- (d) was a supervisor under the *Offenders Probation and Parole Act 1980* shall be deemed to be appointed as a supervisor under this Act;
- (e) held the office of medical officer to a prison under *The Prisons Act of 1958* shall be deemed to be appointed as a medical officer to that prison under this Act;
- (f) was authorized under *The Prisons Act of 1958* to be a chaplain to a prison shall be deemed to be appointed as a chaplain to that prison under this Act;
- (g) was a prisoner within the meaning of *The Prisons Act of 1958* shall be deemed to be a prisoner within the meaning of section 10 of this Act.

(2) Every instrument, order, direction, approval, cancellation, suspension, determination, recommendation or other act or authority, made, issued, given, granted, continued in force or done under *The Prisons Act of 1958* or the *Offenders Probation and Parole Act 1980* and in force immediately before the appointed day shall continue in force as if it were made, issued, given, granted or done under this Act until it expires by effluxion of time or is discharged, revoked, cancelled or suspended under this Act and a reference therein to a probation officer or a parole officer shall be taken to refer to a community correctional officer.

This subsection does not apply to or in respect of a fine option order made under the *Offenders Probation and Parole Act 1980*.

(3) A probation officer or parole officer assigned pursuant to the *Offenders Probation and Parole Act 1980* in respect of a probation order, community service order or parole order continued in force under subsection (2) who, on the appointed day, becomes a community correctional officer or a voluntary community correctional officer shall be deemed to be the community correctional officer assigned in respect of the order until another community correctional officer is so assigned.

(4) For the purpose of applying the provisions of this Act to and in respect of a probation order continued in force under subsection (2) and—

- (a) made under paragraph (a) of section 17 (1) of the *Offenders Probation and Parole Act 1980*, that order shall be deemed to have been made under paragraph (a) of section 197 (1) of this Act;
- (b) made under paragraph (b) of section 17 (1) of the *Offenders Probation and Parole Act 1980*, that order shall be deemed

to have been made under paragraph (b) of section 197 (1) of this Act.

(5) The prisons specified in Schedule 2 in the first column (proclaimed or deemed to have been proclaimed under *The Prisons Act of 1958*) shall on the appointed day be deemed to have been declared as prisons under this Act and shall continue to be prisons under and for the purposes of this Act under the names specified in the second column.

6. Savings and transitional—parole. (1) On and from the appointed day every parole order and parole certificate continued in force under section 5 (2) shall, for the purposes of applying the provisions of this Act to or in respect of that order or certificate or to or in respect of the prisoner to whom that order or certificate relates, be deemed to have been validly made or issued by the Queensland Community Corrections Board under this Act.

(2) On the appointed day the persons who, immediately before that day, were the members of the Parole Board constituted under the *Offenders Probation and Parole Act 1980* shall go out of office and their appointments as such members shall terminate.

(3) An application for parole by a prisoner (other than a prisoner serving a term of imprisonment for life) made under the *Offenders Probation and Parole Act 1980* and not determined by the appointed day may be determined by the Queensland Community Corrections Board and the provisions of Part IV of this Act with such adaptations and modifications as may be necessary shall apply accordingly.

The application may be determined by the Queensland Community Corrections Board notwithstanding that if the application were made under this Act it would fall to be determined by a regional community corrections board.

It is not necessary that the application be considered by a regional community corrections board prior to its being determined by the Queensland Community Corrections Board.

(4) The person who immediately before the appointed day was the secretary to the Parole Board constituted under the *Offenders Probation and Parole Act 1980* shall on that day be deemed to be appointed secretary to the Queensland Community Corrections Board pursuant to this Act.

(5) All courts and persons acting judicially shall take judicial notice of the signature of every person who was a member of or secretary to the Parole Board constituted under the *Offenders Probation and Parole Act 1980* affixed to a document or other writing under the authority of that Act or any other Act and shall presume until the contrary is proved that every such signature has been lawfully and properly affixed.

(6) A certificate signed by the secretary to the Queensland Community Corrections Board purporting to record any determination of the Parole Board referred to in subsection (5) shall be evidence and in the absence

of evidence to the contrary conclusive evidence of the making of that determination by that board.

7. Savings and transitional—community service. (1) On and from the appointed day a notification given to a court before that day —

- (a) for the purpose of paragraph (b) (i) of section 72 (1) of the *Offenders Probation and Parole Act 1980* shall be taken to be a notification given to the court for the purpose of paragraph (b) (i) of section 217 (1) of this Act;
- (b) for the purpose of paragraph (b) (i) of section 89C of the *Offenders Probation and Parole Act 1980* shall be taken to be a notification given to the court for the purpose of paragraph (a) of section 233 of this Act.

(2) On the appointed day any activity declared to be community service pursuant to the *Offenders Probation and Parole Act 1980* shall be taken to have been declared to be community service by the Commission for the purposes of this Act.

(3) A person in respect of whom a community service order continued in force under section 5 (2) is in force—

- (a) shall perform in a satisfactory manner for the number of hours specified in the order such community service as a community correctional officer or a supervisor directs at such times as any community correctional officer or supervisor directs;
- (b) shall while performing that service comply with every reasonable direction of a supervisor;
and
- (c) shall advise the community correctional officer of every change in his place of residence within 48 hours of that change,

and such requirements shall for the purpose of Division 2 of Part V be deemed to be prescribed requirements within the meaning of that Division.

(4) In giving directions to a person in accordance with subsection (3) (a), a community correctional officer or, as the case may be, supervisor, as far as practicable, shall avoid—

- (a) conflict with the person's religious beliefs;
and
- (b) interference with the times, if any, at which the person usually works or attends a school or other educational establishment.

(5) For the purpose of applying paragraph (a) of section 220 to and in respect of a community service order continued in force under section 5 (2) the reference "paragraph (a) (ii) and (iii) of section 216

(1)” in that paragraph (a) of section 220 shall be read and construed as “paragraphs (a) and (b) of section 7 (3)”.

8. Savings and transitional—fine option orders. (1) An application for a fine option order made under section 89B of the *Offenders Probation and Parole Act 1980* and not determined by the appointed day may be heard and determined, and a fine option order made, pursuant to that Act as if this Act had not commenced and for that purpose a reference—

- (i) in subparagraph (i) of section 89C (b) of that Act to a probation officer shall, if the court has not been notified in terms of that subparagraph at the appointed day, be taken to refer to a community correctional officer;
- (ii) in section 89G to the Chief Probation and Parole Officer and a probation officer shall be taken to refer to the Commission and a community correctional officer respectively.

(2) Every fine option order made under the *Offenders Probation and Parole Act 1980* and in force immediately before the appointed day or coming into force pursuant to subsection (1) on or after that day shall continue in force as if this Act had not commenced and for that purpose the provisions of the *Offenders Probation and Parole Act 1980* shall continue to apply to and in respect of every such order and to the persons in respect of whom the orders were made.

For the purposes of applying the provisions of the *Offenders Probation and Parole Act 1980* to and in respect of any such order or person—

- (i) a reference in that Act to the Chief Probation and Parole Officer shall be taken to refer to the Commission;
- (ii) a reference in that Act or the order to a probation officer shall be taken to refer to a community correctional officer;
- (iii) a reference in that Act or the order to a supervisor shall be taken to refer to a supervisor under this Act.

(3) The probation officer assigned pursuant to the *Offenders Probation and Parole Act 1980* in respect of a fine option order made under that Act before the appointed day who, on that day, becomes a community correctional officer or voluntary community correctional officer shall be deemed to be the community correctional officer assigned in respect of the order until another community correctional officer is so assigned.

(4) The power to delegate had by the Commission under section 21 of the *Corrective Services (Administration) Act 1988* applies to and in respect of its powers, authorities, functions and duties under the *Offenders Probation and Parole Act 1980* as applied pursuant to this section.

9. References to hard labour. On and from the appointed day—

- (a) where any Act or law providing for imprisonment uses the expression “with hard labour” or an expression to that effect

or the expression “without hard labour” or an expression to that effect, the expression shall be disregarded;

- (b) where any warrant or other order, whether made before or after the appointed day, contains a requirement that a person be imprisoned with hard labour or without hard labour, the requirement shall be disregarded.

10. Interpretation. In this Act unless the contrary intention appears—

“breach of discipline” means a breach of discipline prescribed by regulation;

“chaplain” means a chaplain appointed under this Act to a prison or a community corrections centre;

“child” means a person under the age or apparent age of 17 years;

“Commission” means The Queensland Corrective Services Commission constituted by the *Corrective Services (Administration) Act 1988*;

“commissioner” means a commissioner of the Commission;

“Commission’s Rules” means the rules as amended and in force for the time being made under section 20 of the *Corrective Services (Administration) Act 1988*;

“community correctional officer” means a person appointed as a community correctional officer under the *Corrective Services (Administration) Act 1988* and includes the Director of Community Corrections and a person appointed under this Act as a voluntary community correctional officer;

“community corrections centre” means any premises or place declared as a community corrections centre under this Act;

“community service” means any activity declared by the Commission to be community service for the purposes of this Act;

“community service order” means a community service order made under Part V;

“correctional officer” means a community correctional officer or a custodial correctional officer;

“corrective services” means—

- (a) prisons and services related to prisons;
- (b) programs for prisoners who are detained in a prison;
- (c) services related to prisoners who are released on parole and persons subject to probation orders, community service orders or fine option orders;
- (d) community corrections centres and services related to community corrections centres;
- (e) 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;
- (f) services related to and programs for such persons or classes of persons as are from time to time prescribed by Order in Council;

- “custodial correctional officer” means a person appointed as a custodial correctional officer under the *Corrective Services (Administration) Act 1988*;
- “Director-General” means the Director-General of Corrective Services appointed under the *Corrective Services (Administration) Act 1988*;
- “Director of Community Corrections” means the Director of Community Corrections appointed under the *Corrective Services (Administration) Act 1988* and includes any person who for the time being performs the duties of that office;
- “Director of Custodial Corrections” means the Director of Custodial Corrections appointed under the *Corrective Services (Administration) Act 1988* and includes any person who for the time being performs the duties of that office;
- “discharged”, used in respect of a prisoner, means discharged from lawful custody pursuant to this Act or any lawful order other than a parole order;
- “fine option order” means a fine option order made under Part V;
- “general manager” in relation to a prison means—
- (a) the person holding office as general manager of the prison under the *Corrective Services (Administration) Act 1988*;
 - (b) where the office of general manager of the prison does not exist—the person holding office as manager of the prison under that Act;
- or
- (c) a person for the time being performing the duties of the office referred to in paragraph (a) or (b);
- “inspector” means an inspector appointed under section 27;
- “leave of absence” means leave of absence granted to a prisoner under section 61;
- “medical officer” means a medical officer appointed under this Act to a prison;
- “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;
- “offence” includes—
- (a) an indictable offence;
 - (b) an offence punishable on summary conviction;
- “official visitor” means an official visitor appointed under this Act to a prison or a community corrections centre;
- “parole order” means an order made under Part IV directing that a prisoner be released on parole;

- “parole period” means the period during which a prisoner is released on parole under the supervision of a community correctional officer;
- “police gaol” means any police lock-up or watchhouse;
- “police officer” means a member of the Police Force of Queensland;
- “prison” means any premises or place declared or deemed to have been declared as a prison pursuant to this Act;
- “prisoner”, except where used in the context of a person released on parole, means a person in the custody of the Commission;
- “probation order” means a probation order made under Part V;
- “probation period” means the period specified in a probation order during which the probationer is required to be under the supervision of a community correctional officer;
- “probationer” means a person in respect of whom a probation order is made;
- “Queensland Community Corrections Board” means the Queensland Community Corrections Board constituted under Part III;
- “regional community corrections board” means a regional community corrections board established under Part III;
- “rule” means a rule made by the Commission pursuant to the *Corrective Services (Administration) Act 1988*;
- “supervisor” means a supervisor appointed under this Act;
- “term of imprisonment” means—
- (a) the term of a single sentence;
 - or
 - (b) the unbroken period of imprisonment a person is liable to serve by virtue of a number of sentences, whether ordered to be served concurrently or cumulatively and whether imposed at the same time or at different times, and for the purposes of this definition a person is deemed to be serving a term of imprisonment by virtue of a sentence where he is undergoing imprisonment in default of payment of a fine or for failure to comply with any order of a court.

PART II—PRISONS, COMMUNITY CORRECTIONS CENTRES
AND PRISONERS

Division 1—Establishment of Prisons and Community Corrections Centres

11. Establishment of prisons. (1) The Governor in Council may by Order in Council—

- (a) declare any premises or place to be a prison;
- (b) declare any premises or place to be part of a prison, whether contiguous to the prison or not;
- (c) declare any premises or place to no longer be a prison or, as the case may be, part of a prison;
- (d) assign a name to any prison or alter the name of any prison;
- (e) define the limits of any prison in such manner as he thinks fit.

(2) In subsection (1) the expression “any premises” includes part of any premises.

12. Establishment of community corrections centres. The Commission may (by notification published in the Gazette) with the approval of the Minister—

- (a) declare any premises or place to be or to no longer be a community corrections centre;
- (b) assign a name to any community corrections centre or alter the name of any community corrections centre;
- (c) define the limits of any community corrections centre in such manner as it thinks fit.

Division 2—Management of Prisons and Community Corrections Centres

Subdivision A—Responsibility for Prisons, Community Corrections Centres and Prisoners

13. Functions of Commission concerning prisons and community corrections centres. (1) Subject to this Act and to any direction of the Minister, the Commission shall be responsible for the security and management of prisons and community corrections centres and the safe custody and welfare of prisoners.

(2) The Commission shall provide such medical services as are necessary for the welfare of prisoners.

(3) The Commission shall keep a register (called the “prisoner register”) that shall be in the prescribed form and shall contain such details in respect of each prisoner as are prescribed.

14. General manager responsible for prison. The general manager of a prison shall, subject to the Commission and the Director of Custodial Corrections, be responsible for the security and management of the prison and the safe custody and welfare of prisoners detained in or who, for the time being, may be detained in the prison.

15. Delegation by general manager. (1) Subject to any direction by the Commission, the general manager of a prison may by instrument, either generally or otherwise as provided by the instrument, delegate to any officer of the Commission all or any of the powers, authorities, functions and duties conferred or imposed on him by or under this Act or any other Act except this power of delegation.

(2) The general manager of a prison may make as many delegations of the same power, authority, function or duty and to as many persons as he thinks fit.

(3) 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.

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

(5) A power, authority, function or duty delegated under subsection (1), if exercised or discharged by the delegate, shall be exercised or discharged in accordance with the instrument of delegation.

(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 general manager;

or

(b) the exercise by the general manager 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) Subject to any direction of the Commission, a delegation is revocable at the will of the general manager.

16. Delegation by Commission before appointed day. (1) The Commission may by instrument made before the appointed day delegate any of the powers, authorities, functions or duties that upon the appointed day will be conferred or imposed upon a general manager of a prison by or under a provision of this Act or the *Corrective Services (Administration) Act 1988*.

(2) A delegation made pursuant to subsection (1)—

(a) shall be expressed to be to any person who on or after the appointed day for the time being holds a specified office;

(b) may be made subject to such terms or limitations as the Commission thinks fit;

and

(c) shall, upon the appointed day, be deemed to be a delegation made pursuant to section 15 by the person who upon that day holds the office of general manager of that prison.

(3) A reference in subsection (2) to a person who holds an office shall be taken to include any person who performs the duties of that office.

17. General Manager's Rules. (1) The general manager of a prison may make rules (called the "General Manager's Rules"), not inconsistent with this Act or the *Corrective Services (Administration) Act 1988* (or regulations made under either Act) or the Commission's Rules, in respect of the management and security of the prison and for the safe

custody and welfare of prisoners detained in or who, for the time being, may be detained in the prison.

(2) The general manager shall cause the General Manager's Rules to be brought to the notice of persons to whom they apply.

(3) Rules made under this section may differ according to the persons or classes of persons to whom they are expressed to apply.

18. Certain persons to have powers of general manager. (1) The chairman of the Commission, the Director-General, the Director of Custodial Corrections and any person authorized by the Commission in that behalf shall have all the powers conferred by or under this Act upon a general manager.

(2) A person who pursuant to subsection (1) has the powers of a general manager may, in respect of any order, decision or rule made by a general manager—

(a) rescind or vary it;

or

(b) make any new order, decision or rule that the general manager could have made,

and the order, decision or rule shall be deemed to have been rescinded or varied by, and any new order, decision or rule shall be deemed to have been made by, the general manager.

(3) A person who pursuant to subsection (1) has the powers of a general manager shall not rescind or vary an order made pursuant to section 109 (1) by the general manager of a prison that the person submit to being searched.

19. Medical officer. (1) The Commission shall from time to time appoint at least one medical officer in respect of each prison.

(2) A person shall not be appointed as a medical officer unless he is a legally qualified medical practitioner.

(3) A medical officer shall have the functions and powers prescribed by or under this Act or the *Corrective Services (Administration) Act 1988*.

(4) A medical officer who is not employed within the public service of the State shall be entitled to such remuneration and allowances as are approved by the Commission.

(5) A medical officer shall be entitled to such expenses as are approved by the Commission.

Subdivision B—Volunteers and Chaplains

20. Volunteers. (1) The Commission may by instrument authorize a person (referred to in this section as a "volunteer") to perform unpaid work for the welfare of prisoners.

(2) A volunteer shall comply with any condition specified in the instrument and with any direction given by an officer of the Commission.

(3) A volunteer shall receive such training and supervision as the Commission thinks fit.

(4) The Commission may pay a volunteer such expenses, from moneys appropriated for the purposes of this Act, as it thinks fit.

(5) If a person receives any personal injury while performing or as a result of performing, as a volunteer, work that he is authorized to perform, he may make written application to the Commission for compensation.

For the purpose of this subsection, a person is deemed to be performing work—

- (a) while he is attending a place for the purpose of performing work;
- (b) while he is travelling to a place for the purpose of performing work;
- or
- (c) while he is travelling from a place at which he has attended for the purpose of performing work.

(6) Upon receiving an application, the Commission shall arrange for the applicant to be examined by a medical practitioner nominated by it.

(7) An applicant who fails to submit to any reasonable examination or test to be carried out by or on the recommendation of the medical practitioner shall not be eligible for compensation.

(8) After the Commission has received the report of the medical practitioner it shall make its recommendations to the Minister in respect of compensation.

(9) The Governor in Council may, from moneys appropriated for the purposes of this Act, award compensation of such amount as he thinks fit to an applicant.

21. Chaplains. (1) The Commission may appoint any person, nominated by a religious body or denomination as its representative, to be a chaplain to a prison or community corrections centre.

(2) A chaplain shall, in respect of the prison or community corrections centre to which he is appointed, have such rights and duties as are prescribed by this Act or the Commission's Rules.

(3) A chaplain to a prison or community corrections centre shall comply with any direction given by a correctional officer for the management, security or good order of the prison or community corrections centre.

Division 3—Official Visitors

22. Appointment of official visitors. (1) The Commission shall, in respect of each prison and each community corrections centre, appoint at least 2 official visitors, one of whom shall be a barrister or a solicitor.

(2) An officer of the Commission or of the public service shall not be eligible for appointment as an official visitor.

(3) A person appointed as an official visitor shall hold office for a period of 3 years unless sooner dismissed from office by the Commission.

(4) A person who has held office as an official visitor shall be eligible for further appointment to that office.

(5) An official visitor shall be entitled to such remuneration, allowances and expenses as are approved by the Commission.

23. Duties of official visitor. (1) A prison or community corrections centre shall be visited at least twice a month by an official visitor, which visits may be made by the same official visitor or by different official visitors appointed to that prison or community corrections centre.

(2) Subject to subsection (3), an official visitor shall hear and investigate—

(a) any complaint made by a prisoner;
and

(b) any complaint made by a person who is subject to a parole order, a probation order, a community service order or a fine option order.

(3) An official visitor shall not investigate a complaint—

(a) that he believes to be frivolous or vexatious;

(b) if the investigation can be more conveniently conducted by another official visitor who agrees to conduct it;

or

(c) if the matter of complaint is not related to any function of the Commission.

(4) An official visitor shall provide the Commission with a report of any investigations conducted by him.

(5) An official visitor shall perform such other duties as are prescribed or he is directed by the Commission to perform.

24. Powers of official visitor. An official visitor—

(a) shall at any time have access to the prison or community corrections centre to which he is appointed;

(b) may at any time require a prisoner or an officer or employee of the Commission to provide any information and answer any question relevant to any investigation being conducted by the official visitor;

(c) shall have access to and may examine any document or stored information kept under or for the purposes of this Act or the *Corrective Services (Administration) Act 1988* and require that he be provided with a copy of any document

or with any part of any stored information in a manner specified by him;

(d) shall have such other powers as are prescribed by regulation.

25. Privacy of communication with official visitor. (1) An official visitor shall conduct any interview—

(a) with a prisoner (whether or not he is the complainant);

or

(b) with any person who is subject to a parole order, a probation order, a community service order or a fine option order,

out of the hearing of any officer or employee of the Commission.

(2) An officer or employee of the Commission shall not open or read any correspondence from a person referred to in paragraph (a) or (b) of subsection (1) to an official visitor or from an official visitor to such a person without the written consent of that person.

(3) If the general manager of a prison suspects that an envelope or a package alleged by a prisoner to contain correspondence from him to an official visitor contains any other material, he may require the prisoner to open the envelope or package.

(4) A document contained in an envelope or package required pursuant to subsection (3) to be opened—

(a) shall not, without the written consent of the prisoner, be read by an officer or employee of the Commission;

and

(b) shall, as soon as is practicable, be delivered to an official visitor.

26. Directions to official visitor re security. (1) The Commission may give to an official visitor such directions as it considers necessary for the security of any prison, community corrections centre or prisoner.

(2) The general manager of a prison may give to an official visitor who is visiting the prison such directions as he considers necessary for the security of the prison.

Division 4—Inspectors

27. Appointment of inspectors. (1) The Commission may by instrument appoint any person, whether or not he is an officer of the Commission or is employed in the public service of the State, as an inspector for the purpose of advising upon or inquiring into any matter relating to corrective services.

(2) The instrument of appointment of an inspector shall specify—

(a) the term of appointment;

(b) the purpose for which he is appointed;

(c) any powers conferred upon the inspector;

(d) such other matters as are determined by the Commission.

(3) An inspector shall give the Commission his advice in writing or, as the case may be, a written report containing the results of his inquiry.

28. Remuneration, allowances and expenses. (1) An inspector, who is not an officer of the Commission or of the public service, shall be entitled to such remuneration and allowances as are approved by the Commission.

(2) An inspector shall be entitled to such expenses as are approved by the Commission.

29. Powers of inspector. (1) An inspector—

- (a) shall at any time have access to any prison or community corrections centre;
- (b) may at any time require a prisoner or an officer or employee of the Commission to provide any information or answer any question relevant to any inquiry being conducted by the inspector;
- (c) shall have access to and may examine any document or stored information kept under or for the purposes of this Act or the *Corrective Services (Administration) Act 1988* and require that he be provided with a copy of any document or with any part of any stored information in a manner specified by him;
- (d) shall have such of the powers of the Director of Custodial Corrections or the Director of Community Corrections as are conferred upon him by the Commission.

(2) The Governor in Council may by Order in Council declare that an inspector shall have such of the powers, authorities, rights, privileges, protection and jurisdiction of a Commission of Inquiry under the *Commissions of Inquiry Act 1950-1988* as are specified in the Order in Council.

30. Privacy of communication with inspector. An inspector may, as he thinks fit, conduct any interview with a prisoner or a person who is subject to a parole order, a probation order, a community service order or a fine option order out of the hearing of any officer or employee of the Commission.

31. Directions to inspector re security. (1) The Commission may give to an inspector such directions as it considers necessary for the security of any prison, community corrections centre or prisoner.

(2) The general manager of a prison may give to an inspector who is visiting the prison such directions as he considers necessary for the security of the prison.

Division 5—Prisoners

Subdivision A—Admission and Accommodation of Prisoners

32. Where persons to be detained in custody. (1) Subject to this Act, *The Criminal Code*, the *Children's Services Act 1965-1988* and the

Mental Health Services Act 1974-1988, a person sentenced to a term of imprisonment or required by law to be detained in custody for a period shall be detained for the term or period in a prison.

(2) Where the term of imprisonment or period of detention does not exceed 31 days, the person may be detained for that term or period in a police gaol.

(3) A person whose term of imprisonment or period of detention exceeds 31 days may be detained in a police gaol until he can be conveniently conveyed to a prison.

(4) A person, upon being admitted to a police gaol pursuant to subsection (2) or (3), is deemed to be in the custody of the Commissioner of Police notwithstanding the provisions of any warrant or other authority committing him into the custody of another person.

(5) A person who, pursuant to subsection (4), is deemed to be in the custody of the Commissioner of Police remains in that custody until discharged (except for any period for which he is by law thereafter in the custody of another person) notwithstanding that he is at any time lawfully outside of a police gaol.

33. Persons in custody of Commission. (1) A person, upon being admitted to a prison for detention there, is deemed to be in the custody of the Commission notwithstanding the provisions of any warrant or other authority committing him into the custody of another person.

(2) A person who, pursuant to subsection (1), is deemed to be in the custody of the Commission remains in that custody until discharged (except for any period for which he is by law thereafter in the custody of another person) notwithstanding that he is at any time not being detained in prison by reason of being transferred, attending legal proceedings or serving a period of home detention or for any other reason authorized by this Act.

(3) Notwithstanding the provisions of any warrant or other authority committing a person to a specified prison or to a police gaol, the person may be taken to and detained in a prison specified by the Commission.

(4) Where a person sentenced to a term of imprisonment or required by law to be detained in custody for a period is, while being taken to a prison for detention there, under the control of a correctional officer, the person is deemed to be in the custody of the Commission notwithstanding the provisions of any warrant or other authority committing him into the custody of a specified person or a specified class of person.

34. Commission to obey writ, etc., directed to keeper of gaol. Where any warrant or other authority for the commitment of a person to prison or for the production of a prisoner is properly directed to the keeper or officer in charge of the prison, the warrant or other authority shall be deemed to be directed to and shall, subject to this Subdivision, be obeyed by the Commission.

35. Authority for admission to prison. (1) A person shall not be admitted to and detained in a prison unless the officer of the Commission in charge of the reception of prisoners at the prison is given—

- (a) a warrant or other written authority for the detention of the person in custody;
- (b) a list or calendar made out pursuant to Order VIII rule 3 of The Criminal Practice Rules of 1900 containing the name of the person and particulars of the judgment pronounced upon him;
- or
- (c) a document, in a form prescribed by rule, containing the relevant details of an existing document referred to in paragraph (a) or (b).

(2) The taking of a person to or the detention of a person in a prison shall not be unlawful by reason of the fact that the person was committed to some other place.

36. Prisoner to be informed of entitlements and duties. (1) Upon being admitted to prison, a prisoner shall be informed of his entitlements and duties pursuant to this Act or the Commission's Rules.

(2) The general manager of a prison shall, upon request, make available to a prisoner a copy of this Act and, with the approval of the Commission, a copy of any other Act.

(3) The general manager of a prison shall take such steps as are reasonable to make known to every prisoner who is illiterate or who does not understand English such of the provisions of this Act, the Commission's Rules and the General Manager's Rules as are relevant to the entitlements or duties of prisoners.

37. Accommodation. As far as is practicable there shall be provided in every prison separate accommodation for each prisoner to a standard approved by the Commission.

38. Prisoner under 18 years of age. Subject to any direction given by the Commission in a particular case, a prisoner who is under the age of 18 years shall at all times be kept apart from any prisoner who is of or above the age of 18 years.

39. Special treatment. (1) In this section, the expression "special treatment" means the segregation or partial segregation of a prisoner from other prisoners under conditions prescribed by rule.

(2) The general manager of a prison may by instrument order that a prisoner receive special treatment—

- (a) for the security or good order of the prison;
- or
- (b) for the safety of the prisoner.

(3) An instrument whereby a prisoner is ordered to receive special

treatment shall specify such of the conditions referred to in subsection (1) as the general manager determines shall apply to the prisoner's treatment.

(4) A prisoner shall not, in respect of any period for which he receives special treatment, forfeit any privileges other than those privileges that he cannot practicably receive while receiving special treatment.

(5) A general manager shall not order a prisoner to receive a period of special treatment exceeding 7 days without the approval of the Commission.

(6) A prisoner ordered to receive a period of special treatment exceeding 3 days may require the general manager to refer the order to an official visitor for review and the general manager and the official visitor shall comply with the requirement as soon as is practicable.

(7) Where a prisoner is ordered to receive a period of special treatment exceeding one month, the official visitor shall review the order as near as is practicable to the expiration of the first month and thereafter at intervals not exceeding one month in any case, until the period expires.

(8) An official visitor may, for the purposes of his review of an order, exercise any of the powers referred to in section 24 and shall after completing his review—

- (a) recommend to the Commission that the order be confirmed, varied or set aside;
- and
- (b) where he recommends that the order be varied by reducing the period of special treatment or that the order be set aside, make such recommendation as he thinks fit concerning any privileges forfeited by the prisoner while receiving special treatment.

(9) The Commission, upon receiving the recommendation of the official visitor, may affirm or vary the order of the general manager or may rescind his order and substitute its own decision for it.

(10) A medical officer shall examine a prisoner—

- (a) as soon as is practicable after he commences a period of special treatment;
- (b) if the period allows, within 7 days after the first examination and thereafter at intervals not exceeding 7 days in any case, until the period expires;
- and
- (c) as soon as is practicable after the period of special treatment expires.

40. Child may be accommodated in a prison or community corrections centre. The Commission may authorize the accommodation in a prison

or a community corrections centre of the child of a prisoner subject to such conditions as it thinks fit.

41. Registration of birth. (1) In this section, “document” means a certificate or other document made or issued pursuant to the *Registration of Births, Deaths and Marriages Act 1962-1987* in respect of the birth of a child or an alteration or addition to the name of a child.

(2) Where a document is made or issued in respect of a child whose mother or father is, or was when the child was born, detained in a prison or otherwise detained in custody—

- (a) the document shall not state that fact or contain any information from which that fact can reasonably be inferred; and
- (b) an address that is required by the *Registration of Births, Deaths and Marriages Act 1962-1987* to be shown in the document and that, if shown, would contravene paragraph (a) shall be shown as the city or town in which or nearest to which the address is situated.

42. Dangerously ill prisoner. If a prisoner appears to the medical officer or to the general manager of the prison to be dangerously ill or seriously injured, the general manager shall notify—

- (a) the prisoner’s next of kin;
- or
- (b) a person nominated by the prisoner, where he has no next of kin or does not wish his next of kin to be notified,

and the prisoner’s chaplain.

43. Death of prisoner. (1) If a prisoner dies, the Commission shall, as soon as is practicable, notify—

- (a) a medical officer appointed to the prison in which the prisoner died or was last detained;
- (b) the police officer in charge of the police station nearest to the place where the prisoner died;
- (c) a coroner;
- (d) the prisoner’s next of kin or any other person the prisoner wished to be notified in the event of his death;
- and
- (e) the prisoner’s chaplain.

(2) If a coroner’s order for the burial or a coroner’s certificate for the cremation of the body of a prisoner is produced to the general manager of the prison, together with a written application for the release of the body, he may authorize the release of the body to a relative or friend of the prisoner or to any association of persons publicly recognized as having for an object the welfare of prisoners or former prisoners.

(3) If the body of a prisoner is not claimed pursuant to subsection (2) within 3 days after his death and there has been produced to the

general manager a coroner's order for the burial or a coroner's certificate for the cremation of the body, the general manager shall notify the Under Secretary, Department of Justice who shall arrange for the disposal of the body as provided in the *Burials Assistance Act 1965-1978*.

(4) A person who causes the body of a prisoner to be buried or cremated shall give such details to the Commission in respect of the burial or cremation as the Commission may require and the Commission shall maintain records of those details in a form it considers suitable.

Subdivision B—Control and Management of Prisoners

44. Control of prisoners. (1) A correctional officer may give to a prisoner any order that the correctional officer believes on reasonable grounds to be necessary for the security or good order of a prison or a community corrections centre, for the welfare or safe custody of the prisoner or other prisoners or to ensure that the prisoner or any other prisoner does not commit an offence against this Act or any other Act or a breach of discipline.

(2) A correctional officer may require a prisoner to provide any information or answer any question relevant to any duty being performed by the correctional officer.

(3) A correctional officer may use such force as is reasonable to compel a prisoner to obey an order given under subsection (1) by the correctional officer or by another correctional officer or to restrain a prisoner who is attempting or preparing to commit or is committing an offence against this Act or any other Act or a breach of discipline.

45. Certain persons to have powers of custodial correctional officer.

(1) The Director-General, the Director of Custodial Corrections and a general manager shall have all the powers conferred by or under this Act upon a custodial correctional officer.

(2) The Commission may by instrument authorize any person to exercise such of the powers conferred by or under this Act upon a custodial correctional officer as are specified in the instrument.

(3) Any power exercised pursuant to subsection (1) or pursuant to an instrument made under subsection (2) shall for the purposes of this Act and any other Act be deemed to have been exercised by a custodial correctional officer.

46. Identification procedures. (1) An officer of the Commission may, for the purposes of identifying a prisoner and compiling records under or for the purposes of this Act, photograph the prisoner and take his finger prints, palm prints, foot prints, toe prints, eye prints and voice prints or any of them.

(2) Where a person is found not guilty of an offence (other than upon the grounds of unsoundness of mind) or proceedings for an offence are discontinued or dismissed (other than as a result of unsoundness of mind or mental illness), any photographs or prints taken pursuant

to subsection (1) while he was detained for that offence shall be destroyed by the Commission unless for any part of the period of detention for that offence he was also being detained in respect of another offence of which he has been convicted or in respect of which proceedings have not been discontinued or dismissed.

47. Search of prisoners. (1) In this section, power to search a prisoner includes power to search anything in the possession of the prisoner.

(2) The Commission may make rules prescribing the circumstances in which correctional officers must search prisoners.

(3) The general manager of a prison may order a custodial correctional officer to search a prisoner for any purpose.

(4) A correctional officer may, of his own motion, search a prisoner if reasonable grounds exist for so doing.

(5) A correctional officer may, for the purpose of a search, order a prisoner to undress (completely or partially) but shall not touch the prisoner except for the purpose of enforcing compliance with the order or searching his head hair.

(6) Where a correctional officer, pursuant to subsection (5), orders a prisoner to undress, he shall immediately report to the Commission in writing the circumstances associated with his giving the order and the Commission shall make and keep such record of that fact as is prescribed.

(7) A prisoner shall not be ordered to undress in the presence or view of and shall not be searched by a person of the opposite sex unless that person is a medical officer or is acting in aid of and at the direction of a medical officer.

(8) A prisoner shall submit to any search authorized by this section to be carried out.

(9) A correctional officer may take possession of anything found by him during a search and shall, as soon as is practicable, deliver that thing to an officer authorized by the Commission for the purposes of this subsection who may—

- (a) if he believes the prisoner from whom it was taken or another prisoner to be entitled to possession of the thing, return it to the prisoner or retain it until the prisoner is discharged or released on parole;
- (b) if he believes any other person to be entitled to possession of the thing, return it to that person;
- (c) retain the thing as evidence of the commission of an offence or a breach of discipline;
or
- (d) make such other order in respect of the thing (including an order for the disposal or destruction of the thing) as he thinks fit.

(10) A determination made under subsection (9) for the disposal of property shall not affect the right of any person to recover the property, by action commenced within 6 months after the determination is made, from the person to whom it was delivered pursuant to the determination.

48. Body searches and samples. (1) The general manager of a prison may authorize a medical officer, a registered nurse who is an officer of the Commission or a legally qualified medical practitioner to search the person of a prisoner including the orifices of his body if the general manager believes on reasonable grounds—

(a) that the prisoner is in possession of anything that may threaten the security or good order of the prison or that may endanger or be used to endanger the prisoner or any other person;

or

(b) that the search may afford evidence of the commission of an offence by the prisoner during his term of imprisonment or period of detention or the commission of a breach of discipline by the prisoner.

(2) The general manager of a prison may authorize a medical officer, a registered nurse who is an officer of the Commission or a legally qualified medical practitioner to collect from the person of a prisoner, including the orifices of his body, any substance or thing if—

(a) collecting the substance or thing would be unlikely to cause bodily harm to the prisoner if he co-operates therewith;

and

(b) the general manager believes that the substance or thing may afford evidence such as is referred to in subsection (1) (b).

(3) The general manager may take possession of anything found during a search and shall deal with it in the manner provided in paragraph (a), (b), (c) or (d) of subsection (9) of section 47, and subsection (10) of that section shall apply to any determination for the disposal of the thing.

(4) The general manager of a prison—

(a) may order a prisoner to provide a sample of his breath or his urine;

(b) may authorize a medical officer, a registered nurse who is an officer of the Commission or a legally qualified medical practitioner to take samples of a prisoner's blood, saliva or hair,

if the general manager believes on reasonable grounds that the sample may afford evidence of the commission of an offence by the prisoner during his term of imprisonment or period of detention or the commission of a breach of discipline by the prisoner.

(5) The general manager or the medical officer, nurse or medical practitioner may give directions to the prisoner concerning the manner in which the prisoner is required to provide any sample referred to in subsection (4).

(6) A prisoner shall submit to any search carried out or other act done pursuant to this section and shall comply with any order made or direction given pursuant to this section.

(7) A medical officer, nurse or medical practitioner authorized pursuant to this section to carry out a search or do any other act in respect of a prisoner, and any person acting in good faith in aid of and at the direction of the medical officer, nurse or medical practitioner may use such force as is reasonable for that purpose.

(8) The results of any test conducted with respect to any sample or thing taken or collected pursuant to this section from a prisoner shall be furnished to the prisoner as soon as is practicable after those results are available to the general manager or the Commission.

49. Search may be completed. If a search of a prisoner, authorized by or under section 47 or 48 to be carried out, has been commenced when the prisoner becomes entitled to be discharged or released on parole—

- (a) the search may be completed;
and
- (b) if the search is authorized under section 48, the prisoner may be required to submit to any other act or to comply with any order or direction authorized by or under that section to be done or given,

as if the prisoner were not entitled to be discharged or released on parole.

50. Examinations and treatment by medical officer. (1) In respect of the prison to which he is appointed a medical officer—

- (a) shall medically examine a prisoner as soon as is practicable after the prisoner's admission to prison;
- (b) shall medically examine and treat any prisoner who in the opinion of the medical officer requires medical attention;
- (c) shall medically examine a prisoner if required to do so by the Commission or the general manager.

(2) For the purpose of any examination or treatment the medical officer may—

- (a) carry out any medical test;
- (b) take samples of a prisoner's blood and any other bodily substance;
- (c) order a prisoner to provide a sample of his urine and any other bodily substance and give the prisoner directions concerning the manner in which the sample is to be provided;
- (d) perform any psychiatric or psychological examination or test or give any psychiatric or psychological treatment.

(3) Subsections (1) and (2) shall not be construed as requiring or authorizing a medical officer to carry out any examination or give any treatment that he is not qualified to carry out or give.

(4) A medical officer may authorize a person to carry out any examination of or give any treatment to a prisoner if—

- (a) the medical officer is required or authorized under this section to carry out the examination or give the treatment or would, if qualified to carry out an examination or give treatment of the kind in question, be so required or authorized;
- and
- (b) the person is qualified to carry out the examination or give the treatment.

(5) In respect of the prison to which he is appointed a medical officer shall—

- (a) maintain a record of all examinations carried out and all treatment given by him or at his direction;
- (b) report and make recommendations to the Commission or, as the case may be, the general manager concerning the medical condition of a prisoner when required by the Commission or the general manager to do so;
- (c) perform such other duties as he is required by the Commission or the general manager to perform.

51. Prisoner to submit to medical examination, etc. (1) A prisoner shall—

- (a) submit to any examination or other act required or authorized by or under section 50 to be carried out;
- (b) submit to any treatment authorized by or under section 50 to be given;
- and
- (c) comply with an order made or direction given under paragraph (c) of section 50 (2).

(2) If a prisoner—

- (a) refuses or fails to submit to an examination authorized by or under section 50 to be carried out or to the doing of any other act, so authorized, for the purpose of the examination;
- or
- (b) refuses or fails to submit to any treatment or to any other act authorized by or under section 50 to be given or done and the medical officer believes the health of the prisoner or of other prisoners is likely to be endangered by the refusal or failure,

the medical officer, and any person acting in good faith in aid of and at the direction of the medical officer, may use such force as is reasonable to compel the prisoner to submit.

52. Private medical examination or treatment. (1) A prisoner may, in a form approved by the Commission or to that effect, apply to the Commission for approval to be examined or treated by a medical practitioner or psychologist nominated by the prisoner.

(2) The Commission shall grant an application if satisfied—

- (a) the application is not frivolous or vexatious;
- (b) the prisoner is able to meet the costs of the examination or treatment;
- and
- (c) the medical practitioner or psychologist nominated by the prisoner is willing and available to carry out the examination or give the treatment and is qualified to do so.

(3) The prisoner shall meet the costs of any examination or treatment approved by the Commission under this section.

53. Psychological assessment of prisoner. (1) A prisoner shall submit to psychological assessment ordered by the Commission to be performed for the purposes of—

- (a) classifying the prisoner for any purpose prescribed by regulation;
- (b) determining whether to transfer the prisoner to another place;
- or
- (c) determining the suitability of the prisoner to participate in an approved compulsory program within the meaning of section 59.

(2) The psychological assessment of a prisoner shall be performed by a psychologist within the meaning of the *Psychologists Act 1977-1987*.

Subdivision C—Prison Dogs

54. Prison dogs. The Commission may by instrument certify a dog as a prison dog for the purposes of this Act.

55. Prison dog handlers. The Commission may by instrument certify a custodial correctional officer as a prison dog handler for the purposes of this Act.

56. Prison dogs may accompany prison dog handler. Notwithstanding any other Act or law—

- (a) a prison dog under the control of a prison dog handler may enter and be on any place that the prison dog handler may as a custodial correctional officer lawfully enter or be on;
- (b) the Commission and a prison dog handler in charge of a prison dog shall not incur any liability by reason only that the prison dog entered or was on any place in accordance with paragraph (a).

57. Application of Local Authority ordinances, etc. (1) The provisions of any ordinance or by-law made by a Local Authority do not apply—

- (a) to or in respect of a prison dog;
- (b) to a prison dog handler in respect of anything done by him in the execution of his duty as a custodial correctional officer or a prison dog handler.

(2) In this section, “Local Authority” means a Local Authority within the meaning of the *Local Government Act 1936-1987* and includes Brisbane City Council.

58. Obstruction of prison dog constitutes obstruction of handler. (1) A person who—

- (a) hinders or obstructs;
- or

(b) aids, counsels or procures another to hinder or obstruct, a prison dog working under the control of a prison dog handler performing his duties as a custodial correctional officer is deemed to hinder or, as the case may be, obstruct the custodial correctional officer.

(2) The provisions of section 4 (3) of the *Animals Protection Act 1925-1981* do not apply in respect of a prison dog at any time when it is under the control of a prison dog handler.

Subdivision D—Prison Programs

59. Approved programs. (1) In this Act—

“approved program” means an approved compulsory program or an approved voluntary program;

“approved compulsory program” means any work or other activity prescribed by rule as an approved compulsory program for the purposes of this Act, whether within or outside of prison;

“approved voluntary program” means any work or other activity prescribed by rule as an approved voluntary program for the purposes of this Act, whether within or outside of prison.

(2) A prisoner may be ordered to participate in an approved compulsory program.

(3) A prisoner may participate in an approved voluntary program.

(4) A prisoner who participates in an approved program shall, subject to subsections (5), (6) and (7), receive remuneration at a rate prescribed by rule.

(5) Where the Commission is satisfied that a prisoner, while participating in an approved program, has not been diligent or of good conduct, it may order that the prisoner not receive all or any part of the remuneration to which he would otherwise be entitled pursuant to subsection (4).

(6) The Commission may withhold from the remuneration to which a prisoner is entitled a portion determined by the Commission for the

purpose of resettling the prisoner who shall be given the sum withheld when discharged or released on parole.

(7) The Commission may make deductions of such amounts as it may determine from the remuneration a prisoner would otherwise have received for any of the following purposes:—

- (a) in satisfaction of an order made by a court that the prisoner pay compensation in respect of an offence of which the prisoner has been convicted and for which the prisoner is then serving a term of imprisonment;
- (b) any other purpose prescribed by regulation.

(8) Subject to section 64, a prisoner shall not be released from a prison or a community corrections centre for the purpose of participating in an approved program unless he is released pursuant to an instrument made under section 61 granting him leave of absence for that purpose.

60. Compensation to prisoner. (1) Where a person receives an accidental personal injury while participating in an approved voluntary program belonging to a class of program prescribed by rule for the purposes of this section or while participating in an approved compulsory program as a result of which—

- (a) he is, when discharged or released on parole;
- or
- (b) he becomes, after being discharged or released on parole, totally or partially incapacitated, he may make written application to the Commission for compensation.

For the purpose of this subsection, a person is deemed to be participating in an approved program—

- (a) while he is attending a place for the purpose of participating in the program;
- (b) while he is travelling to a place for the purpose of participating in the program;
- or
- (c) while he is travelling from a place at which he has attended for the purpose of participating in the program.

(2) Upon receiving an application, the Commission shall arrange for the applicant to be examined by a medical practitioner nominated by it.

(3) An applicant who fails to submit to any reasonable examination or test to be carried out by or on the recommendation of the medical practitioner shall not be eligible for compensation under this section.

(4) The medical practitioner shall report the results of his examination to the Commission and the Commission shall make its recommendations to the Minister in respect of compensation.

(5) The Governor in Council may, from moneys appropriated for the purposes of this Act, award compensation of such amount as he thinks fit to an applicant.

Subdivision E—Absence, Transfer and Removal of Prisoners

61. Leave of absence. (1) Subject to this Act the Commission may, by instrument and subject to such conditions as it thinks fit, grant leave of absence to a prisoner for any of the following purposes:—

- (a) to participate in an approved program;
- (b) to engage in employment;
- (c) to seek employment to be undertaken while he is a prisoner or upon being discharged or released on parole;
- (d) to attend any place for educational or training purposes;
- (e) to prepare the prisoner for community resettlement;
- (f) to attend any place for medical, dental or optical treatment;
- (g) compassionate purposes;
- (h) any other purpose approved by the Commission.

(2) The Commission shall not grant leave of absence to a prisoner—

- (a) who is detained on remand for an offence;
 - (b) who is detained pursuant to a warrant or order issued under the Migration Act 1958 of the Commonwealth or that Act as amended and in force for the time being or an Act substituted for that Act;
 - (c) who is imprisoned for an indefinite period for contempt;
 - (d) who, having been declared an habitual criminal, is serving a term of imprisonment before being detained during Her Majesty's pleasure;
- or
- (e) who is detained pursuant to Part IV of *The Criminal Law Amendment Act of 1945*,

unless he is released for medical or dental treatment or for compassionate purposes or, in the case of a prisoner referred to in paragraph (c), (d) or (e), to participate in an approved compulsory program and, in any case, is released under the control of a custodial correctional officer.

(3) The Commission shall not grant leave of absence to a prisoner for a period exceeding 7 days for any purpose other than to participate in an approved compulsory program unless—

- (a) in the case of a prisoner serving a term of imprisonment for life, the Governor in Council on the recommendation of the Queensland Community Corrections Board has approved that leave be granted;
- (b) in the case of a prisoner serving a term of imprisonment not exceeding 5 years in a prison or other place situated in an area for which a regional community corrections board is established, the board has approved that leave be granted;

or

- (c) in any other case, the Queensland Community Corrections Board has approved that leave be granted.

(4) In a case to which subsection (3) refers, the Governor in Council, a regional community corrections board or the Queensland Community Corrections Board, as the case may be—

- (a) may require that the granting by the Commission of leave of absence to a prisoner be subject to such conditions as the Governor in Council or, as the case may be, the appropriate board thinks fit;

or

- (b) may require the Commission to amend or revoke any condition or to impose a new condition.

(5) An instrument made under subsection (1)—

- (a) shall be in the prescribed form and shall specify any conditions to which the granting of leave is subject;
- (b) may authorize the release of a prisoner on one occasion or a number of occasions and for the same purpose or a number of purposes;
- (c) may authorize the release of a number of prisoners for the same purpose on one occasion or on a number of occasions.

(6) Any period for which a prisoner is lawfully released on leave of absence shall count as part of his term of imprisonment or period of detention.

(7) Notwithstanding section 21 of the *Corrective Services (Administration) Act 1988*, the Commission shall not delegate to any person the power to grant leave of absence to a prisoner for a period exceeding 7 days.

62. Duty of prisoner on leave of absence. (1) A prisoner who is granted leave of absence and is not released under the control of a correctional officer shall be furnished with a copy of the instrument granting leave and shall, while on leave pursuant to that instrument, retain the copy in his possession and, if requested to do so by a police officer or an officer of the Commission, produce the copy for inspection.

(2) A prisoner granted leave of absence shall comply with every condition specified in the instrument granting leave.

63. Amendment or revocation of instrument. (1) Subject to subsection (2) the Commission may amend or revoke an instrument by giving the prisoner written notice of the amendment or revocation and shall, in the case of a notice of revocation, give the notice in sufficient time to allow the prisoner to surrender to a correctional officer or a police officer before the instrument is revoked.

(2) The Commission shall not amend or revoke a condition imposed pursuant to section 61 (4) without the approval of the Governor in Council or, as the case may be, the appropriate board.

(3) Where a prisoner has, in the Commission's opinion, failed to comply with any condition specified in the instrument, the Commission may, without complying with subsections (1) and (2), revoke the instrument if—

- (a) reasonable inquiries instituted by the Commission have failed to locate the prisoner;
- or
- (b) the Commission believes that the prisoner has left the State.

(4) A prisoner who has not surrendered to a correctional officer or a police officer when the Commission revokes an instrument granting leave of absence to the prisoner shall be deemed from that time to be unlawfully at large.

(5) A prisoner who surrenders to a correctional officer or a police officer shall be taken to and detained in a prison or in a police gaol until he can be conveniently taken to a prison.

64. When instrument not required. An instrument granting leave of absence shall not be required to authorize, for a purpose mentioned in section 61 (1), the release of a prisoner—

- (a) from a prison in order to travel to another part of that prison;
- or
- (b) from a prison if he immediately enters and remains in another prison without entering any place that is not part of a prison.

65. Expenses of prisoner on leave of absence. (1) The Commission may authorize that a prisoner who has been granted leave of absence be provided with such financial or other assistance as the Commission considers necessary to meet the prisoner's requirements while on leave of absence.

(2) A prisoner shall, when required to do so by the Commission, surrender to the Commission the unused portion of any assistance provided to him under subsection (1).

66. Prisoner employed outside prison. (1) Where an instrument granting a prisoner leave of absence to engage in employment provides for the prisoner to obtain board and lodging at a place other than a prison or a community corrections centre, the Commission shall specify in the instrument the name of a person (referred to in this section and section 68 as an "approved person") appointed by the Commission, to perform, in respect of the prisoner, the duties referred to in this section and section 68.

(2) A prisoner granted leave of absence to engage in employment shall, to the extent practicable, be employed in accordance with the provisions of any industrial award or agreement applicable to that employment or, if there is no applicable award or agreement, in accordance with the conditions agreed upon by the employer and the Commission.

(3) The employer of a prisoner shall, unless the instrument granting leave of absence otherwise provides, pay to him all wages, allowances and other moneys due to him.

(4) The prisoner shall, unless the instrument granting leave of absence otherwise provides, immediately pay any moneys received by him from an employer to the Commission or, where an approved person has been appointed in respect of the prisoner, to that person.

(5) An approved person who receives any money in respect of a prisoner's employment shall deal with those moneys as directed by the Commission.

67. Authorized payments from prisoner's earnings. (1) Deductions may be made from any moneys paid by an employer in respect of a prisoner's employment of such amounts as the Commission may determine for all or any of the following purposes:—

- (a) to reimburse the Commission for any financial or other assistance provided to the prisoner under section 65 from the time he commenced that employment;
- (b) to contribute to the costs and expenses of his detention in prison or in a community corrections centre from the time he commenced that employment;
- (c) where the prisoner is provided with board and lodging at a place other than a prison or a community corrections centre, to contribute to the costs and expenses of that board and lodging;
- (d) to provide the prisoner with sufficient money to meet such expenses while on leave of absence as the Commission considers necessary;
- (e) in satisfaction of any order made by a court for the prisoner to make restitution or pay compensation upon his conviction for an offence for which he is currently serving a term of imprisonment;
- (f) in satisfaction of any judgment of a court other than a court exercising criminal jurisdiction;
- (g) any purpose approved by the Commission at the request in writing of the prisoner;
- (h) any other purpose prescribed by regulation.

(2) Any moneys remaining after deductions have been made pursuant to this section shall be credited to the prisoner.

68. Accounts of approved person. A person who is an approved person for a prisoner shall keep and maintain accounts in a form approved by the Commission of all moneys received by him in respect of a prisoner's employment and of all disbursements made from those moneys.

69. Transfer of prisoners. (1) In this section “institution” means any of the following:—

- (a) a prison;
- (b) a community corrections centre;
- (c) a hospital (including a security patients’ hospital within the meaning of the *Mental Health Services Act 1974-1988*);
- (d) a place for medical examination or treatment;
- (e) a place for psychological or psychiatric examination or treatment;
- (f) a place for the examination or treatment of alcoholics or drug dependent persons;
- (g) a place prescribed by rule or a place belonging to a class of place prescribed by rule.

(2) Subject to the provisions of the *Mental Health Services Act 1974-1988*, the Commission may, by instrument and subject to such conditions as it thinks fit, order the transfer of a prisoner from one institution to another.

(3) An instrument made under subsection (2) shall be in the prescribed form and shall specify—

- (a) the person or class of person who will have control of the prisoner during the transfer;
- (b) the place to which and the purpose and period for which the prisoner is to be transferred;
- (c) any other conditions to which the transfer is subject.

(4) An instrument may authorize the transfer of—

- (a) a prisoner on one occasion or a number of occasions and for the same purpose or a number of purposes;
- or
- (b) a number of prisoners for the same purpose on one occasion or on a number of occasions.

70. Prisoner attending court. (1) The removal of a prisoner from a prison or any other place where he is being detained to attend before any court or before any tribunal or person having power to compel persons to attend before it or him shall be authorized by the Commission, by instrument in the prescribed form, whether or not the prisoner’s attendance is required by an instrument or order made under section 71.

(2) An instrument made under subsection (1)—

- (a) may authorize the removal of a prisoner on one occasion or a number of occasions to attend before the same court, tribunal or person;

or

- (b) may authorize the removal of a number of prisoners to attend before the same court, tribunal or person on one occasion or a number of occasions.

(3) The party requiring a prisoner's attendance in connexion with proceedings other than criminal proceedings shall, subject to any other Act, rule or practice of law, pay the Commission such expenses in respect of the prisoner's attendance as are prescribed by rule.

(4) The provisions of subsection (3) do not apply to the production of a prisoner required pursuant to an instrument or order made under section 71.

71. Order for production of prisoner before court. (1) A Judge of the Supreme Court or, when the production of a prisoner before a District Court is sought, a Judge of District Courts may—

- (a) by instrument order the Commission to produce any prisoner for such purpose and at such time and place as are specified in the instrument;

or

- (b) if sitting in open court, order the Commission, without instrument, to produce any prisoner before that judge for such purpose and at such time and place as are ordered.

(2) A master of the Supreme Court, a stipendiary magistrate or a coroner may by instrument order the Commission to produce any prisoner before that master or, as the case may be, before that stipendiary magistrate or that coroner for such purpose and at such time and place as are specified in the instrument.

72. Removal of prisoner in interests of justice. (1) The Commission may by instrument authorize the removal of a prisoner from a prison or any other place where he is being detained where it believes that it is necessary or desirable to do so—

- (a) for the safety of the prisoner;

or

- (b) in the interests of justice if the prisoner, in the presence of an official visitor, agrees in writing to be removed.

(2) A person may make written application to the Commission for the removal of a prisoner under this section.

(3) An application for the removal of a prisoner may be made by that prisoner.

(4) An instrument made under subsection (1) shall be in the prescribed form and shall specify—

- (a) the name of the person who will have control of the prisoner while he is absent from the prison or other place of detention;
- (b) the reason for the prisoner's removal;
- (c) the place or locality to which the prisoner is to be removed;
- (d) when the prisoner is to be returned to the prison or other place of detention;
- (e) such other conditions in respect of the removal of the prisoner as the Commission thinks fit.

73. Special correctional officers. (1) Where a prisoner—

- (a) is to be transferred pursuant to section 69 or removed pursuant to section 70 under the control of a person who is not an officer of the Commission or a police officer;
- or
- (b) is to be removed pursuant to section 72 under the control of a person who is not an officer of the Commission,

the Commission shall by instrument appoint that person as a special correctional officer.

(2) A special correctional officer—

- (a) shall be responsible for the safe custody and welfare of the prisoner under his control;
- (b) shall comply with the conditions of the instrument of his appointment;
- (c) may exercise in respect of the prisoner such of the powers of a correctional officer as are specified in the instrument of appointment;
- and
- (d) shall comply with any direction given to him by the Commission.

(3) Anything done by a special correctional officer in the exercise of a power conferred pursuant to this section shall be deemed to have been done by a correctional officer in the exercise of his powers under this Act.

74. Detention during transfer, etc. (1) A prisoner who is being transferred or removed to any place by instrument made under this Subdivision may be detained in any other place for as long as may be necessary or convenient to give effect to the instrument.

(2) If the place in which the prisoner is being detained is a police gaol, he shall, while detained there, be in the custody of the Commissioner of Police.

 Subdivision F—Custody of Appellants in Prison

75. Custody of appellants under Code. (1) In this section—

- (a) “appeal” means an appeal under Chapter LXVII of *The Criminal Code* by a person convicted of an indictable offence, whether on indictment or summarily;
- (b) “appellant” means a person referred to in paragraph (a).

(2) An appellant who is detained in custody in a prison pending the determination of his appeal shall, subject to this section, be treated in accordance with the regulations as an unconvicted prisoner on remand and any appellant so treated shall, for the purpose of section 671G of *The Criminal Code*, be deemed to be specially treated as an appellant.

(3) Notwithstanding the provisions of section 671G of *The Criminal Code*—

- (a) an appellant who is detained in custody in a prison pending the determination of his appeal may by notice in writing require the Commission to treat him as a prisoner serving a term of imprisonment;
and
- (b) any time during which an appellant is treated, pursuant to paragraph (a), as a prisoner serving a term of imprisonment shall, subject to any order the Court of Criminal Appeal may make or any direction it may give to the contrary in the circumstances, count as part of his sentence, whether imposed by the court of trial or by the Court of Criminal Appeal.

76. Custody of other appellants. (1) Where a person (referred to in this section as an appellant) is sentenced to a term of imprisonment other than for an indictable offence, whether dealt with on indictment or summarily, and appeals against the conviction or sentence, he shall, if not admitted to bail pending the determination of the appeal, be treated during that period as a prisoner serving a term of imprisonment unless he requires the Commission by notice in writing to treat him as an unconvicted prisoner on remand.

(2) The time during which an appellant, pending the determination of his appeal, is released on bail shall not count as part of his sentence, whether imposed by the court of trial or by the court that determines the appeal.

(3) Subject to any order the court that determines the appeal may make or any direction it may give to the contrary in the circumstances, the time during which an appellant, pending the determination of his appeal, is treated pursuant to subsection (1)—

- (a) as a prisoner serving a term of imprisonment shall count as part of his sentence;
or
- (b) as an unconvicted prisoner on remand shall not count as part of his sentence,

whether imposed by the court of trial or by the court that determines the appeal.

77. Treatment of prisoner serving sentence not affected. Section 75 or 76 shall not be construed as requiring that an appellant be treated as an unconvicted prisoner on remand where he is serving a term of imprisonment or is otherwise detained in custody in a prison in respect of some other matter.

78. Commission to be notified of appeals by prisoners. Where an appeal referred to in section 75 or 76 is lodged by or on behalf of a prisoner, the registrar of the court of appeal shall forthwith notify the Commission of the appeal.

79. Custody and sentences of certain respondents. (1) In this section—

“appeal” means an appeal in respect of a simple offence or breach of duty and does not include an appeal in respect of an indictable offence dealt with summarily;

“respondent” means a person who, having been the defendant in proceedings for a simple offence or breach of duty, is the respondent in an appeal in respect of those proceedings.

(2) Where, on an appeal, a court—

(a) varies a non-custodial sentence or order by sentencing the respondent to a term of imprisonment;

or

(b) convicts the respondent and sentences him to a term of imprisonment,

the term of imprisonment shall commence when the respondent is taken into custody pursuant to the order of the court or, if for any reason he is already detained in custody, from the date the court makes its order.

(3) Where, on an appeal, a court increases the term of a sentence of imprisonment, any period of the term of imprisonment imposed by the court of trial already served by the respondent shall count as part of the term imposed by the court on the appeal.

(4) The provisions of subsections (2) and (3) apply subject to any order made or direction given to the contrary by the court on the appeal.

Subdivision G—Discharge

80. Discharge of prisoner. (1) On the day on which a prisoner is to be discharged or released on parole, he shall be discharged or released at a time prescribed by rule.

(2) If the day on which a prisoner would, but for this subsection, be discharged or released on parole is—

- (a) a Saturday or a Sunday;
- (b) a public holiday throughout the State;
- or
- (c) a public holiday at the place where the prisoner is then located,

the prisoner shall, if his term of imprisonment exceeds 31 days, or may in any other case at the discretion of the Commission, be discharged or released on the day immediately preceding, that is not itself a day referred to in paragraph (a), (b) or (c).

81. Early discharge. The Commission may by instrument order that a prisoner whose term of imprisonment—

- (a) is not less than 12 months be discharged at any time within the period of 14 days immediately preceding the day on which he would, but for this provision, be eligible to be discharged;
- or
- (b) is less than 12 months be discharged at any time within the period of 7 days immediately preceding the day on which he would, but for this provision, be eligible to be discharged.

82. Discharge of certain prisoners by Governor in Council. The Governor in Council may order the discharge from prison or otherwise from custody of any person who is imprisoned—

- (a) for non-payment of money;
- (b) for contempt;
- (c) in default of finding sureties to keep the peace or to be of good behaviour;
- (d) for non-payment of any sum of money imposed as penalty or forfeiture under any law where the Governor in Council may, by law, remit payment of that money or any part of it.

83. Prisoner may remain in prison. (1) A prisoner may apply in writing to the Commission for permission to remain in prison after he is eligible to be discharged.

(2) The Commission may grant or reject a prisoner's application.

(3) Where the Commission grants an application, the prisoner shall—

- (a) be deemed to have completed his term of imprisonment or period of detention at the time at which he is eligible to be discharged;
- (b) from that time, be treated as an unconvicted prisoner on remand;

and

- (c) be discharged within 4 days after the day on which he is eligible to be discharged.

(4) In no case shall the period for which a prisoner is permitted to remain in prison under this section exceed the period of remission granted in respect of the prisoner's term of imprisonment.

84. Assistance to prisoner on discharge. The Commission may authorize that a prisoner who is being discharged or released on parole be provided with—

- (a) financial or other assistance, if the Commission believes that the prisoner has insufficient means to maintain himself;
or
- (b) a voucher for travel to a place within the State or a place in another State or in a Territory of the Commonwealth.

85. Prisoner discharged by error. (1) Where as a result of any error a prisoner is released from prison as if he were eligible to be discharged, a correctional officer or a police officer may—

- (a) arrest the prisoner without warrant;
or
- (b) make written application to a justice for the issue of a warrant for the apprehension of the prisoner.

(2) If a justice is satisfied of the matter of an application, he may issue his warrant directed to all police officers and all correctional officers and the warrant may be executed by any of them.

(3) A warrant may be issued and a prisoner may be arrested (whether pursuant to a warrant or subsection (1) (a)) although at the time of issue or arrest the prisoner could, if granted full remission in respect of his term of imprisonment, have been lawfully discharged.

(4) The period for which a prisoner is at large having been released by error shall not count as part of his term of imprisonment or period of detention.

(5) A person arrested pursuant to this section shall be taken to and detained in a prison or in a police gaol until he can be conveniently taken to a prison.

Division 6—Home Detention

86. Release of prisoner to home detention. (1) Subject to this section, the Commission may, by instrument, release a prisoner to serve a period of home detention pursuant to this Division.

(2) The Commission shall not release to serve a period of home detention a prisoner—

- (a) who is detained on remand for an offence;
- (b) who is detained pursuant to a warrant or order issued under

the Migration Act 1958 of the Commonwealth or that Act as amended and in force for the time being or an Act substituted for that Act;

- (c) who is imprisoned for contempt;
- (d) who, having been declared an habitual criminal, is serving a term of imprisonment before being detained during Her Majesty's pleasure;
- or
- (e) who is detained pursuant to Part IV of *The Criminal Law Amendment Act of 1945*.

(3) The Commission shall not release a prisoner to serve a period of home detention unless—

- (a) in the case of a prisoner serving a term of imprisonment for life, the Governor in Council on the recommendation of the Queensland Community Corrections Board has approved the release;
- (b) in the case of a prisoner serving a term of imprisonment not exceeding 5 years in a prison or other place situated in an area for which a regional community corrections board is established, the board has approved the release;
- or
- (c) in any other case, the Queensland Community Corrections Board has approved the release.

(4) Where approval has been given under subsection (3) for the release of a prisoner, the Governor in Council, a regional community corrections board or the Queensland Community Corrections Board, as the case may be—

- (a) may require that the release be subject to such conditions as the Governor in Council or, as the case may be, the appropriate board thinks fit;
- or
- (b) may require the Commission to amend or revoke any condition or to impose a new condition.

(5) An instrument authorizing the release of a prisoner to serve a period of home detention shall be in the prescribed form and shall specify any conditions to which the release is subject.

(6) Subject to subsection (7) the Commission may amend or revoke an instrument by giving the prisoner written notice of the amendment or revocation and shall, in the case of a notice of revocation, give the notice in sufficient time to allow the prisoner to surrender to a correctional officer or a police officer before the instrument is revoked.

(7) The Commission shall not amend or revoke a condition imposed pursuant to subsection (4) without the approval of the Governor in Council or, as the case may be, the appropriate board.

(8) Where a prisoner has, in the Commission's opinion, failed to comply with any condition specified in the instrument, the Commission may, without complying with subsections (6) and (7), revoke the instrument if—

- (a) reasonable inquiries instituted by the Commission have failed to locate the prisoner;
- or
- (b) the Commission believes that the prisoner has left the State.

(9) A prisoner who has not surrendered to a correctional officer or a police officer when the Commission revokes an instrument releasing the prisoner to serve a period of home detention shall be deemed from that time to be unlawfully at large.

(10) A prisoner who surrenders to a correctional officer or a police officer shall be taken to and detained in a prison or in a police gaol until he can be conveniently taken to a prison.

(11) Any period of home detention served by a prisoner in compliance with the instrument authorizing his release shall count as part of his term of imprisonment.

87. Community correctional officer to be appointed to prisoner. (1) The Commission shall, in respect of each prisoner released to serve a period of home detention, assign a community correctional officer to supervise the prisoner and carry out such other duties as are prescribed by rule.

- (2) The Commission may at any time—
 - (a) revoke an assignment made under subsection (1) and assign another community correctional officer to the prisoner;
 - (b) assign more than one community correctional officer to the prisoner.

(3) A community correctional officer may give reasonable directions to the prisoner to whom he is assigned for the purpose of ensuring that the prisoner complies with any condition to which his release on home detention is subject.

(4) A community correctional officer may at any time, for the purpose of ascertaining whether a prisoner serving a period of home detention is complying with the conditions to which his release is subject—

- (a) enter the residence of the prisoner;
- (b) telephone or otherwise attempt to communicate with the prisoner at his place of residence, place of employment or any other place where he is permitted or required to attend;
- (c) question any person present at any place mentioned in paragraph (b) as to the whereabouts of the prisoner or his attendance at that place.

(5) A person shall not fail to answer any question put to him by a community correctional officer in the exercise of his powers under

this section or give an answer that the person knows to be false or misleading in a material particular.

88. Duties of prisoner on home detention. (1) A prisoner released to serve a period of home detention shall not leave his residence except—

- (a) to seek or engage in employment approved by the Commission;
- (b) for a purpose prescribed by rule and approved by the community correctional officer assigned to the prisoner;
- (c) for the purpose of averting or minimising a serious risk of death or injury to the prisoner or any other person;
- (d) for any other purpose approved by the Commission in exceptional circumstances.

(2) A prisoner released to serve a period of home detention shall—

- (a) comply with every condition to which his release is subject;
- (b) obey any lawful direction of the community correctional officer assigned to him.

(3) A prisoner released to serve a period of home detention shall be furnished with a copy of the instrument authorizing his release and shall, during that period, retain the copy in his possession and, if requested to do so by a police officer or an officer of the Commission, produce the copy for inspection.

89. Expenses of prisoner on home detention. (1) The Commission may authorize that a prisoner who is released to serve a period of home detention receive such financial or other assistance as the Commission considers necessary to meet the prisoner's requirements during that period.

(2) A prisoner shall, when required to do so by the Commission or the community correctional officer assigned to the prisoner, surrender the unused portion of any assistance provided under subsection (1).

90. Employment of prisoner on home detention. (1) A prisoner who, while serving a period of home detention, engages in employment shall, to the extent practicable, be employed in accordance with the provisions of any industrial award or agreement applicable to that employment or, if there is no applicable award or agreement, in accordance with the conditions agreed upon by the employer and the Commission.

(2) A prisoner is entitled to receive all wages, allowances and other moneys due to him unless the instrument authorizing his release directs that they shall be otherwise dealt with.

91. Authorized payments from prisoner's earnings. Deductions may be made from any moneys paid by an employer in respect of the employment of a prisoner who is serving a period of home detention

of such amounts as the Commission may determine for all or any of the following purposes:—

- (a) to reimburse the Commission for any financial or other assistance provided to the prisoner under section 89;
- (b) any purpose referred to in paragraph (e), (f) or (h) of section 67 (1).

Division 7—Offences and Breaches of Discipline by Prisoners

Subdivision A—Unlawful Assembly, Riot and Mutiny

92. Unlawful assembly, riot and mutiny. (1) A prisoner who takes part in an unlawful assembly of prisoners is guilty of a crime and is liable to imprisonment for 3 years.

(2) A prisoner who takes part in a riot or mutiny of prisoners is guilty of a crime and, subject to subsections (3), (4) and (5), is liable to imprisonment for 6 years.

(3) If a prisoner taking part in a riot or mutiny of prisoners wilfully and unlawfully destroys or damages, or attempts to destroy or damage any property, he shall be liable to—

- (a) imprisonment for 10 years;

or

- (b) where the property is part of a prison and the security of a prison is thereby endangered—imprisonment for life.

(4) If during a riot or mutiny of prisoners a demand is made by any of them that anything be done or not done with threats of injury or detriment of any kind to any person or property to be caused if the demand is not complied with, each prisoner taking part in the riot or mutiny shall be liable to imprisonment for 14 years.

(5) If a prisoner taking part in a riot or mutiny of prisoners escapes or attempts to escape from lawful custody or aids any other prisoner in escaping or attempting to escape from lawful custody, he shall be liable to imprisonment for 14 years.

(6) For the purposes of this section—

- (a) when 3 or more prisoners with intent to carry out some common purpose assemble (whether inside or outside of prison) in such a manner or being assembled (whether inside or outside of prison) conduct themselves in such a manner that there are reasonable grounds to believe that they will tumultuously disturb the peace or will provoke other prisoners to tumultuously disturb the peace, they are an unlawful assembly, whether or not the original assembling was lawful;
- (b) when an unlawful assembly has begun to act in so tumultuous a manner as to disturb the peace, the assembly is called a riot.

Subdivision B—Prisoner Offences

93. Prisoner offences. (1) A prisoner who—

- (a) escapes, attempts to escape or prepares to escape from lawful custody;
- (b) having been released on leave of absence or to serve a period of home detention, is unlawfully at large or fails to comply with any condition of the instrument authorizing his release;
- (c) makes or attempts to make, or conceals or has in his possession an article or substance prescribed by rule as a prohibited article;
- (d) makes or attempts to make, or conceals or has in his possession an article or substance, prescribed by rule as a restricted article, without the authority of the Commission;
- (e) takes part in or organizes or attempts to organize any opposition to lawful authority, whether within or outside of prison;
- (f) assaults any commissioner, official visitor, inspector, medical officer, chaplain, volunteer, or any officer or employee of the Commission or any other prisoner;
- (g) threatens to do grievous bodily harm to any commissioner, official visitor, inspector, medical officer, chaplain, volunteer, or any officer or employee of the Commission or to any other prisoner;
- (h) unlawfully kills or injures or attempts unlawfully to kill or injure a prison dog;
- (i) assumes another identity or disguises himself for the purpose of committing an offence against this Act;
- (j) fails to give any information sought or answer any question asked by a person in the exercise of a power conferred by this Act or gives to that person information or an answer that is, to the prisoner's knowledge, false or misleading in a material particular;
- (k) wilfully and unlawfully destroys, damages, removes or otherwise interferes with any part of the security system or any part of the communications system of a prison;
- (l) without lawful authority, abstracts information from, destroys information in or makes a false entry in any record kept pursuant to this Act or the *Corrective Services (Administration) Act 1988*, in whatever form the record is kept,

commits an offence against this Act referred to in this Act as a “prisoner offence”.

(2) The provisions of section 8 of the *Criminal Law (Rehabilitation of Offenders) Act 1986-1988* do not afford a lawful excuse to a prisoner for failing to disclose a previous conviction where he is questioned

concerning his previous convictions by a person in the exercise of a power conferred by this Act.

(3) Where a prisoner is convicted of a prisoner offence, the court shall order that he be imprisoned for a period not exceeding 2 years.

(4) Where a prisoner serving a term of imprisonment for an offence against a law of the Commonwealth is convicted of a prisoner offence, the court may direct that the sentence of imprisonment imposed for the prisoner offence take effect at the expiration of deprivation of liberty for the Commonwealth offence.

(5) Where a prisoner is convicted of a prisoner offence, the court may further order that he be imprisoned under separate confinement (within the meaning of section 96) for a period not exceeding 14 days.

(6) A person may be convicted of a prisoner offence although he is no longer a prisoner when proceedings in respect of the offence are commenced or heard and shall be liable to a fine of 40 penalty units or to imprisonment for 2 years or to both of those penalties.

(7) Where a person is convicted of a prisoner offence, the court may, in addition to any order or orders made by it pursuant to this section, make any order concerning restitution or compensation that may be made under section 685A of *The Criminal Code* upon the summary conviction of a person for an offence and any order made may be enforced in the same manner as an order made under that section.

94. Apprehension of prisoners. (1) Where a prisoner—

(a) escapes from lawful custody;

or

(b) having been released on leave of absence or to serve a period of home detention is or is preparing to become unlawfully at large or fails to comply with any condition of the instrument authorizing his release,

a correctional officer or a police officer may arrest the prisoner without warrant or may make written application to a justice for the issue of a warrant for the apprehension of the prisoner.

(2) If a justice is satisfied of the matter of an application, he may issue his warrant directed to all police officers and all custodial correctional officers and the warrant may be executed by any of them.

(3) A prisoner arrested pursuant to this section shall be taken to and detained in a prison or in a police gaol until he can be conveniently taken to a prison.

95. Period while unlawfully at large not to count as part of term of imprisonment. (1) Where a prisoner escapes from lawful custody or is otherwise unlawfully at large no part of the period during which he is unlawfully at large shall count as part of the term of imprisonment or period of detention being served by him when he escaped or otherwise became unlawfully at large.

(2) For the purposes of subsection (1) a person remains unlawfully at large until he is admitted to and detained in a prison or a police gaol.

96. Separate confinement. (1) In this Act, the expression “separate confinement”, used in respect of a prisoner convicted of a prisoner offence or a major breach of discipline, means the segregation of the prisoner from other prisoners under conditions prescribed by rule.

(2) The Commission may make rules prescribing the privileges (other than remission) to be forfeited by a prisoner in separate confinement.

(3) A medical officer shall examine a prisoner—

- (a) as soon as is practicable after he commences a period of separate confinement;
 - (b) within 7 days after the first examination unless he is sooner examined pursuant to paragraph (c);
- and
- (c) as soon as is practicable after the period of separate confinement expires.

Subdivision C—Breaches of Discipline

97. Breaches of discipline. (1) In this Division—

“breach of discipline” means a breach of discipline prescribed by regulation;

“major breach” means a breach of discipline dealt with pursuant to section 101;

“minor breach” means a breach of discipline dealt with pursuant to section 98;

“privileges” means privileges prescribed by rule as privileges that a prisoner who commits a breach of discipline may be ordered to forfeit.

(2) A correctional officer who suspects a prisoner has committed a breach of discipline shall determine whether the prisoner should be proceeded against for a major breach or a minor breach.

(3) Nothing contained in this Subdivision shall be construed as requiring a correctional officer to take proceedings against a prisoner for a breach of discipline if, having regard to the trivial nature of the breach, the circumstances surrounding its commission and the previous conduct of the prisoner, the officer is of the opinion that the proceedings should not be taken.

98. Minor breach. (1) Proceedings against a prisoner for a minor breach shall be taken by a correctional officer as soon as is practicable after the breach comes to his knowledge.

(2) The correctional officer shall—

- (a) question the prisoner concerned and any other prisoner or any officer or employee of the Commission who may be able to provide relevant information;
and
- (b) give the prisoner concerned a reasonable opportunity to answer any allegations and to make submissions in respect of punishment.

(3) If the correctional officer is satisfied the prisoner has committed the breach of discipline, he may reprimand the prisoner without further punishment or may order the prisoner to forfeit any privileges that are specified in the order and that would, but for the making of the order, have been received by the prisoner within a period of 24 hours commencing when the breach was committed.

(4) The correctional officer shall, immediately after dealing with the prisoner pursuant to subsection (3), advise the prisoner of his right to have the decision reviewed.

(5) If the prisoner wishes to exercise his right to have the decision reviewed, he shall do so by notifying the correctional officer of that fact as soon as is practicable after he is advised of the decision and the execution of any order for the forfeiture of privileges shall be stayed pending the determination of the review.

99. Review of minor breach. (1) The review of a decision made in respect of a minor breach shall be carried out by an officer of the Commission who—

- (a) is of or above a rank prescribed by regulation;
and
- (b) holds a higher rank than the correctional officer who made the decision in the first instance.

(2) The review of a decision shall be carried out as soon as is practicable after the prisoner gives notice that he wishes the decision to be reviewed.

(3) An officer of the Commission who carries out a review of a decision shall proceed in the manner provided in paragraph (a) and (b) of section 98 (2).

(4) The officer who carries out a review of a decision may confirm or vary the decision or may set it aside and substitute his own decision for it.

(5) Any decision dealing with a prisoner for a minor breach in respect of which the prisoner does not exercise his right of review and any decision made on review shall be final.

(6) Neither the prisoner who requires a decision to be reviewed nor the correctional officer who made that decision shall be permitted any legal or other representation upon the review.

100. Reports relating to minor breaches. A correctional officer who reprimands a prisoner or orders the forfeiture of any privileges for a minor breach and an officer of the Commission who carries out a review shall, as soon as is practicable thereafter, give a report to the Commission containing such details concerning the minor breach as are prescribed by rule.

101. Major breach. (1) Proceedings against a prisoner for a major breach shall be by way of complaint of a correctional officer made—

(a) in a form prescribed by regulation;

and

(b) as soon as is practicable after the matter of complaint came to the complainant's knowledge and, in any event, within a period of 7 days after the matter of complaint arose.

(2) A complaint against a prisoner shall be heard and determined by an officer of the Commission who—

(a) is of or above a rank prescribed by regulation;

and

(b) holds a higher rank than the complainant.

(3) An officer of the Commission who hears a complaint shall not be bound by the rules or practice of any court or tribunal as to procedure or evidence but shall, subject to any regulation or rule, inform himself of the matter of complaint in such manner as he thinks fit.

(4) A prisoner against whom a complaint is made is entitled to be present at the hearing of the complaint and—

(a) shall be informed of any evidence adduced in respect of the complaint;

(b) may cross-examine any witness called by or on behalf of the complainant;

(c) may call any person to give evidence in his defence unless the officer conducting the hearing orders, for such reasons as he thinks fit, that the evidence of that person be given in writing or in some other form;

(d) may make submissions in his defence or in mitigation of punishment.

(5) Neither the complainant nor the prisoner shall be permitted any legal or other representation at the hearing of a complaint.

(6) Subject to subsection (7), if the officer of the Commission who hears a complaint is satisfied beyond reasonable doubt that the prisoner has committed the breach of discipline, he may—

(a) reprimand the prisoner without further punishment;

(b) order the prisoner to forfeit any privileges that are specified in the order and that would, but for the making of the order, have been received by the prisoner within a period of 7 days commencing when the order is made;

or

- (c) order the prisoner to undergo separate confinement (within the meaning of section 96) for a period not exceeding 7 days commencing when the order is made.

(7) The officer of the Commission who hears the complaint may, if satisfied that the circumstances of the breach do not warrant his dealing with the prisoner for a major breach, deal with the prisoner as for a minor breach and the provisions of sections 98 (4), 98 (5) and 99 shall apply accordingly with all necessary modifications.

(8) The officer of the Commission shall, immediately after dealing with the prisoner for a major breach, advise the prisoner of his right to have the decision reviewed.

(9) If the prisoner wishes to exercise his right to have the decision reviewed, he shall do so by notifying the officer of the Commission who heard and determined the complaint of that fact as soon as is practicable after he is advised of the decision and the execution of any punishment shall be stayed pending the determination of the review.

102. Review of major breach. (1) The review of a decision made in respect of a major breach shall be carried out by an officer of the Commission who—

- (a) is of or above a rank prescribed by regulation;
and
- (b) holds a higher rank than the officer of the Commission who made the decision in the first instance.

(2) The review of a decision shall be by way of rehearing and shall be carried out as soon as is practicable after the prisoner gives notice that he wishes the decision to be reviewed.

(3) The prisoner shall be entitled to be present at the rehearing and may make submissions in his defence or in mitigation of punishment.

(4) The officer who carries out a review of a decision—

- (a) may confirm or vary the decision or may set it aside and substitute his own decision for it;

or

- (b) may, if satisfied that the circumstances of the breach do not warrant the prisoner's being dealt with for a major breach, deal with the prisoner as for a minor breach.

(5) Any decision made to deal with a prisoner for a major breach in respect of which the prisoner does not exercise his right of review and any decision made on review shall be final.

(6) Neither the prisoner who requires a decision to be reviewed nor the complainant shall be permitted any legal or other representation upon the review.

103. Disciplinary breach register. (1) The Commission shall keep a register styled the “disciplinary breach register” containing details of—

- (a) any decision to deal with a prisoner for a minor breach, whether or not the decision has been reviewed;
- (b) any review of a decision in respect of a minor breach;
- (c) any complaint made against a prisoner for a major breach, whether or not he is found to have committed the breach;
- (d) any review of a decision in respect of a major breach.

(2) An entry in the register in respect of the punishment imposed for a breach of discipline or a document purporting to be certified by the Commission as being a true copy of part of the register containing the entry shall be sufficient authority for the execution of the punishment.

(3) A prisoner dealt with for a breach of discipline shall not be taken to have committed an offence.

Division 8—Control of Persons other than Prisoners

Subdivision A—Offences by Persons other than Prisoners

104. Offences by persons other than prisoners. (1) In this Subdivision, unless a contrary intention appears—

“prison” means any place in which a prisoner is being detained;

“prisoner” means any person required to be detained in custody whether or not he is a prisoner within the meaning of section 10.

(2) A person who—

- (a) harbours, maintains or employs a person who is, to his knowledge, a prisoner who has escaped from lawful custody or who is otherwise unlawfully at large;

or

(b) rescues a prisoner from lawful custody,
commits an offence against this Act.

(3) A person who—

- (a) aids a prisoner in escaping, attempting to escape or preparing to escape from lawful custody;

- (b) counsels or procures a prisoner to escape from lawful custody;

- (c) aids a prisoner who is unlawfully at large in remaining unlawfully at large;

- (d) counsels or procures a prisoner who is unlawfully at large to remain unlawfully at large,

commits an offence against this Act.

(4) A person who—

- (a) takes anything into or causes anything to be introduced into a prison with intent to facilitate the escape of a prisoner from lawful custody;

or

- (b) delivers anything to a prisoner or causes anything to come into the possession of a prisoner with intent to facilitate the escape of any prisoner from lawful custody,

commits an offence against this Act.

- (5) A person who, without lawful authority—

- (a) takes into or causes to be introduced into a prison any prohibited article;

or

- (b) delivers any prohibited article to a prisoner or causes any prohibited article to come into the possession of a prisoner,

commits an offence against this Act.

The expression “prohibited article” means—

- (i) any article or substance that a prisoner is, by lawful authority, prohibited from possessing;

or

- (ii) any article or substance the offender intends to be used by a prisoner for making an article or substance referred to in paragraph (i).

- (6) A person who, acting on behalf of a prisoner and without lawful authority—

- (a) removes anything from a prison or causes anything to be removed from a prison;

or

- (b) takes anything from a prisoner, whether within or outside of prison,

commits an offence against this Act.

(7) If a correctional officer, a police officer or any other person having custody or control of a prisoner believes on reasonable grounds that a person in the vicinity of the prisoner is acting in a way that threatens or is likely to threaten the security of the prisoner or the security or good order of the place in which the prisoner is detained, the correctional officer, police officer or other person having custody or control of the prisoner may order that person to leave the vicinity of that prisoner or place of detention.

- (8) A person who disobeys an order given pursuant to subsection (7) commits an offence against this Act.

- (9) A person who—

- (a) enters a prison without lawful authority;

- (b) fraudulently obtains authorization to enter a prison, whether for himself or another;

or

- (c) wilfully and unlawfully destroys, damages, removes or otherwise interferes with any part of the security system or any part of the communications system of a prison,

commits an offence against this Act.

(10) A person who—

- (a) fails to leave a prison (within the meaning of section 10) or a community corrections centre when ordered to do so by a correctional officer;
- (b) kills or injures a prison dog;
- (c) hinders, resists or obstructs a person in the execution of his duty under this Act or the *Corrective Services (Administration) Act 1988*;
- (d) without the authority of the Commission, alters, defaces or removes any notice displayed in a prison (within the meaning of section 10) pursuant to this Act or the Commission's Rules;
- (e) without the authority of the Commission, abstracts information from, destroys information in or makes a false entry in any record kept pursuant to this Act or the *Corrective Services (Administration) Act 1988*, in whatever form the record is kept;
- (f) without the authority of the Commission, interviews a prisoner (within the meaning of section 10) or obtains a written or recorded statement from such a prisoner, whether within or outside of a prison;

or

- (g) without the authority of the Commission, photographs or otherwise records by means of any apparatus, while within a prison within the meaning of section 10, any visual image of any prisoner (within the meaning of section 10) or any part of the prison,

commits an offence against this Act.

(11) A person who attempts to do anything prohibited by subsection (2) (b), (4), (5), (6), (9) or (10) commits an offence against this Act.

105. Penalties and procedure for offences defined in s. 104. (1) A person who commits an offence defined in section 104 shall be liable to a fine of 40 penalty units or to imprisonment for 2 years or to both of those penalties.

(2) Where a person is convicted of killing or injuring a prison dog, the court may, in addition to any penalty imposed under subsection (1), order the person to pay to the Commission such sum as the court thinks fit in respect of—

- (a) veterinary treatment and care of the dog or the retraining of the dog;

or

- (b) where it is necessary to replace the dog, the acquisition and training of the replacement.

(3) Proceedings in respect of an offence defined in section 104 shall be commenced by complaint made—

- (a) where the offence relates to a prison or prisoner, other than a prison or prisoner within the meaning of section 10, by the person (or a person authorized by him in that behalf) in charge of the prison or having custody of the prisoner;
- (b) in any other case, by the Commission or a person authorized by it in that behalf.

106. Where officer of Commission commits offence. (1) Upon proof that an officer of the Commission has done any act or made any omission that, in the absence of lawful authority, justification or excuse, would constitute an offence defined in section 104, the court shall convict him of the offence unless it is satisfied he did the act or made the omission with lawful authority, justification or excuse.

(2) An officer of the Commission convicted of an offence defined in section 104 shall, in addition to any penalty imposed under subsection (1), forfeit his office on and from the date of conviction.

107. Search and arrest of persons suspected of offences. Where there are reasonable grounds to believe that a person has committed, is committing or is about to commit an offence defined in section 104 or any other offence that may threaten the security or management of a prison or the security of a prisoner, a correctional officer or a police officer may, using such force as is reasonable—

- (a) arrest the person without warrant;
- or
- (b) search the person and anything in the person's possession (including any motor vehicle) and seize and retain anything that he believes on reasonable grounds is connected with or affords evidence of the commission or intended commission of the offence.

Subdivision B—Powers of Search and Seizure

108. Search of visitors. (1) In this section, "visitor" means a person who is visiting a prison or seeking entry to a prison or is visiting a prisoner but does not include a prisoner or a person referred to in section 109 (1).

(2) The general manager of a prison may ask a visitor to submit to being searched by a custodial correctional officer.

(3) The general manager may prohibit a visitor from entering or, as the case may be, remaining in a prison if—

- (a) the visitor refuses to submit to a search requested pursuant to subsection (2);

or

- (b) the general manager believes that it is necessary for the security or good order of the prison.

(4) A visitor who is prohibited from remaining in a prison and who refuses to immediately leave the prison may be removed from the prison by a custodial correctional officer who may for that purpose use such force as is reasonable.

(5) A custodial correctional officer who searches a visitor may seize and retain anything found during the search that he believes on reasonable grounds is connected with or affords evidence of the commission or intended commission of an offence.

109. Searching of officers and employees of Commission, etc. (1)

The general manager of a prison may order a person who is in or near the prison and is—

- (a) a commissioner, an official visitor, an inspector, a medical officer, a chaplain or an officer or employee of the Commission;

or

- (b) a person authorized under this Act or the *Corrective Services (Administration) Act 1988* to discharge any function or exercise any power of an officer of the Commission,

to submit to being searched by a custodial correctional officer and the person shall comply with the order.

(2) A custodial correctional officer who, acting at the direction of the general manager of a prison, searches a person may—

- (a) search anything (including any motor vehicle) in the possession of the person;

and

- (b) seize and retain anything that he believes on reasonable grounds is connected with or affords evidence of the commission or intended commission of an offence.

110. Disposal of seized property. (1) A person who seizes anything pursuant to this Division shall, as soon as is practicable, take it before a justice who may—

- (a) order that it be detained in such custody as he directs until investigations or proceedings to which it may be relevant are concluded;
- (b) order that it be returned to the person who the justice believes is entitled to possession of it;
- (c) if it is of such a nature that a person having it in his possession without lawful authority would be committing an offence, order that it be destroyed or delivered to a person authorized to have possession of it;
- (d) if unable to ascertain any person entitled to possess it, make such order with respect to its disposal as he thinks fit.

(2) Subject to subsection (3), an order made for the disposal of property shall not affect the right of any person to recover the property by action from the person who, pursuant to the order, has possession of it.

(3) An action for the recovery of property disposed of by order made under subsection (1) shall be commenced within 6 months after the order is made.

Division 9—Emergency

111. Declaration of emergency. (1) If the Commission believes that a situation exists at a prison that threatens or is likely to threaten the security or good order of the prison or the security of any prisoner or other person in the prison, it may, with the approval of the Minister, declare that an emergency exists in relation to that prison or any part of it.

(2) The declaration of an emergency shall specify the period for which it shall remain in force and shall lapse at the expiration of that period unless sooner revoked by the Commission or unless the Commission, with the approval of the Minister, extends that period.

112. Power of Commission during emergency. (1) While the declaration of an emergency is in force, the Commission may, in respect of the prison or part of a prison to which the declaration relates—

- (a) restrict any prison activity or restrict access to the prison or part;
- (b) order that any privileges to prisoners be withheld;
- (c) authorize any person to perform or exercise any duty, function or power, other than any duty, function or power of a correctional officer;
- (d) authorize police officers to perform or exercise all or any duties, functions or powers of a correctional officer.

(2) A police officer authorized pursuant to subsection (1) shall, while doing any act pursuant to that authority, be under the direction and control of the senior police officer present.

(3) The Commission may require the Commissioner of Police to provide as many police officers as the Commission considers necessary or expedient for the purpose of dealing with any emergency declared pursuant to section 111, and the Commissioner of Police shall comply with the requirement.

Division 10—Prisoner of a Court

113. Meanings of terms. In this Division, unless a contrary intention appears—

“clerk of the court” means a clerk of the court within the meaning of the *Justices Act 1886-1988*;

“court” includes a court exercising appellate jurisdiction and any justice or justices of the peace conducting an examination of witnesses in respect of an indictable offence;

“prisoner of a court” means a person in the custody of a court;
“proper officer” means—

- (a) in respect of the Supreme Court sitting at Brisbane, including the Court when sitting as the Full Court or the Court of Criminal Appeal, the Sheriff of Queensland;
- (b) in respect of the Supreme Court or a Circuit Court sitting at any other place, the person performing the duties of Sheriff at that place;
- (c) in respect of a District Court, the Registrar of the Court or the person performing the duties of Registrar;
- (d) in respect of a court constituted by a stipendiary magistrate or by a justice or justices of the peace, the clerk of the court at the place where the court is sitting.

114. Person surrendering into custody of court. (1) A person who is required by law to surrender himself into the custody of a court shall do so by surrendering himself into the custody of the proper officer of the court.

(2) Subject to subsection (3), a prisoner of a court shall be in the custody of the proper officer of the court until released on bail, discharged from lawful custody or otherwise dealt with as the court directs.

(3) Where pursuant to any arrangements made by a proper officer of a court and the Commissioner of Police, a prisoner of the court is detained in a police gaol, he shall, while detained there, be in the custody of the Commissioner of Police.

115. Duties and powers of proper officer. (1) Subject to section 114 (3), the proper officer of a court shall be responsible for the safe custody and welfare of any prisoner of the court.

(2) The proper officer of a court shall have, in respect of a prisoner of the court, all the powers conferred by this Act or the Commission’s Rules upon a custodial correctional officer.

(3) The proper officer of a court may at any time search a prisoner of the court and anything in his possession and the prisoner shall submit to the search.

(4) The proper officer of a court may seize and retain anything found by him in the course of a search that he believes may be used to endanger the safety or security of the prisoner or any other person or the security of the court or that may afford evidence of the commission or intended commission of an offence.

(5) Anything seized by the proper officer of a court may be dealt with by the proper officer in the same manner as a justice may deal with anything under section 110.

(6) An order made by a proper officer of a court for the disposal of any property shall not affect the right of any person to recover the

property, by action commenced within 6 months after the order is made, from the person to whom it was delivered pursuant to the order.

116. Proper officer may require assistance. The proper officer of a court may require—

- (a) the Commission to provide correctional officers;
- (b) the Commissioner of Police to provide police officers;
- and
- (c) the Director, within the meaning of the *Children's Services Act 1965-1988*, to provide officers under his control,

to assist the proper officer in the discharge of his functions under this Division.

117. Proper officer may delegate. (1) The proper officer of a court may delegate to any person all or any of his powers and functions under this Division except this power of delegation.

(2) A person acting under a power of delegation made pursuant to subsection (1) or a person assisting the proper officer of a court to discharge his functions under this Division shall be subject to the direction of the proper officer.

118. Offences. (1) A prisoner of a court who—

- (a) escapes, attempts to escape or prepares to escape from lawful custody;
- (b) makes, conceals or has in his possession any article that the prisoner is, by rule made under section 120, prohibited from possessing;
- (c) fails to obey a lawful direction given by the proper officer of the court or by a person assisting the proper officer of the court,

commits an offence against this Act and, subject to subsection (3), shall be liable to a fine of 40 penalty units or imprisonment for 2 years or to both of those penalties.

(2) A person (whether a prisoner of a court or not) who hinders, resists or obstructs—

- (a) the proper officer of a court or any other person in the discharge of his duty under this Division;
- or
- (b) any person assisting the proper officer or the other person in the discharge of that duty,

commits an offence against this Act and, subject to subsection (3), shall be liable to a fine of 40 penalty units or imprisonment for 2 years or to both of those penalties.

(3) If a person who has committed an offence defined in subsection (1) or (2) while a prisoner of a court—

- (a) was, at the time of commission of the offence, serving a term of imprisonment in respect of any other offence; and
- (b) is, when dealt with for the offence, a prisoner within the meaning of section 10,

he shall be liable to any punishment to which a prisoner who commits a prisoner offence is liable.

(4) Proceedings in respect of an offence defined in this section shall be commenced by complaint made by the proper officer of the court or a person authorized by him in that behalf.

119. Court cells. (1) Notwithstanding the provisions of the *Law Courts and State Buildings Protective Security Act 1983-1988*, the proper officer of a court shall be responsible for the management, security and good order of any place attached to or in the precincts of the court—

- (a) that is not a prison or police gaol; and
- (b) that is used for detaining prisoners of the court.

(2) If the application of subsection (1) would result in the proper officers of two or more courts being responsible for the management, security and good order of the same place, the proper officer of the court having higher jurisdiction than the other court or, as the case may be, than each of the other courts shall be charged with that responsibility.

(3) Nothing in this section prevents the detention in a place referred to in subsection (1) of any person who is not a prisoner of the court but who is in custody and is to attend before any court, person or tribunal.

(4) Any person to whom subsection (3) applies shall, while detained in a place referred to in subsection (1), be in the custody of the proper officer of the court responsible for the management, security and good order of that place.

(5) The proper officer of a court who, pursuant to this section, has responsibility for any place shall have, in respect of that place, the powers a general manager of a prison has under this Act and the Commission's Rules in respect of the management, security and good order of the prison.

120. Proper officer may make rules. (1) The proper officer of a court may make rules prescribing for or with respect to—

- (a) the security and management of any place for which he is responsible pursuant to section 119;
- (b) the safe custody and welfare of prisoners of the court or other persons in his custody.

(2) Rules made by the proper officer of a court may adopt wholly or partly any of the Commission's Rules or any of the General Manager's Rules in force in any prison with such modifications as he thinks fit.

121. Power of court unaltered. Nothing in this Division prevents a court from making any order in respect of a prisoner of the court that it could have made if the provisions of this Division had not been enacted.

Division 11—General

122. Cumulative sentences. (1) In this section, "cumulative sentence" means a sentence of imprisonment that is to take effect upon the expiration of deprivation of liberty for another sentence of imprisonment (referred to in this section as the "first sentence").

(2) A prisoner shall commence serving a cumulative sentence when, taking into account any remission granted in respect of the first sentence, he has completed serving the first sentence.

(3) Where the first sentence of a prisoner is for an offence against a law of the Commonwealth and an order is made pursuant to any law of the Commonwealth that he is no longer required to be detained in custody for that offence, the prisoner shall, notwithstanding subsection (2), commence to serve the cumulative sentence upon that order taking effect.

123. Application to Supreme Court for interpretation of warrant, etc. (1) Where any question arises as to the construction or effect of any warrant or other order (whether in writing or not) for the detention in custody of any person, the Commission may apply to the Supreme Court or to a Judge of the Supreme Court for its or his determination of the question, and for a declaration in respect thereof.

(2) Rules of Court may be made providing for or in respect of the making, hearing and determination of an application and until those Rules are made or to the extent those Rules do not apply, the Court or a judge thereof may give directions as to any of those matters and the directions shall, according to their tenor, have the force and effect of Rules of Court.

(3) A declaration made in respect of a warrant or other order for the detention in custody of a person shall be sufficient authority to the Commission for dealing with the person in accordance with the declaration.

(4) No appeal shall lie in respect of a declaration made pursuant to this section.

124. Warrant, etc. may be executed by custodial correctional officer. Where a court issues a warrant or makes any other order requiring police officers to convey any person then before the court to any prison or other place of detention, the warrant or order may be executed by a custodial correctional officer.

125. Certificate re prisoner, etc. A certificate under the seal of the Commission or purporting to be signed by a person authorized in that behalf by the Commission stating that at a specified time or during a specified period—

- (a) a person was a prisoner;
- (b) a person was a prison dog handler;
- or
- (c) a dog was a prison dog,

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

126. Answers and information given under compulsion. Where a person, in the exercise of a power conferred by this Act, requires another person (whether a prisoner or not) to answer any question or provide any information, that other person is not entitled to refuse to comply with the requisition on the ground that the answer or information may tend to incriminate him but any answer made or information provided by him after objection taken on that ground shall not be admissible against him in proceedings taken against him other than proceedings in respect of an offence founded on the giving of a false or misleading answer or false or misleading information or in respect of a breach of discipline.

127. Exemption from tolls. A correctional officer having prisoners under his control, those prisoners and any motor vehicle being used exclusively for the purpose of conveying the correctional officer and the prisoners shall be exempt from payment of any toll in passing any toll-gate or in respect of the use of any road, bridge or vehicular ferry.

128. Commissioner of Police to provide police. The Commission may, for reasons of security, request the Commissioner of Police to provide as many police officers as the Commission considers necessary or expedient to have control of a prisoner while he is outside prison or any other place where he is being detained, and the Commissioner of Police shall comply with any request he considers reasonable.

129. Offence provision. A person who—

- (a) contravenes or attempts to contravene a provision of this Part;
- (b) fails to comply with a provision of this Part;
- or
- (c) fails to comply with any order made or direction given under the authority of this Part,

commits an offence against this Act and is liable, unless a penalty is otherwise prescribed for the offence, to a fine of 40 penalty units or to imprisonment for 6 months or to both of those penalties.

130. Regulations for purposes of Part II. Regulations may be made under section 270 prescribing for or with respect to—

- (a) the management, good order and security of prisons and community corrections centres;
- (b) the control, discipline, care and welfare of prisoners, including prisoners declared to be habitual criminals;
- (c) the accommodation of prisoners and the segregation from other prisoners of prisoners belonging to a prescribed class of prisoner;
- (d) systems for classifying prisoners for the purpose of accommodation, security or for any other purpose of this Act;
- (e) the granting or forfeiting of remission of sentences of imprisonment;
- (f) prison holidays;
- (g) breaches of discipline;
- (h) visits to prisons and community corrections centres or visits or other forms of communication with prisoners;
- (i) the manner of dealing with property (including mail) belonging to, sent to or left for prisoners;
- (j) the control and regulation of traffic entering or leaving a prison or within a prison;
- (k) a system for identifying prisoners and officers or employees of the Commission and any person entering a prison;
- (l) the manner in which searches under this Act are to be carried out;
- (m) the weapons or instruments of restraint that may be used or that may not be used by correctional officers;
- (n) the operation of any device approved by the Commission for monitoring the whereabouts of prisoners; tests to determine the accuracy of any such device; certificates to be given in respect of the operation or testing of any such device and the evidentiary value of those certificates in any proceeding under this Act or any other Act.

PART III—COMMUNITY CORRECTIONS BOARDS

Division 1—Queensland Community Corrections Board

131. Constitution of Board. The Parole Board constituted under the *Offenders Probation and Parole Act 1980* is preserved, continued in existence and constituted under this Act under the name “Queensland Community Corrections Board”.

132. Members. (1) The Queensland Community Corrections Board shall consist of the following members:—

- (a) a person who is—
 - (i) a retired judge of a court created by the Commonwealth or of a court of a State or Territory of the Commonwealth;

or

- (ii) a barrister or solicitor who has practised as such for a period of at least 5 years,
who shall be chairman;
- (b) 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 member *ex officio*;
- (c) the Director-General of Corrective Services for the time being who shall be a member *ex officio*;
- (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*;
- (e) a legally qualified medical practitioner, or a psychologist within the meaning of the *Psychologists Act 1977-1987*;
- and
- (f) one other person.

The members of the Queensland Community Corrections Board referred to in paragraphs (a), (d), (e) and (f) are in this Division referred to as the "appointed members".

At least one of the appointed members shall be a woman.

(2) The chief executive referred to in subsection (1) (b) may appoint an officer of the public service employed in his department, and the Director-General of Corrective Services may appoint an officer of the Commission, to be his deputy as a member of the Queensland Community Corrections Board.

(3) An appointment under subsection (3)—

- (a) shall be in writing;
- (b) may be made generally or subject to such limitations as are specified therein;
- (c) may be revoked at any time by notice in writing furnished to the appointee.

(4) The Governor in Council may by notification published in the Gazette at any time appoint a qualified person who is not a member of the Queensland Community Corrections Board to be the deputy of an appointed member.

(5) A person appointed as the deputy of a member of the Queensland Community Corrections Board under this section shall act instead of the member whose deputy he is during the absence of that member from any cause and whilst so acting shall have and may exercise the powers and authorities and shall discharge the functions and duties of a member of the board.

The deputy of the member who is the chairman of the Queensland Community Corrections Board shall, while he is acting instead of that member, be chairman of the board.

(6) A commissioner, an officer or employee of the Commission or an official visitor may not be an appointed member or the deputy of an appointed member.

133. Appointment of appointed members. The appointed members shall be appointed on the recommendation of the Minister by the Governor in Council by notification published in the Gazette.

134. Tenure of office of appointed members. (1) Each appointed member shall be appointed and hold office for such term not exceeding 3 years as the Governor in Council determines, but if by the expiration of his term of office his successor has not been duly appointed he shall, subject to subsection (3), hold office until his successor is duly appointed.

An appointed member shall, if he is otherwise qualified, be eligible for reappointment as a member.

(2) The Governor in Council may, by notification published in the Gazette, remove from office any appointed member.

(3) The office of an appointed member shall become vacant if the member—

- (a) dies or becomes mentally ill;
- (b) resigns his office by writing signed by him and furnished to the Minister;
- (c) ceases to be qualified as such member;
- (d) becomes a commissioner, an officer or employee of the Commission, or an official visitor;
- (e) is removed from office by the Governor in Council.

135. Casual vacancies. (1) Where a vacancy occurs in the office of an appointed member of the Queensland Community Corrections Board during the term of office of that member, the Governor in Council may appoint in accordance with this Division another person as a member to hold office for the balance of his predecessor's term of office as a member.

(2) A person appointed under subsection (1) to fill a casual vacancy as an appointed member shall hold office for the balance of his predecessor's term of office or until he sooner vacates that office and shall if otherwise qualified, be eligible for reappointment.

136. Meetings of board. The Queensland Community Corrections Board shall meet as often as is necessary for the exercise of its powers and authorities, and the discharge of its functions and duties.

The chairman of the Queensland Community Corrections Board may at any time convene a meeting of the board.

137. Procedure at meetings. (1) The chairman of the Queensland Community Corrections Board shall preside at all meetings of the board at which he is present.

(2) A quorum of the Queensland Community Corrections Board shall consist of the chairman and 3 other members of the board and business shall not be conducted at a meeting of the board unless a quorum is present.

(3) Where the chairman of the Queensland Community Corrections Board is unable from any cause to attend a meeting of the board and 4 other members of the board are of the opinion that it is desirable that a meeting of the board be held to consider the exercise by the board of its powers under section 185 (1), the secretary to the board shall be advised accordingly and thereupon he shall convene a meeting of the board.

The chief executive referred to in paragraph (b) of section 132 (1) shall, if he is present, preside at the meeting so convened and in his absence a member of the Queensland Community Corrections Board duly appointed in that behalf by the members present shall preside.

The member who presides at such meeting shall have and may exercise the powers and authorities and shall discharge the functions and duties of the chairman of the Queensland Community Corrections Board.

(4) Notwithstanding subsection (2), a quorum at a meeting of the Queensland Community Corrections Board convened in accordance with subsection (3) shall be 4 members of the board other than the chairman and the meeting shall be deemed to be a duly convened meeting of the board for the purpose of exercising any power of the board conferred by section 185 (1).

(5) Subsections (3) and (4) shall be read and construed so as not to prejudice in any way the power of the Queensland Community Corrections Board to transact at a duly convened meeting of the board any business of the board.

138. Secretary. (1) A person shall from time to time be appointed secretary to the Queensland Community Corrections Board and such appointment shall be made under the *Public Service Management and Employment Act 1988*.

(2) Where the secretary to the Queensland Community Corrections Board is absent or is for any other reason unable to act as secretary to the board an officer of the Commission or another officer of the public service may act in his place and while so acting shall be deemed to be the secretary to the board.

139. Guidelines. (1) The Minister may, subject to this Act, from time to time issue guidelines to the Queensland Community Corrections Board with respect to the policy to be adhered to by the board in exercising its powers and discharging its functions under this Act.

(2) The Queensland Community Corrections Board may, subject to this Act, from time to time issue guidelines to each regional community corrections board in relation to—

- (a) the exercise by the regional community corrections board of its powers under this Act;
- (b) the conduct by the regional community corrections board of its business generally and proceedings at meetings; and
- (c) the matters to be dealt with and the information to be contained in reports required to be furnished under section 152.

(3) Before issuing any guidelines under subsection (2) the Queensland Community Corrections Board shall consult thereon with the Commission.

140. Attendance at meetings of regional community corrections boards. A member of the Queensland Community Corrections Board may attend at any meeting of a regional community corrections board and may participate in the consideration of any business before that meeting but shall not be entitled to vote at that meeting on any business.

141. Annual report. (1) The Queensland Community Corrections Board shall on or before 30 September in each year furnish to the Minister in respect of the year that ended on 30 June last preceding a report on the operation of this Act with respect to parole, the activities of the Queensland Community Corrections Board and each regional community corrections board and the effectiveness of each regional community corrections board.

(2) The report shall set forth—

- (a) the number of persons released on parole during that year;
- (b) the number of persons returned to prison during that year on cancellation or suspension of parole;
- (c) the number of persons declared habitual criminals who were released on parole during that year.

142. Special reports. The Queensland Community Corrections Board shall on request made in that behalf by the Minister furnish to him a report in writing on any matter relating to—

- (a) the operation of this Act with respect to parole or to the exercise of any power or authority or the discharge of any function or duty of the Queensland Community Corrections Board or a regional community corrections board;
- (b) the exercise of any power or authority or the discharge of any function or duty of the Parole Board constituted under the *Offenders Probation and Parole Act 1980*.

Division 2—Regional Community Corrections Boards

143. Establishment. (1) The Governor in Council may, by Order in Council—

- (a) from time to time establish a regional community corrections board for the area of the State specified in the order;
and
- (b) assign a name to that board.

(2) The Governor in Council may, by Order in Council, from time to time—

- (a) alter the name assigned to a regional community corrections board or substitute another name;
- (b) alter the area of the State for which a regional community corrections board is established or substitute another area.

144. Members. (1) Each regional community corrections board shall consist of 6 members being—

- (a) a barrister or solicitor who shall be chairman;
- (b) a legally qualified medical practitioner;
- (c) a representative of the community in the area of the State for which the board is established;
- (d) a community correctional officer;
- (e) a custodial correctional officer;
and
- (f) a person who occupies the office of Manager (Programs) at a prison situated in the area of the State for which the board is established.

(2) A member of a regional community corrections board referred to in subsection (1) (a), (b) or (c) or the deputy of such a member shall not be an officer of the public service or a commissioner or an officer or employee of the Commission, or a medical officer, official visitor, chaplain or volunteer under this Act.

145. Deputies of members. (1) The Governor in Council may, by notification published in the Gazette, at any time appoint a qualified person who is not a member of a regional community corrections board to be the deputy of a member of a regional community corrections board.

(2) A person appointed as the deputy of a member of a regional community corrections board under subsection (1) shall act instead of the member whose deputy he is during the absence of that member from any cause and whilst so acting shall have and may exercise the powers and authorities and shall discharge the functions and duties of a member of that board.

(3) The deputy of the member who is the chairman of a regional community corrections board shall, while he is acting instead of that member, be chairman of the board.

146. Appointment of members. (1) The members of a regional community corrections board shall be appointed on the recommendation of the Minister by the Governor in Council by notification published in the Gazette.

(2) A member of a regional community corrections board shall, if he is otherwise qualified, be eligible for reappointment as a member.

147. Tenure of office of members. (1) Each member of a regional community corrections board shall be appointed and hold office for such term not exceeding 3 years as the Governor in Council determines, but if by the expiration of his term of office his successor has not been duly appointed he shall, subject to subsection (3), hold office until his successor is duly appointed.

(2) The Governor in Council may, by notification published in the Gazette, remove from office any member of a regional community corrections board.

(3) The office of a member of a regional community corrections board becomes vacant if the member—

- (a) dies or becomes mentally ill;
- (b) resigns his office by writing signed by him and furnished to the Minister;
- (c) ceases to be qualified as such member;
- (d) is removed from office by the Governor in Council;
- (e) in the case of a member referred to in paragraph (a), (b) or (c) of section 144 (1)—becomes an officer of the public service or a commissioner or an officer or employee of the Commission, or a medical officer, official visitor, chaplain or volunteer under this Act.

148. Casual vacancies. (1) Where a vacancy occurs in the office of a member of a regional community corrections board during the term of office of that member, the Governor in Council may appoint in accordance with this Division another person as a member to hold office for the balance of his predecessor's term of office as a member.

(2) A person appointed under this section to fill a casual vacancy shall hold office for the balance of his predecessor's term of office or until he sooner vacates that office.

149. Meetings of board. (1) A regional community corrections board shall meet as often as is necessary for the exercise of its powers and authorities and the discharge of its functions and duties.

The chairman of a regional community corrections board may at any time convene a meeting of the board.

(2) A regional community corrections board shall meet only at a prison situated in the area of the State for which it is established.

(3) The general manager of a prison may give to a member of or secretary to a regional community corrections board who is visiting

that prison for the purpose of attending a meeting of the board such directions as he considers necessary for the security of the prison and the member or, as the case may be, secretary shall comply with those directions.

150. Procedure at meetings. (1) The chairman of a regional community corrections board shall preside at all meetings at which he is present.

(2) A quorum of a regional community corrections board shall consist of the chairman and 3 other members of the board and business shall not be conducted at a meeting of the board unless a quorum is present.

(3) Where the chairman of a regional community corrections board is unable from any cause to attend a meeting of the board and 3 other members of the board are of the opinion that it is desirable that a meeting of the board be held to consider the exercise by the board of its powers under section 185 (1), the secretary to the board shall be advised accordingly and thereupon he shall convene a meeting of the board.

The members present at the meeting so convened shall appoint one of their number to preside at the meeting.

The member who presides at such meeting shall have and may exercise the powers and authorities and shall discharge the functions and duties of the chairman of the regional community corrections board.

(4) Notwithstanding subsection (2), a quorum at a meeting of a regional community corrections board convened in accordance with subsection (3) shall be 3 members of the board other than the chairman and the meeting shall be deemed to be a duly convened meeting of the board for the purpose of exercising any power of the board conferred by section 185 (1).

(5) Subsection (3) and (4) shall be read and construed so as not to prejudice in any way the power of a regional community corrections board to transact at a duly convened meeting of the board any business of the board.

151. Secretary to regional community corrections board. (1) The Commission shall appoint a secretary to each regional community corrections board.

(2) A person appointed pursuant to subsection (1) shall be an officer of the Commission.

(3) Where the secretary to a regional community corrections board is absent or is for any other reason unable to act as secretary another officer of the Commission may act in his place and while so acting shall be deemed to be the secretary to that board.

(4) The secretary to a regional community corrections board shall in respect of his functions and duties as such secretary be subject to

the direction of the chairman of the board but otherwise shall be subject to the control of officers of the Commission having authority over him.

152. Annual report, etc. (1) The chairman of each regional community corrections board shall within 2 weeks after 30 June in each year furnish to the Queensland Community Corrections Board in respect of the year that ended on that 30 June a report prepared in accordance with guidelines issued under section 139 (2).

(2) For the purpose of the Queensland Community Corrections Board making a report under section 142 (a), a regional community corrections board shall furnish to the Queensland Community Corrections Board such information as is requested by that board.

Division 3—General

153. Interpretation. In this Division unless the contrary intention appears “corrections board” means the Queensland Community Corrections Board or a regional community corrections board.

154. Conduct of affairs. (1) The chairman of a corrections board alone shall decide all questions of law arising out of any matter before the board.

(2) Subject to subsection (1), a corrections board shall exercise a power or authority and discharge a function or duty by the majority vote of its members present at a meeting and voting on the business in question.

(3) The chairman of a corrections board has a deliberative vote and in the event of an equality of votes on any question also has a casting vote.

(4) Subject to this Act and in the case of a regional community corrections board to any guidelines issued under section 139 (2), a corrections board shall conduct its business generally and proceedings at meetings in such manner as it determines from time to time.

155. Invalidity of acts. Any act, proceeding, decision or determination of a corrections board is not invalidated or in any way prejudiced by reason only of any defect in the qualification, membership or appointment of a member thereof or a vacancy in the membership of the board at the time of that act, proceeding, decision or determination.

156. Judicial notice. (1) All courts and persons acting judicially shall take judicial notice of the signature of every person who is a member of or secretary to a corrections board affixed to a document or other writing under the authority of this Act or any other Act and shall presume until the contrary is proved that every such signature has been lawfully and properly affixed.

(2) A certificate signed by the secretary to a corrections board purporting to record any determination of the board shall be evidence and in the absence of evidence to the contrary conclusive evidence of the making of that determination by the board.

157. Authentication of document. Subject to this Act, a document or other writing made or issued by a corrections board for the purposes of this Act shall be sufficiently authenticated if it is made or, as the case may be, signed by the chairman of the board, or by the secretary to the board at the chairman's direction.

158. Powers and duties generally. A corrections board shall have and may exercise such powers and authorities and shall discharge such functions and duties as are conferred or imposed upon it by or under this Act or any other Act.

159. Board to have powers of Commission of Inquiry. For the purpose of discharging its functions and duties under this Act, a corrections board shall be deemed to be a Commission within the meaning of the *Commissions of Inquiry Act 1950-1988* and the provisions of that Act, other than sections 4, 4A, 5A, 14 (1A), 19A, 19B, 19C and 26, shall apply and for that purpose each member of the board shall be deemed to be a commissioner and the chairman of the board shall be deemed to be the chairman of the Commission.

160. Fees and allowances. (1) Subject to subsection (2), each member of a corrections board shall be paid such fees and allowances as the Governor in Council determines.

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

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

161. Regulations for purposes of Part III. Regulations may be made under section 270 providing for or with respect to—

- (a) the functions and duties of secretaries to corrections boards;
- (b) reports and notifications required by corrections boards;
- (c) the custody and safe keeping of the records of corrections boards and access to those records.

PART IV—PAROLE

162. Part not to apply to child. This Part shall not apply to or with respect to any child who is serving a term of imprisonment and shall be read and construed so as not to limit or otherwise affect the provisions of the *Children's Services Act 1965-1988*.

163. Application for parole. (1) Subject to section 172, a prisoner may apply to be released on parole under this Part.

(2) All applications for parole under this Part shall be in the prescribed form and shall—

- (a) where a regional community corrections board is established for the area of the State in which the applicant resides—be forwarded to the secretary to that board;
- (b) in a case to which paragraph (a) does not apply—be forwarded to the secretary to the Queensland Community Corrections Board.

164. Residence of prisoners. For the purposes of this Part a prisoner, while on leave of absence, shall be deemed to reside at the prison or community corrections centre from which he was granted leave.

165. Release on parole. (1) Subject to section 166—

- (a) the Queensland Community Corrections Board may by order in writing direct that—
 - (i) a prisoner who has not been declared an habitual criminal and is serving a term of imprisonment other than a term of imprisonment for life;
 - (ii) a prisoner who has been declared an habitual criminal and who having completed a term of imprisonment is being detained during Her Majesty's pleasure;
 - and
 - (iii) a prisoner who is being detained in an institution for a period fixed by a judge pursuant to Part IV of *The Criminal Law Amendment Act of 1945*,
be released on parole on the date specified in the order and thereupon he shall be released;
 - and
- (b) a regional community corrections board may by order in writing direct that a prisoner who has not been declared an habitual criminal and is serving a term of imprisonment not exceeding 5 years be released on parole on the date specified in the order and thereupon he shall be released.

(2) The Queensland Community Corrections Board shall not make a parole order in relation to a prisoner referred to in paragraph (a) (i) of subsection (1) unless—

- (a) the term of imprisonment that the prisoner is serving exceeds 5 years;
- (b) there is not a regional community corrections board established for the area in which the prisoner resides;
- or
- (c) it is acting pursuant to section 168.

(3) A regional community corrections board shall not act pursuant to paragraph (b) of subsection (1) unless the prisoner is resident in the area for which the board is established.

(4) The Queensland Community Corrections Board or a regional community corrections board may cancel, amend or vary a parole order made by it in accordance with this section at any time before the prisoner is released on parole thereunder and a parole order so amended or varied shall apply accordingly.

(5) The secretary to the Queensland Community Corrections Board or, as the case may be, a regional community corrections board shall send a copy of the parole order together with such other documents and information as are prescribed to—

- (a) the prisoner in respect of whom the order is made;
- (b) where the prisoner is to be released on parole from a prison or community corrections centre, the person in charge of that prison or centre;
and
- (c) the Commission.

166. Eligibility for parole. (1) Subject to subsections (3) and (4), a prisoner to whom paragraph (a) (i) of section 165 (1) refers is not eligible for release on parole until he has served half at least of the term of imprisonment to which he was sentenced.

(2) Save where the Governor in Council, upon the recommendation of the Queensland Community Corrections Board, otherwise determines—

- (a) a prisoner specified in paragraph (a) (ii) of section 165 (1) is not eligible for release on parole until the prisoner has been detained during Her Majesty's pleasure for the period of 2 years;
- (b) a prisoner specified in paragraph (a) (iii) of section 165 (1) is not eligible for release on parole until the prisoner has been detained during one half of the period for which he was directed to be detained;
- (c) a prisoner whose term of imprisonment does not exceed 6 months is not eligible for release on parole.

(3) A court may—

- (a) upon sentencing a person convicted of an offence to a term of imprisonment recommend that he be eligible for release on parole after such period of imprisonment under that sentence as is specified in the recommendation;
- (b) upon sentencing a person convicted of 2 or more offences to 2 or more terms of imprisonment of which one or more of such terms is to commence upon or after the expiration of another of such terms, recommend that he be eligible for release on parole after undergoing such period of imprisonment as is specified in the recommendation;
- (c) upon sentencing a person convicted of an offence to a term of imprisonment (hereinafter in this paragraph called "that

term") that is to commence upon or after the termination of the imprisonment that he is then undergoing, recommend that he be eligible for release on parole after undergoing such period of imprisonment (not being a period of imprisonment that is less than that which he would be required to undergo before being eligible for release on parole if he had not been sentenced to that term) as is specified in the recommendation,

and a person in respect of whom such a recommendation has been made, if he is a prisoner to whom paragraph (a) (i) of section 165 (1) refers, is eligible for release on parole at any time after he has served the period of imprisonment so specified.

(4) Subject to section 165 (2), the Queensland Community Corrections Board may, where it is satisfied that there are special circumstances relating to a prisoner referred to in paragraph (a) (i) of section 165 (1), release that prisoner on parole at any time.

Subject to section 165 (3), a regional community corrections board may, where it is satisfied that there are special circumstances relating to a prisoner referred to in paragraph (b) of section 165 (1), release that prisoner on parole at any time.

167. Regional community corrections board to consider application.

(1) A regional community corrections board shall consider each application for parole received by its secretary pursuant to this Part and in relation to an application by a prisoner who may be released on parole only by the Queensland Community Corrections Board or a prisoner referred to in section 182, the regional community corrections board shall recommend to the Queensland Community Corrections Board as to whether or not the prisoner should be released on parole.

(2) A regional community corrections board shall forward the board's recommendation under subsection (1) together with the application, notes of any representations made to the board by or on behalf of the applicant and such other material as it considers appropriate to the Queensland Community Corrections Board for its consideration.

(3) The Queensland Community Corrections Board in considering an application for parole received by it pursuant to subsection (2) shall have regard to the regional community corrections board's recommendation with respect thereto but is in no way bound by the recommendation.

168. Review of regional community corrections board's decision.

(1) A prisoner who pursuant to this Part has applied on 3 or more occasions to be released on parole in relation to the same term of imprisonment and whose applications have been refused by a regional community corrections board may apply to have the last such refusal reviewed by the Queensland Community Corrections Board.

(2) An application under subsection (1) shall be in the prescribed form and must be received by the secretary to the regional community

corrections board in relation to whose refusal the application is made within 7 days after written notice of the refusal is received by the applicant.

(3) A secretary who receives an application for review pursuant to subsection (2) shall forward to the secretary to the Queensland Community Corrections Board—

the application for review;

the application to be released on parole to which the application for review relates;

notes of any representations made to the regional community corrections board by or on behalf of the applicant in relation to the application to be released on parole;

the reasons for the regional community corrections board refusing the application to be released on parole;

such other material (if any) as the regional community corrections board considers appropriate.

(4) On a review under this section the Queensland Community Corrections Board shall have regard to the material forwarded pursuant to subsection (3) and may confirm the decision of the regional community corrections board to refuse the application for parole or set aside that decision and make any order that the regional community corrections board could have made.

The order of the Queensland Community Corrections Board made under this subsection shall be given effect.

169. Representations by or on behalf of prisoner. (1) Where—

- (a) a prisoner's application to be released on parole is pursuant to this Part to be considered by a regional community corrections board, the prisoner may, if he so requests, appear before and make representations to the board in support of his application and, with the leave of the board first obtained, be represented before the board by an agent;
- (b) a prisoner's application to be released on parole is pursuant to this Part to be considered by the Queensland Community Corrections Board, the prisoner may, if he so requests and with the leave of the board first obtained, be represented before the board by an agent who may make representations to the board in support of the application;
- (c) a prisoner has duly made application pursuant to section 168 to have a regional community corrections board's refusal of his application to be released on parole reviewed, the prisoner may, if he so requests and with the leave of the Queensland Community Corrections Board first obtained, be represented before that board by an agent who may make representations to the board in relation to matters that are relevant to the review.

(2) A request under subsection (1) shall be in the prescribed form and be given to the secretary to the board to which the request relates within the time prescribed for that purpose.

(3) The secretary to the board to which a request is duly made under subsection (2) shall—

- (a) in the case of a request duly made of a regional community corrections board—give to the prisoner written notice of the time and place at which he may appear before the board and, where the prisoner has sought the board's leave to be represented before it by an agent, as to whether or not the board has granted leave;
- (b) in the case of a request duly made of the Queensland Community Corrections Board—give to the prisoner written notice as to whether or not the board has granted leave for him to be represented before it by an agent and, where leave is so granted, of the time and place at which the agent may appear before the board.

(4) The secretary to a regional community corrections board or, as the case may be, the Queensland Community Corrections Board may, by subsequent notice in writing given to the prisoner, from time to time alter the time or place or time and place notice of which was given under subsection (3).

(5) Subsection (1) shall not be construed—

- (a) as requiring a regional community corrections board to refrain from considering or determining an application to be released on parole where the prisoner or his agent fails to appear before it at the time and place specified in the notice last given to the prisoner under this section;
- (b) as requiring the Queensland Community Corrections Board to refrain from considering or determining an application to be released on parole or from reviewing a regional community corrections board's refusal of an application to be released on parole where the prisoner's agent fails to appear before it at the time and place specified in the notice last given to the prisoner under this section.

(6) The granting of leave pursuant to this section by a regional community corrections board or the Queensland Community Corrections Board lies wholly within the discretion of that board.

(7) In no case may a barrister or solicitor appear before a regional community corrections board or the Queensland Community Corrections Board as agent for a prisoner pursuant to leave granted under this section.

(8) Except where he is summoned to attend before the Queensland Community Corrections Board pursuant to the provisions of the *Commissions of Inquiry Act 1950-1988* as applied by section 159 of this Act, a prisoner may not appear before the Queensland Community

Corrections Board in respect of his application referred to in subsection (1) (b) or (c).

170. Removal of prisoner appearing before regional community corrections board. (1) If a prisoner who is appearing before a regional community corrections board pursuant to section 169 (1) insults a member of the board or disrupts the board's proceedings, the chairman of the board may direct any custodial correctional officer to remove the prisoner from the meeting and the officer shall remove the prisoner in accordance with the direction.

(2) A prisoner who is removed from a meeting of a regional community corrections board under subsection (1) loses his entitlement under section 169 (1) to appear before and make representations to the board.

171. Custodial correctional officer may be directed to leave meeting of board. (1) Where a prisoner is appearing before a regional community corrections board pursuant to section 169 (1), the chairman of the board may direct any custodial correctional officer present at the meeting (other than the custodial correctional officer who is a member of the board) to leave and remain out of the hearing of the meeting for such time as the chairman directs.

(2) A custodial correctional officer shall comply with a direction given to him under subsection (1).

172. Competency of prisoner to apply for parole. (1) Subject to subsection (2), it is not competent to a prisoner to apply to be released on parole in relation to a term of imprisonment—

(a) within the period of six months after a prior application made by him in relation to that term has been refused;

or

(b) where an appeal has been duly instituted to a court against any sentence imposing that term or any part of that term or against any conviction to which any such sentence relates—until the appeal is determined.

(2) It is competent to a prisoner to whom paragraph (a) of subsection (1) applies to again apply to be released on parole in relation to a term of imprisonment within the period of 6 months referred to in that paragraph if he has the permission of the Queensland Community Corrections Board or a regional community corrections board to do so.

173. Application to lapse. Where subsequent to his applying to be released on parole and prior to the application being determined pursuant to this Part the prisoner is sentenced to another term of imprisonment, the application shall lapse.

174. Reasons for refusal to be given. Where the Queensland Community Corrections Board or a regional community corrections board refuses an application for parole made pursuant to this Part the

board shall cause reasons in writing for the refusal to be given to the applicant.

175. Requirements of parole order. (1) A parole order—

(a) shall contain requirements that the prisoner—

(i) be under the supervision of a community correctional officer—

(A) in the case of a prisoner to whom paragraph (a) (i) of section 165 (1) refers—for such period as is determined by the board making the order but not in any case extending past the date on which the term of imprisonment to which he was sentenced expires;

(B) in the case of a prisoner to whom paragraph (a) (iii) of section 165 (1) refers—for the period he was directed to be detained;

(C) in the case of an habitual criminal—for a period not exceeding two years as determined by the board making the order;

(ii) abstain from violation of the law;

(iii) carry out the lawful instructions of the community correctional officer;

(iv) report and receive visits as directed by the community correctional officer;

(v) notify the community correctional officer within 48 hours of any change of address or change of employment during the parole period;

and

(b) may contain such other requirements specified in the parole order as the board making the order considers necessary with a view to—

(i) securing the good conduct of the prisoner;

(ii) preventing a repetition by the prisoner of the offence in relation to which he was imprisoned or detained or the commission by him of other offences.

(2) A parole order may include requirements relating to the residence of the prisoner in the State or if the prisoner consents, in another State or a Territory of the Commonwealth.

(3) Unless the parole order otherwise permits or requires the prisoner to reside in another State or a Territory of the Commonwealth, it shall be a requirement of every parole order that the prisoner shall not leave or remain out of the State save in compliance in every respect with the terms and conditions of a permit in writing of—

(a) where the order was made by the Queensland Community Corrections Board—that board or the Commission;

(b) where the order was made by a regional community corrections board—any such board or the Commission.

(4) A permit referred to in subsection (3) may be granted upon application made by the prisoner in that behalf and shall be for such period of time and subject to such terms and conditions as the board granting the permit thinks fit.

To the extent necessary to give effect to a permit under this subsection the parole order in question shall be deemed to be amended and shall apply accordingly.

(5) Where pursuant to a parole order, a prisoner is required or permitted to reside in another State or a Territory of the Commonwealth, the Commission shall send to the proper authority of that State or Territory, where that authority so requires, a copy of the parole order certified as a true copy together with such other documents and information as are prescribed.

176. Assignment of community correctional officer. (1) The board making the order or the Commission shall assign a community correctional officer in respect of a parole order and the community correctional officer so assigned shall supervise the prisoner during the parole period.

(2) Where the parole order was made—

- (a) by the Queensland Community Corrections Board—that board or the Commission;
- (b) by a regional community corrections board—any such board or the Commission,

may from time to time assign another community correctional officer in lieu of the officer assigned under subsection (1).

177. Breach of parole order otherwise than by conviction. (1) A prisoner who, during the parole period and whether in Queensland or elsewhere, contravenes or fails to comply with a requirement contained in a parole order commits an offence.

(2) The conviction of a prisoner of an offence against subsection (1) shall not prejudice or otherwise affect in any way the power of the Queensland Community Corrections Board or a regional community corrections board to cancel, suspend, amend or vary in accordance with section 185 or 186 the parole order made in respect of him.

(3) A prisoner who has been convicted and sentenced to another term of imprisonment in respect of an offence committed in Queensland or elsewhere during the parole period shall not by reason only of the commission of that offence render himself liable to prosecution as for an offence against subsection (1).

178. Procedure upon breach of parole order. (1) Subject to section 177 (3), a justice to whom it is made to appear upon complaint by a community correctional officer duly authorized in that behalf by the Commission that a prisoner has, during the parole period, committed an offence against section 177 (1) may issue a summons directed to the

prisoner requiring him to appear at a Magistrates Court at the time and place specified in the summons to be dealt with according to law.

(2) Where a complaint pursuant to subsection (1) is in writing and on oath, the justice may instead of issuing a summons issue a warrant directed to all police officers to arrest the prisoner and bring him before a Magistrates Court at the place specified to be dealt with according to law.

(3) Notwithstanding any other Act or law, the Magistrates Court before which the prisoner appears pursuant to subsection (1) or is brought pursuant to subsection (2) shall have jurisdiction to hear and determine the complaint.

179. Power of Magistrates Court that convicts prisoner of an offence against s. 177 (1). A Magistrates Court that convicts a prisoner who appears or is brought before it pursuant to section 178 of an offence against section 177 (1) may, without prejudice to the continuation of the parole order, impose on him a penalty not exceeding 10 penalty units.

180. Commission may suspend parole. (1) Where the Commission believes on reasonable grounds that a prisoner has committed an offence defined in section 177 (1) it may by order in writing suspend that prisoner's parole for a period of not more than 7 days.

(2) Where the Commission suspends a prisoner's parole pursuant to this section it shall forthwith give notice in writing of the offence and suspension to the secretary to the board which made the parole order pursuant to which the prisoner was released on parole.

Upon being requested to do so by that board the Commission shall furnish to it such reports on and information with respect to the breach as it requires.

(3) The board which made the parole order or the Commission may at any time cancel an order made pursuant to this section.

(4) Unless a prisoner's parole has been cancelled pursuant to the provisions of this Part during the period of suspension then upon the expiration of that period, or if the order suspending a prisoner's parole is sooner cancelled, then upon that cancellation the parole order shall again apply and the prisoner shall be released on parole under the order.

181. Commission may issue warrant. (1) Where a prisoner's parole is suspended pursuant to section 180 the Commission may, as and when the occasion requires it, issue a warrant directed to all police officers to apprehend the prisoner and convey him to a prison to be therein kept in custody for so long as the order suspending his parole remains in force.

(2) A warrant issued pursuant to subsection (1) shall be sufficient authority for the apprehension and conveyance of the prisoner to a prison and for his detention therein for the period during which the order remains in force.

182. Release on parole of prisoner serving term of imprisonment for life. (1) The Governor in Council on the recommendation of the Queensland Community Corrections Board may release on parole a prisoner serving a term of imprisonment for life and the provisions of this Part with respect to the release of prisoners on parole by that board shall with all necessary adaptations apply and extend to a prisoner so released.

(2) The parole order in respect of a prisoner specified in subsection (1) shall, in addition to the other requirements provided for in this Part, contain a requirement that the prisoner be under the supervision of a community correctional officer for life but the Governor in Council upon the recommendation of the Queensland Community Corrections Board may at any time cancel, vary or amend this requirement.

183. Discharge of persons on parole. (1) If in relation to a prisoner the parole period has expired without the Queensland Community Corrections Board or a regional community corrections board having made an order cancelling the parole and without the commission by the prisoner, whether in Queensland or elsewhere, of an offence for which he is sentenced to a term of imprisonment, whether during or after the expiration of the parole period, the prisoner shall be deemed to have served his term of imprisonment or detention and shall be wholly discharged therefrom or, in the case of an habitual criminal, shall cease to be an habitual criminal.

(2) For the purpose of subsection (1), a prisoner shall be taken not to have been sentenced to a term of imprisonment in respect of an offence committed during the parole period where his liability to undergo a term of imprisonment arises only—

- (a) in default of payment of a fine;
- (b) in consequence of the non-payment of a sum of money required to be paid pursuant to an order of a court;
- or
- (c) in consequence of the failure to make restitution required to be made pursuant to an order of a court.

184. Prisoners on parole deemed still under sentence. Until the parole period has expired as referred to in section 183 (1) or a prisoner is otherwise discharged from the term of imprisonment, detention for a period or detention during Her Majesty's pleasure imposed upon him, a prisoner released on parole shall be regarded as still being under sentence or detention and as not having suffered the punishment to which he was sentenced or as not having undergone detention during the period for which he was ordered to be detained or, in the case of an habitual criminal, as being an habitual criminal and liable to be further detained during Her Majesty's pleasure.

185. Cancellation etc. of parole by board. (1) Where a prisoner is released on parole—

- (a) in the case of a prisoner referred to in section 182 or a prisoner released on parole pursuant to an order of the Queensland Community Corrections Board—that board;
- (b) in the case of a prisoner released on parole pursuant to an order of a regional community corrections board—any such board,

may at any time before the expiration of the parole period by its order cancel, suspend, amend or vary his parole.

A parole order as amended or varied shall apply and extend accordingly.

The suspension of a prisoner's parole under this subsection may be for such fixed or indeterminate period as the board which orders the suspension thinks fit.

(2) In the case of an order suspending a prisoner's parole made by—

- (a) the Queensland Community Corrections Board—that board;
- (b) a regional community corrections board—any such board,

may at any time cancel that order.

(3) Unless a prisoner's parole has been cancelled pursuant to the provisions of this Part during the period of suspension then upon the expiration of that period, or if the order suspending a prisoner's parole is sooner cancelled, then upon such cancellation the parole order shall again apply with such additional or varied requirements, if any, as the Queensland Community Corrections Board or, as the case may be, a regional community corrections board may impose and the prisoner shall be released on parole under the order.

(4) It is not competent to the Queensland Community Corrections Board to alter the parole period in relation to a prisoner released on parole under section 182 (1) unless it does so to give effect to a decision by the Governor in Council under section 182 (2).

186. Reduction of parole period. (1) Where having regard to a prisoner's behaviour during the parole period the Commission is of the opinion that the prisoner's parole should be amended by reducing the parole period it may so recommend—

- (a) in the case of a prisoner referred to in section 182 or a prisoner released on parole pursuant to an order of the Queensland Community Corrections Board—to that board;
or
- (b) in the case of a prisoner released on parole pursuant to an order of a regional community corrections board—any such board.

187. Cancellation of parole by conviction. (1) Where a prisoner who has been released on parole is sentenced to another term of imprisonment

upon conviction for an offence committed in Queensland or elsewhere during the parole period, his parole shall *ipso facto* be cancelled whether or not the parole period has expired.

(2) For the purpose of subsection (1), a prisoner shall not be taken to have been sentenced to another term of imprisonment where his liability to undergo a term of imprisonment arises only—

- (a) in default of payment of a fine;
- (b) in consequence of the non-payment of a sum of money required to be paid pursuant to an order of a court;
- or
- (c) in consequence of the failure to make restitution required to be made pursuant to an order of a court.

188. Warrant for the return of prisoner to prison. (1) Where—

- (a) a prisoner is released on parole pursuant to section 182 and the parole is cancelled or suspended by order of the Queensland Community Corrections Board or cancelled pursuant to section 187—that board;
- (b) a prisoner is released on parole pursuant to an order of the Queensland Community Corrections Board and the parole is cancelled or suspended by order of the board or cancelled pursuant to section 187—that board;
- or
- (c) a prisoner is released on parole pursuant to an order of a regional community corrections board and the parole is cancelled or suspended by order of any such board or cancelled pursuant to section 187—any regional community corrections board,

may, as and when the occasion requires it, issue a warrant signed by any two of its members directed to all police officers to apprehend the prisoner and convey him to a prison there—

- (d) in a case where the prisoner's parole is cancelled, to serve the unexpired portion of the term of imprisonment or detention to which he was sentenced or where the prisoner is an habitual criminal to be further detained during Her Majesty's pleasure;
- (e) in a case where the prisoner's parole is suspended, to be kept in custody for so long as the order suspending his parole remains in force.

(2) A warrant issued pursuant to this section shall be sufficient authority for the apprehension and conveyance of the prisoner to a prison and for his detention therein pursuant to the provisions of this Act.

189. Stipendiary Magistrate may issue warrant. (1) Where—

- (a) a prisoner is released on parole pursuant to section 182 and the parole is cancelled or suspended by order of the

Queensland Community Corrections Board or cancelled pursuant to section 187—that board or a member thereof;

(b) a prisoner is released on parole pursuant to an order of the Queensland Community Corrections Board and the parole is cancelled or suspended by order of that board or cancelled pursuant to section 187—that board or a member thereof;

or

(c) a prisoner is released on parole pursuant to an order of a regional community corrections board and the parole is cancelled or suspended by order of any such board or cancelled pursuant to section 187—any regional community corrections board or a member thereof,

may (whether or not a warrant has been issued under section 188) apply to a stipendiary magistrate for a warrant directed to all police officers to apprehend the prisoner and convey him to a prison there—

(d) in a case where the prisoner's parole is cancelled, to serve the unexpired portion of the term of imprisonment or detention to which he was sentenced or, where the prisoner is an habitual criminal, to be further detained during Her Majesty's pleasure;

(e) in a case where the prisoner's parole is suspended, to be kept in custody for so long as the order suspending his parole remains in force,

and a stipendiary magistrate may issue such a warrant.

(2) A warrant issued pursuant to this section shall be sufficient authority for the apprehension and conveyance of the prisoner to a prison and for his detention therein pursuant to the provisions of this Act.

190. Effect of cancellation of parole on sentence. (1) Upon the cancellation of a prisoner's parole, the original warrant of commitment or other authority for his imprisonment, detention for a period or detention during Her Majesty's pleasure shall again be in force and no part of the time between his release on parole and his recommencing to serve the unexpired portion of his term of imprisonment or detention, other than the period (if any) during which he was kept in custody consequent upon his parole being suspended, shall be regarded as time served in respect of that term.

(2) The Queensland Community Corrections Board may, where a prisoner's parole has been cancelled, by order direct that the prisoner concerned serve such part only of the unexpired portion of the term of imprisonment or detention imposed on him as is specified in the order and where the prisoner has, in accordance with any law applicable to the term of imprisonment or detention imposed on him, served the part so specified, the prisoner shall be deemed to have served that term and shall be wholly discharged therefrom.

The Queensland Community Corrections Board may make an order under this subsection notwithstanding that the order pursuant to which

the prisoner was released on parole was made by a regional community corrections board.

191. Authority of board to release more than once on parole. A prisoner may again be released on parole notwithstanding that his parole has been cancelled on any prior occasion or occasions in respect of the same term of imprisonment, detention for a period or detention during Her Majesty's pleasure.

192. Action by way of prerogative writ does not lie. No action by way of prerogative writ lies in respect of any action taken or decision made under this Part by the Queensland Community Corrections Board or a regional community corrections board.

193. Community correctional officers subject to direction of board. In relation to a parole order, community correctional officers are subject to the directions of—

- (a) where the order was made by the Queensland Community Corrections Board—that board;
- (b) where the order was made by a regional community corrections board—any such board.

194. Commission to cause reports to be prepared. When requested to do so by the Queensland Community Corrections Board or a regional community corrections board, the Commission shall cause to be prepared and submitted to the board such reports on and information with respect to a prisoner as the board requested.

195. Application of Justices Act. The *Justices Act 1886-1988* shall with all necessary adaptations apply and extend to and in respect of a complaint, summons or warrant referred to in section 178 and a penalty referred to in section 179 and for the purpose of such application—

- (a) a complaint shall be deemed to be a complaint for an offence;
- (b) a summons shall be deemed to be a summons to answer a complaint;
and
- (c) a penalty may be enforced by any order under that Act that might be made by the adjudicating justices for the enforcement of the payment of a penalty adjudged to be paid upon a conviction as for an offence under any Act not expressly providing for such enforcement.

196. Regulations for purposes of Part IV. Regulations may be made under section 270 providing for or with respect to the making and dealing with of applications made under this Part.

PART V—COURT ORDERS RELATING TO CONVICTED PERSONS

Division 1—Probation Orders

197. Probation order on conviction. (1) Where a person is convicted before a court of an offence punishable by a term of imprisonment

otherwise than in default of payment of a fine and the court is of the opinion that having regard to the circumstances including the nature of the offence and the character and antecedents of the offender it is expedient to do so, the court may—

- (a) instead of sentencing him, make a probation order releasing him and requiring him to be under the supervision of a community correctional officer for such period, being not less than 6 months nor more than 3 years, as is specified in the order;

or

- (b) sentence him to such term of imprisonment as is provided for but in no case exceeding 6 months and in addition, make a probation order requiring him to be under the supervision of a community correctional officer for such period being not less than 9 months nor more than 3 years, as is specified in the order.

(2) The probation period in respect of a probation order made under subsection (1) (b) shall commence on the date on which the order is made but the requirements of such an order shall become operative only after the person is discharged or released on parole.

(3) Subsection (1) does not apply to an offence that is a crime the punishment of which cannot be mitigated or varied under section 19 of *The Criminal Code*.

(4) Before making a probation order under subsection (1) the court shall explain or cause to be explained to the offender in language likely to be readily understood by him the effect of the order (including any additional requirements proposed to be inserted therein) and that if he fails to comply with the requirements of the order or commits another offence during the probation period he may be sentenced or, as the case may be, further sentenced for the original offence.

(5) The court shall not make a probation order unless the offender expresses his willingness to comply with the requirements thereof.

198. Notifications following making of order. (1) The court by which a probation order is made shall—

- (a) cause a copy thereof to be given to the probationer;
- (b) cause a copy thereof to be given to the person in charge of any institution in which the probationer is required by the order to reside;
- (c) cause a copy thereof together with details of the offence in relation to which the order was made to be given to the Commission.

(2) Where a probationer is required or permitted by a probation order to reside in another State or a Territory of the Commonwealth, the Commission shall cause a copy of the order certified by a commissioner or the Director of Community Corrections as a true copy

together with all other relevant documents and information to be forwarded forthwith to the proper authority of that State or Territory.

199. Requirements of probation order. (1) A probation order—

(a) shall contain requirements—

- (i) that the probationer abstain from violation of the law;
- (ii) that the probationer report in person to the person specified in the order within 24 hours, or such longer period (if any) as is specified therein, after his release on probation or, as the case may be, after the requirements of the order become operative pursuant to section 197 (2);
- (iii) that the probationer carry out the lawful instructions of the community correctional officer;
- (iv) that the probationer report and receive visits as directed by the community correctional officer;
- (v) that the probationer notify the community correctional officer within 48 hours of any change of address or change of employment during the probation period;
- (vi) that the probationer, save in a case where the probation order permits the probationer to reside in another State or a Territory of the Commonwealth, shall not leave or remain out of Queensland during the probation period;

(b) may contain requirements—

- (i) in a case where the probation order is made in respect of an offence in relation to property or against the person of another, that the probationer—
 - (A) make restitution of the property in relation to which the offence was committed or pay compensation for injury to or loss or destruction of that property;
 - (B) pay reasonable compensation for injury occasioned to any person by the commission of the offence;
- (ii) that the probationer comply during the whole or a part of the probation period with such conditions (including but without limiting the generality of the expression a condition that the probationer submit himself to medical, psychiatric or psychological treatment) as the court considers necessary for securing the good conduct of the probationer or for preventing a repetition by him of the offence in relation to which the order was made or the commission by him of other offences.

Where a probation order contains a requirement that the probationer make restitution of any property or pay any compensation the order shall specify when the restitution is to be made or, as the case may be, the compensation is to be paid and any amount payable pursuant to such a requirement shall be paid in the first instance to the proper officer of the court which actually made the probation order.

In this subsection “proper officer” means—

- in relation to an order made by the Supreme Court, the sheriff;
- in relation to an order made by a District Court, the registrar;
- in relation to an order made by a Magistrates Court, the clerk of the court.

(2) Notwithstanding that a probation order contains a requirement that the probationer shall not leave or remain out of Queensland, the Commission, upon application made by a community correctional officer or the probationer himself, may grant to the probationer a permit to leave and remain out of Queensland upon such terms and conditions and for such time as is specified in the permit as it thinks fit.

A permit under this subsection shall be in writing.

To the extent necessary to give effect to a permit under this subsection the probation order in question shall be deemed to be amended and shall apply accordingly.

200. Non-application of s. 19 (9) or s. 656 (2) of The Criminal Code where probation appropriate. Where a person convicted of an offence may be dealt with pursuant to section 19 (9) or 656 (2) of *The Criminal Code* the court before which he is convicted shall not release him in accordance with those provisions if in its opinion he may properly and conveniently be released on probation in accordance with this Division.

201. Discharge of probation order. (1) The court by which a probation order was made may, upon application by the community correctional officer or probationer, discharge the order.

Where a probationer applies to a court under this subsection, the court shall cause notice of the place, date and time fixed for the hearing of the application to be given to the Commission.

(2) A probation order shall be discharged without an order or other action by a court upon the expiration of the probation period.

(3) Where a probation order is discharged, the probationer shall be released from any further obligation or liability in respect of the order and of the offence in respect of which the order was made.

(4) A probation order made under paragraph (a) of section 197 (1) shall be of no further force or effect where a probationer, pursuant to this Part, is sentenced for the offence in relation to which the probation order was made.

A probation order made under paragraph (b) of section 197 (1) shall be of no further force or effect where a probationer, pursuant to this Part, is sentenced further for the offence in relation to which the probation order was made.

(5) A court which discharges a probation order pursuant to subsection (1) shall cause notice of that fact to be given in the prescribed form to the Commission.

202. Amendment of probation order. (1) The court by which a probation order was made may, upon application by the community correctional officer or the probationer, by order amend the probation order by—

- (a) cancelling a requirement thereof (other than a requirement referred to in paragraph (a) of section 199 (1));
- (b) inserting therein in addition to existing requirements or in substitution for a requirement that has been cancelled a requirement that could have been included in the order if it were then being made by the court in accordance with this Division.

Where a probationer applies to a court under this subsection, the court shall cause notice of the time and place fixed for the hearing of the application to be given to the Commission.

(2) The power to amend a probation order pursuant to this section does not include a power to amend such order by—

- (a) reducing the probation period;
- or
- (b) extending the probation period beyond the end of 3 years from the date of the original order.

(3) A court shall not amend a probation order unless the probationer expresses his willingness to comply with the proposed amendments.

(4) A court which amends a probation order shall cause a copy of the amending order to be given to the court which actually made the probation order, the Commission and the probationer.

203. Breach of probation order otherwise than by conviction. (1) A probationer who, during the probation period and whether in Queensland or elsewhere, contravenes or fails to comply with a requirement contained in a probation order commits an offence against this Act.

(2) A probationer who has been convicted of an offence committed whether in Queensland or elsewhere during the probation period shall not by reason only of the commission of that offence render himself liable to prosecution for an offence against subsection (1).

204. Power of Magistrates Court that convicts probationer of offence against s. 203 (1). A Magistrates Court that convicts a probationer of an offence against section 203 (1)—

- (a) may—
 - (i) without prejudice to the continuation of the probation order impose on him a penalty not exceeding 10 penalty units;
 - (ii) in addition to imposing a penalty in accordance with subparagraph (i) or without imposing a penalty make an order for the payment of so much of a sum by way of compensation ordered to be paid as a requirement

contained in a probation order under paragraph (b) (i) of section 199 (1) as remains unpaid;

and

- (iii) make any order for the enforcement of an order under subparagraph (ii) that the court could have made if it were then and there making the probation order;

or

- (b) may, where the probation order was made by a Magistrates Court, deal with the probationer for the offence in respect of which the probation order was made in any manner in which the court could deal with him if he had just been convicted by that court of that offence;

or

- (c) may, where the probation order was made by a court other than a Magistrates Court, commit him to custody or grant bail to him to be brought or to appear before the court by which the order was made.

205. Powers of Supreme Court or District Court before which probationer appears. The Supreme Court or a District Court before which a probationer appears or is brought pursuant to paragraph (c) of section 204, upon proof to its satisfaction that the probationer has contravened or failed to comply with a requirement contained in a probation order, may deal with him for the offence in respect of which the probation order was made in any manner in which the court could deal with him if he had just been convicted before that court of that offence.

206. Breach of probation order by conviction. (1) A justice to whom it is made to appear upon complaint by a community correctional officer duly authorized in that behalf by the Commission that a probationer has been convicted in Queensland or elsewhere of an offence committed during the probation period (other than an offence against section 203) and has been dealt with in relation to that offence may issue his summons directed to the probationer requiring him to appear at the time and place specified in the summons before the court by which the probation order was made to be dealt with according to law.

Where a complaint pursuant to this subsection is in writing and on oath the justice may, instead of issuing a summons, issue a warrant directed to all police officers to arrest the probationer and bring him before the court by which the probation order was made to be dealt with according to law.

(2) Where the warrant issued under subsection (1) directs that the probationer be brought before the Supreme Court or a District Court and he cannot be brought before that court forthwith because no sittings are then and there being held, the warrant shall have effect as if it directed that he be brought before a Magistrates Court and upon his appearance before it, that court shall commit him to custody or grant

bail to him to be brought or to appear before the Supreme Court or, as the case requires, a District Court.

207. Where probationer convicted before court which made probation order. Where a probationer is convicted before the court by which a probation order was made of an offence (other than an offence against section 203) committed during the probation period and is dealt with in respect of that offence the court—

(a) may—

- (i) without prejudice to the continuation of the probation order, impose on him a penalty not exceeding 10 penalty units;
- (ii) in addition to imposing a penalty in accordance with subparagraph (i) or without imposing a penalty, make an order for the payment of so much of a sum by way of compensation ordered to be paid as a requirement contained in a probation order under paragraph (b) (i) of section 199 (1) as remains unpaid;

and

- (iii) make any order for the enforcement of an order under subparagraph (ii) that the court could have made if it were then and there making the probation order;

or

- (b) may deal with the probationer for the offence in respect of which the probation order was made in any manner in which the court could deal with him if he had just been convicted before that court of that offence.

208. Where court before which probationer is convicted is other than court by which probation order made. (1) Where a probationer is convicted before a court of an offence committed during the probation period and is dealt with in respect of that offence the court may, where it is a court other than the court by which the probation order was made, commit him to custody or grant bail to him to be brought or to appear before the court by which the probation order was made.

(2) Where a Magistrates Court makes a probation order and the probationer is convicted before the Supreme Court or a District Court of an offence committed during the probation period and is dealt with in respect of that offence the Supreme Court or, as the case may be, the District Court may deal with the probationer for the offence in respect of which the probation order was made in any manner in which the Magistrates Court could deal with him if he had just been convicted by that court of that offence and a sentence imposed under this subsection shall be deemed to be a sentence of a Magistrates Court save that, for the purpose of an appeal against that sentence, it shall be deemed to be a sentence imposed upon a conviction on indictment and Chapter LXVII of *The Criminal Code* shall with all necessary adaptations apply and extend accordingly.

(3) Where a District Court makes a probation order and the probationer is convicted before the Supreme Court of an offence committed during the probation period and is dealt with in respect of that offence the Supreme Court may deal with the probationer for the offence in respect of which the probation order was made in any manner in which the District Court could deal with him if he had just been convicted before that court of that offence and a sentence imposed under this subsection shall be deemed for all purposes to be a sentence of a District Court upon a conviction on indictment.

209. Power of court before which probationer appears or is brought pursuant to s. 206 or 208. Where pursuant to section 206 or 208 a probationer appears or is brought before the court by which the probation order was made and it is proved to the satisfaction of that court that the probationer has been convicted of an offence (other than an offence against section 203) committed in Queensland or elsewhere during the probation period and has been dealt with in respect of that offence the court—

- (a) may—
 - (i) without prejudice to the continuation of the probation order impose on him a penalty not exceeding 10 penalty units;
 - (ii) in addition to imposing a penalty in accordance with subparagraph (i) or without imposing a penalty, make an order for the payment of so much of a sum by way of compensation ordered to be paid as a requirement contained in a probation order under paragraph (b) (i) of section 199 (1) as remains unpaid;and
 - (iii) make any order for the enforcement of an order under subparagraph (ii) that the court could have made if it were then and there making the probation order;
- or
- (b) may deal with the probationer for the offence in respect of which the probation order was made in any manner in which the court could deal with him if he had just been convicted before that court of that offence.

210. Court may impose further sentence. Where, pursuant to the provisions of this Division, it is competent to a court to deal with a probationer for the offence in respect of which the probation order was made—

- (a) in any manner in which the court could deal with him if he had just been convicted before that court of that offence;
 - (b) in the case of the Supreme Court or a District Court—in the manner mentioned in section 208 (2);
- and
- (c) in the case of the Supreme Court—in the manner mentioned in section 208 (3),

and the probationer has been admitted to probation pursuant to the provisions of paragraph (b) of section 197 (1) then that court may further sentence him for the offence in relation to which the probation order was made: Provided that any such further sentence when coupled with the term of imprisonment to which the probationer has previously been sentenced for the offence in relation to which the probation order was made—

- (a) shall not exceed the maximum period of imprisonment provided for in relation to that offence;
- and
- (b) shall not be such as would in all the circumstances be manifestly excessive.

211. Determination of questions as to breach of probation order or conviction of probationer. In a proceeding before the Supreme Court or a District Court arising out of this Division any question as to whether a probationer—

- (a) has contravened or failed to comply with a requirement contained in a probation order;
- or
- (b) has been convicted of an offence committed by him during the probation period,

shall be determined by the judge and not by a jury.

212. Power to take proceedings after expiration of probation period. Proceedings in relation to or arising out of a breach of a probation order may be taken and the person in relation to whom the probation order was made dealt with under this Act in respect of the breach notwithstanding that the probation period has expired or that the probation order is discharged.

213. Form of probation order. (1) Where pursuant to the provisions of this Division a court admits a person to probation in relation to two or more offences committed by him and the requirements of each of the probation orders made are similar then it shall be competent to that court to evidence each of the probation orders in the one form which shall contain a schedule listing each offence in relation to which a probation order has been made.

(2) In any subsequent proceeding in which it is relevant to prove the making of a probation order referred to in subsection (1) it shall be regarded that a separate probation order was duly made in relation to each offence set out in the schedule.

Division 2—Community Service Orders

214. Interpretation. (1) In this Division unless the contrary intention appears—

“offender” means a person in respect of whom a community service order is made;

“prescribed requirement” means a requirement imposed by this Division or the regulations on a person in respect of whom a community service order is made.

(2) A reference in this Division to the number of hours of work specified in a community service order shall, where that number has been varied in accordance with section 222 or 226, be read and construed as a reference to that number as so varied.

215. Community service orders in respect of convicted persons. (1) Subject to sections 217 and 219 where a person is before a court for sentence after being convicted of an offence punishable by a term of imprisonment, otherwise than in default of payment of a fine, the court may, instead of passing sentence on him, make an order requiring him to perform unpaid community service in accordance with this Division and the regulations for such number of hours, in the aggregate not less than 40 nor more than 240, as is specified in the order.

(2) Subsection (1) does not apply to an offence that is a crime the punishment of which cannot be mitigated or varied under section 19 of *The Criminal Code*.

(3) The court by which a community service order is made shall forthwith cause the order to be reduced to writing in the prescribed form and shall—

- (a) cause a copy thereof to be given to the offender;
and
- (b) cause a copy thereof together with details of the offence in relation to which the order was made to be given to the Commission.

216. Requirements of and prescribed requirement with respect to community service order. (1) A community service order—

- (a) shall contain requirements—
 - (i) that the offender report in person within the time specified in the order to the person specified therein;
 - (ii) that the offender perform in a satisfactory manner for the number of hours specified in the order such community service as a community correctional officer or a supervisor directs at such times as any community correctional officer or supervisor directs;
 - (iii) that the offender while performing that service comply with every reasonable direction of a supervisor;
 - (iv) that the offender advise the community correctional officer of every change in his place of residence within 48 hours of that change;
- (b) may contain a requirement, in a case where the order is made in respect of an offence in relation to property or against the person of another, that the offender—
 - (i) make restitution of the property in relation to which the offence was committed or pay compensation for injury to or loss or destruction of that property;
 - (ii) pay reasonable compensation for injury occasioned to any person by the commission of the offence.

Where a community service order contains a requirement that the offender make restitution of any property or pay any compensation the order shall specify when the restitution is to be made or, as the case may be, the compensation is to be paid and any amount payable pursuant to such a requirement shall be paid in the first instance to the proper officer of the court which actually made the community service order.

In this subsection “proper officer” means—

- in relation to an order made by the Supreme Court, the sheriff;
- in relation to an order made by a District Court, the registrar;
- in relation to an order made by a Magistrates Court, the clerk of the court.

(2) In giving directions to an offender pursuant to a requirement referred to in subparagraph (ii) of subsection (1) (a), a community correctional officer or, as the case may be, supervisor, as far as practicable, shall avoid—

- (a) conflict with the offender’s religious beliefs;
- and
- (b) interference with the times, if any, at which the offender usually works or attends a school or other educational establishment.

(3) A person in respect of whom a community service order is in force shall perform the number of hours of community service specified in the order within the period of 12 months commencing on the date of the order or within such extended period (if any) as a Magistrates Court may duly order pursuant to any provision of this Division.

217. Circumstances in which a community service order may be made. (1) A court shall not make a community service order in relation to a person unless—

- (a) the person consents thereto and expresses his willingness to comply with all the requirements contained therein;
- and
- (b) the court—
 - (i) has been notified by a community correctional officer that arrangements exist by which persons who reside in the area in which that person intends to reside can perform community service under such an order;
 - and
 - (ii) is satisfied that—
 - (A) the person is a suitable person to perform community service under such an order;
 - and
 - (B) if such order is made, community service of a suitable nature can be provided for the person under the arrangements referred to in subparagraph (i).

(2) Where a person is before a court for the passing of sentence on him, it may, for the purpose of obtaining a notification, report or information from a community correctional officer for the purposes of subsection (1), adjourn the proceedings and grant bail to the person to appear at the place, time and date to which the proceedings have been adjourned.

218. Explanation of nature and effect of order to offender. Before making a community service order, the court shall explain or cause to be explained to the person in relation to whom it is proposed to make the order in language likely to be readily understood by him—

- (a) the purpose and effect of the order;
- (b) the consequences that may follow if he fails to comply with the requirements of the order;
- (c) that the order may be reviewed on application by him or a community correctional officer.

219. Maximum hours for performance of community service in case of multiple or subsequent orders. (1) A court may make more than one community service order in relation to a person who is before it convicted of 2 or more offences referred to in section 215 (1) but, if it does so, such orders shall not require performance of community service by the offender for more than 240 hours in the aggregate.

(2) Where there is before a court an offender subject to an existing community service order who is convicted of one or more offences referred to in section 215 (1) the court may make in relation to him one or more further community service orders but so that the number of hours for which the offender is required to perform community service under the existing order (when it was made) and the further order or orders shall not exceed 240 hours in the aggregate.

220. Duration of community service order. A community service order shall remain in force until—

- (a) the offender has performed community service in accordance with the requirements referred to in paragraph (a) (ii) and (iii) of section 216 (1) for the number of hours specified in the order and where the order contains a requirement that the offender make restitution or pay compensation until the restitution is made or the compensation is paid;
 - (b) the order is discharged pursuant to section 226;
- or
- (c) the offender is sentenced for the offence in respect of which the order was made.

221. Breach of requirements contained in or with respect to a community service order. A person in respect of whom a community service order is in force who contravenes or fails to comply with a requirement contained in the order or a prescribed requirement with respect to the order commits an offence against this Act.

222. Power of Magistrates Court that convicts offender of offence against s. 221. (1) A Magistrates Court that convicts an offender of an offence against section 221—

- (a) may do any one or more of the following:—
 - (i) impose on the offender a penalty not exceeding 10 penalty units;
 - (ii) with the offender's consent and subject to subsection (3), increase the number of hours for which he is required by the community service order to perform community service;
 - (iii) extend the period of 12 months within which the community service is required to be performed under the community service order in accordance with section 216 (3);
- or
- (b) may, where the community service order was made by a Magistrates Court, deal with the offender for the offence in respect of which the order was made in any manner in which the court could deal with him if he had just been convicted by that court of that offence;
- or
- (c) may, where the community service order was made by a court other than a Magistrates Court, commit him to custody or grant bail to him to be brought or to appear before the court by which the order was made.

(2) A Magistrates Court that exercises the power specified in paragraph (a) (ii) of subsection (1) shall so exercise that power that the number of hours for which an offender is required to perform community service under the order as varied by the court and under any other community service order or orders then in force in relation to the offender shall not exceed 240 hours in the aggregate.

223. Powers of Supreme Court or District Court before which offender appears. The Supreme Court or a District Court before which an offender appears or is brought pursuant to paragraph (c) of section 222 (1), upon proof to its satisfaction that the offender has contravened or failed to comply with a requirement contained in the community service order or prescribed with respect thereto, may deal with him for the offence in respect of which the community service order was made in any manner in which the court could deal with him if he had just been convicted before that court of that offence.

224. Determination of question as to breach of community service order. In a proceeding before the Supreme Court or a District Court arising out of this Division any question as to whether an offender has contravened or failed to comply with a requirement contained in a community service order or prescribed with respect thereto shall be determined by the judge and not by a jury.

225. Power to extend time for performance of work. Where a community service order is in force and, on the application of the offender in relation to whom the order was made or a community correctional officer or a supervisor, it appears to a Magistrates Court exercising jurisdiction at the place where the offender resides that it would be in the interests of justice to do so having regard to the circumstances that have arisen or have become known since the order was made the court may extend the period of 12 months within which community service is required to be performed under that order in accordance with section 216 (3).

226. Discharge, etc. of community service orders. Where a community service order is in force and it is made to appear to the court by which the order was made, on the application of the offender in relation to whom the order was made or a community correctional officer or supervisor, that it would be in the interests of justice to do so having regard to circumstances that have arisen or have become known since the order was made, the court—

- (a) may discharge the order;
- (b) may reduce the number of hours for which the offender is required under the order to perform community service;
- or
- (c) may deal with the offender for the offence in respect of which the order was made in any manner in which the court could deal with him if it had just convicted him of that offence.

227. Summons to offender and notice of applications. (1) The court to which an application is made by a community correctional officer or a supervisor pursuant to section 225 or 226 may order that a summons issue, directed to the offender, requiring him to appear at the time and place specified in the summons to be dealt with according to law.

If the offender to whom a summons is directed pursuant to this subsection fails to appear in answer thereto, the court may, upon proof of the due service of the summons, order that a warrant issue, directed to all police officers, to arrest him and bring him before the court to be dealt with according to law.

(2) The court to which an application is made by an offender pursuant to section 225 or 226 shall cause notice of the time and place fixed for the hearing of the application to be given to the Commission.

228. Notification of discharge, variation or extension of order. A court that pursuant to section 222, 225 or 226—

- (a) discharges a community service order;
- (b) varies the number of hours for which an offender is required by a community service order to perform community service;
- or
- (c) extends with respect to a community service order the period of 12 months specified in section 216 (3),

shall cause notice in writing of the discharge, variation or extension to be given to the offender in respect of whom the order was made, the Commission and (if the court is not the court which actually made the order) the court which actually made the order.

229. Regard to be had to order when sentence passed. A court that subsequently sentences an offender for the offence in respect of which a community service order was made shall have regard to—

- (a) the making of the order;
- (b) anything done to comply with the order.

Division 3—Fine Option Orders

230. Interpretation. In this Division unless the contrary intention appears—

“fine” means a monetary penalty imposed in connexion with the commission of an offence;

“original order” means an order of a court that imposes a fine on a person, whether or not it also requires the payment of compensation, another sum of money or costs, and that directs that in default of payment of the fine, compensation, sum or costs, either immediately or within a fixed time, the person is to be imprisoned for a period.

231. Application for order where person before court. Where a person is before a court at the time at which the court makes an original order in relation to him the court shall inform him that he may apply to the court for a fine option order and he may then and there apply verbally to that court for such an order and where he does so that court shall proceed to determine the application immediately and may make such an order.

232. Application for order generally. (1) Where a court makes an original order in respect of a person he may—

- (a) where the order directs that, in default of payment of the amount required to be paid by the order immediately, he be imprisoned for a period—on the day on which the order is made;

or

- (b) where the order directs that, in default of payment of the amount required to be paid by the order within a fixed time, he be imprisoned for a period—at any time before the expiration of that fixed time,

apply to that court for a fine option order and the court may make such an order.

(2) An application under subsection (1) shall be in the prescribed form, shall set forth particulars that are relevant having regard to the

matters of which the court is required to be satisfied under section 233, shall be signed by the applicant, shall be lodged—

- (a) where the court that made the original order is the Supreme Court or a District Court—in the registry of that court;
- (b) where the court that made the original order is a Magistrates Court—with the clerk of the court,

and shall be accompanied by the prescribed fee (if any).

(3) It is not competent to a person to make more than one application, whether under this section or section 231, in respect of the same original order.

233. Matters to be considered by court. A court shall not make a fine option order in relation to a person unless the court—

- (a) has been notified by a community correctional officer that arrangements exist by which persons who reside in the area in which the person intends to reside can perform community service under such an order;

and

- (b) is satisfied that—

- (i) the person is unable to pay the fine in terms of the original order or that if he were to pay the fine in terms of the original order his family would suffer economic hardship;
 - (ii) the person is a suitable person to perform community service under a fine option order;
- and
- (iii) if a fine option order is made, community service of a suitable nature can be provided for the person under the arrangements referred to in paragraph (a).

234. Determination of application. (1) The court to which an application is made under section 232 shall cause notice of the time and place at which it proposes to determine the application to be given to the applicant and he may appear before the court at that time and place.

(2) If the applicant fails to appear before the court at the time and place specified in the notice given under subsection (1) the court shall determine the application in his absence.

(3) In determining whether to grant or refuse the application the court shall have regard to—

- (a) the information contained in the application;
- (b) the information relating to the applicant and the offence in respect of which the original order to which the application relates was made that was before the court when the original order was made;
- (c) where the court has received a notice referred to in section 233 (a)—the information contained in the notice;

and

(d) such other matters as to the court seem relevant.

(4) Where a court grants the application it shall make a fine option order in relation to the person to whom the application relates.

(5) Where a court refuses the application the original order to which the application relates is, *ipso facto*, wholly reinstated and the court shall cause notice of the refusal of the application and of the fact that the original order is wholly reinstated to be given to the applicant.

235. Suspension of original order in so far as it requires payment of fine. (1) Upon the lodgment of an application pursuant to section 232 the original order to which that application relates, in so far as it requires the payment of a fine, is by virtue of this subsection suspended.

(2) Where a court makes a fine option order in relation to a person—

- (a) pursuant to an application under section 231, it shall suspend the original order in so far as it requires the payment of a fine;
- (b) pursuant to an application under section 232, the suspension of the original order in so far as it requires the payment of a fine is thereby continued.

(3) Where an original order requires the payment, in addition to a fine, of any compensation, sum of money or costs, then for the period for which that order is suspended in so far as it requires the payment of the fine the default period of imprisonment specified in the order shall be deemed to have been reduced by a period that bears to the period specified, as nearly as possible, the same proportion as the amount of the fine bears to the total amount required to be paid by the order.

236. Order to be reduced to writing. A court that makes a fine option order in relation to a person shall forthwith cause the order to be reduced to writing in the prescribed form and shall—

- (a) cause a copy thereof to be given to the person;
- and
- (b) cause a copy thereof and a copy of the original order to which the fine option order relates together with details of the offence in relation to which the original order was made to be given to the Commission.

237. Requirements of fine option order. (1) It is a requirement of each fine option order that the person in respect of whom the order is made—

- (a) report in person within the time specified in the order to the person specified therein;
- (b) advise the community correctional officer of every change in his place of residence within 48 hours of that change;
- (c) perform in a satisfactory manner for the number of hours specified in the order such community service as a community

correctional officer or supervisor directs at such times as any community correctional officer or supervisor directs;

- (d) shall, while performing that community service, comply with every reasonable direction of a supervisor.

(2) In giving directions to a person pursuant to paragraph (c) of subsection (1) a community correctional officer or, as the case may be, supervisor shall avoid as far as is practicable—

- (a) conflict with the person's religious beliefs;
- (b) interference with the times (if any) at which the person usually works or attends a school or other educational establishment.

(3) A person in relation to whom a fine option order is in force shall perform the number of hours of community service specified in the order within the period of 12 months commencing on the date of the order or such extended period as a court may order pursuant to a provision of this Division.

238. Maximum number of hours. (1) The number of hours for which a person may be required to perform community service pursuant to a requirement of a fine option order shall be such number as in the opinion of the court making the order will satisfy the justice of the case but not exceeding in any case a number calculated at the rate of 10 hours of community service for each unit or part thereof of the number of penalty units to which the fine imposed by the original order to which the fine option order relates is equivalent.

(2) For the purpose of subsection (1), a penalty unit shall have the value assigned to a penalty unit by the *Penalty Units Act 1985-1988*.

239. Community service to be performed concurrently unless court otherwise directs. (1) All community service required to be performed by a person pursuant to a fine option order shall, unless otherwise directed by the court at the time of making the order, be performed concurrently with any uncompleted community service required to be performed by the person pursuant to any other fine option order whether such other fine option order was made previously or at the time the first mentioned order was made.

(2) If a court makes a fine option order in relation to a person who has not completed performing community service as required by another such order, the court may direct that the community service required to be performed under the first mentioned order be performed in part concurrently with that required to be performed by the other order or wholly cumulatively upon it.

(3) A direction of a kind referred to in subsection (2) issued by a court at the time of making a fine option order shall be specified in that order and form part of that order.

(4) Where a court on the same day, or in the same proceedings, makes 2 or more fine option orders in relation to a person and directs

that the community service required to be performed by one or more of such orders is to be performed in part concurrently with or cumulatively upon the community service required to be performed by the other or any of the other orders it shall number those orders in sequence and the person is required to perform community service under each of those orders in the sequence indicated by the numbering.

240. Performance of community service to be credited against fine.

Where a person performs community service pursuant to a fine option order the amount of the fine shall be reduced by an amount which bears to the amount of the fine, as nearly as possible, the same proportion that the number of hours of community service performed by that person pursuant to that order bears to the number of hours of community service which he is required to perform under that order.

241. Payments and application thereof. (1) Subject to subsection (2) and notwithstanding the suspension of an original order in so far as it requires the payment of a fine that fine or any part thereof may be paid and if paid shall be paid to the proper officer of the court which made the original order.

In this subsection "proper officer" means—

in relation to an order made by the Supreme Court, the sheriff;
in relation to an order made by a District Court, the registrar;
in relation to an order made by a Magistrates Court, the clerk of the court.

(2) Where subsequent to the making of a fine option order—

- (a) any payment of part of the amount originally required to be paid by the original order is made that payment shall be applied to the amount (if any) of any compensation or sum of money (other than the fine) or costs required by the original order to be paid and only when the amount of such compensation, sum and costs is exhausted shall any such payment or part thereof be applied to the amount of the fine;
- (b) any payment or part thereof is applied to the fine to which the fine option order relates, the number of hours of community service required to be performed by a person pursuant to a requirement of the order shall be reduced by a number that bears to that number of hours, as nearly as possible, the same proportion that the amount of the payment or part bears to the amount of the fine.

242. Failure to comply with a requirement of an order. (1) Where in the opinion of a community correctional officer a person in relation to whom a fine option order has been made has failed during the currency of the order to comply with a requirement thereof, the community correctional officer may give to the person a notice in the prescribed form containing particulars of the failure and requiring him to appear before the court by which the order was made at the date,

time and place specified therein and the court shall on that date and at that time and place or on a date and at a time and place to which it has adjourned the matter, upon considering the evidence given by or on behalf of the community correctional officer and the evidence (if any) given by or on behalf of the person, determine whether the person has failed to comply with the requirement or not and where the court determines that the person has failed to comply with the requirement it may—

- (a) admonish him and if necessary extend or further extend the period of 12 months referred to in section 237 (3) during which the community service is to be performed;
- or
- (b) revoke the order.

(2) A notice under subsection (1) may relate to 2 or more fine option orders made by the court and may so relate whether the community service that is required to be performed by a person pursuant to any of those orders is to be performed concurrently with or cumulatively upon that required to be performed by him pursuant to any other of those orders and where the court determines that the person has failed to comply with a requirement of any one of those orders it is competent to the court to revoke all or any of those other orders.

(3) If on the date and at the time and place specified in the notice or on the date and at the time and place to which the matter is adjourned the person fails to appear the court may upon being satisfied that he has been given a notice pursuant to subsection (1) or, as the case may be, been given notice of the adjournment proceed to hear and determine the matter in his absence.

(4) Where a court proposes to revoke a fine option order it shall determine the number of hours (if any) for which the person performed community service pursuant to that order.

(5) In a proceeding before the Supreme Court or a District Court arising out of this section any question as to whether a person has failed to comply with a requirement of a fine option order shall be determined by the judge and not by a jury.

(6) Where a court revokes a fine option order in circumstances to which subsection (3) applies it shall cause notice of the revocation to be given to the person in relation to whom the order was made.

243. Effect of revoking order. (1) Where a court revokes a fine option order pursuant to section 242 the original order in relation to which the fine option order was made is, *ipso facto*, wholly reinstated and any time that was allowed for the payment of the amount originally required to be paid by the original order and any direction therein that that amount is to be paid by instalments shall be disregarded.

(2) For the purpose of section 11 (1) of the *Penalty Units Act 1985-1988* any amount credited against the amount of a fine consequent upon a person having performed community service shall be taken to be payment of a sum in part satisfaction of a court order.

244. Discharge of orders. (1) Where subsequent to the making of a fine option order in relation to a person—

- (a) the amount of the fine is paid;
- (b) so much of the amount of the fine as has not been notionally paid by the performance by him of community service is paid;
- or
- (c) community service is performed by him under that order for the number of hours remaining after deducting from the number of hours for which he is required to perform community service under that order the number of hours for which community service has notionally been performed by him by the payment of part of the amount of the fine,

the fine option order is discharged.

(2) Upon a person having performed community service under a fine option order for the number of hours specified in the order, the fine option order is discharged.

(3) Where a fine option order is in force and it is made to appear to the court by which the order was made, on the application of a community correctional officer or a supervisor, that it would be in the interests of justice to do so having regard to circumstances that have arisen or have become known since the order was made, the court may discharge the fine option order and if it does so shall discharge the original order in relation to which the fine option order was made in so far as the original order requires the payment of a fine.

(4) Where pursuant to subsection (3) a court discharges an original order in so far as it requires the payment of a fine, the period of imprisonment specified in that order shall be deemed to have been reduced by a period that bears to the period specified, as nearly as possible, the same proportion as the amount of the fine bears to the total amount required to be paid by the original order.

245. Certificate. (1) A certificate under the seal of the Commission or purporting to be signed by a person authorized in that behalf by the Commission stating—

- (a) that the person named therein has performed community service under a fine option order for a specified number of hours;
- (b) that the person named therein has failed to perform community service under a fine option order;
- or
- (c) that the fine or any part thereof to which an original order relates has been paid,

is evidence and, in the absence of evidence to the contrary, conclusive evidence of those matters.

(2) When in the opinion of the Commission a fine option order is discharged it shall forward to the court which actually made the order a certificate stating that opinion and its reasons therefor.

246. Giving of notice. A notice or other document required by this Division to be given to a person who has applied for a fine option order or in relation to whom a fine option order is made—

- (a) shall be duly given if—
 - (i) it is served personally on the person or on his agent;
or
 - (ii) it is left at the place of residence of the person last known to the person who gives it;
- (b) may be forwarded by post in a prepaid letter addressed to the person at his place of residence last known to the person who forwards it and shall be taken to have been duly given at the time when that letter would be delivered in the ordinary course of post.

Division 4—General

247. Application of Part. (1) This Part shall not apply to or with respect to any child who is convicted of an offence and this Part shall be read and construed so as not to limit or otherwise affect the provisions of the *Children's Services Act 1965-1988*.

(2) This Part applies so as not to prejudice or affect in any way any civil liability incurred by any person in respect of any act or omission which constitutes an offence.

248. Construction of references to court by which order made. In this Part a reference to the court by which a probation order or a community service order or a fine option order was made shall be deemed to include a reference—

- (a) where the order was made by the Supreme Court—to any sittings of the Supreme Court in its criminal jurisdiction at any place in Queensland;
- (b) where the order was made by a District Court—to any sittings of a District Court in its criminal jurisdiction at any place in Queensland;
- (c) where the order was made by a Magistrates Court—to any Magistrates Court sitting at any place in Queensland,

notwithstanding that the judge, stipendiary magistrate or justices constituting the court may not be the same as made the order originally.

249. Community correctional officers subject to direction of court. In relation to a probation order, community correctional officers are subject to the directions of the court by which the order was made.

250. Court may make probation order and community service order in relation to a person. Where a person is before a court for sentence

after being convicted of an offence punishable by a term of imprisonment, otherwise than in default of payment of a fine, it is competent to the court to both make a probation order under paragraph (a) of section 197 (1) and a community service order under section 215 in relation to that person

251. Assignment of community correctional officer in respect of order. (1) The Commission—

- (a) shall assign a community correctional officer in respect of each probation order, community service order and fine option order; and
- (b) may from time to time assign another community correctional officer in the stead of an officer assigned under paragraph (a).

(2) A community correctional officer assigned in respect of an order pursuant to subsection (1) shall be the community correctional officer for the purposes of the order.

252. Conviction in respect of which a probation order or a community service order is made to be disregarded for certain purposes. (1) A conviction for an offence in respect of which—

- (a) a probation order is made under paragraph (a) of section 197 (1);
- or
- (b) a community service order is made;
- or
- (c) both such orders as are referred to in paragraphs (a) and (b) are made,

shall be deemed not to be a conviction for any purpose (including the purpose of any enactment that imposes, authorizes or requires the imposition of a disqualification or disability on a convicted person) except in relation to—

- (d) the making of the probation order or community service order or, as the case may be, both such orders;
- (e) the taking of subsequent proceedings against the offender in accordance with this Act including proceedings under sections 206, 207, 208 and 209;
- (f) the making of an order pursuant to section 663B of *The Criminal Code*;
- (g) any law that disqualifies a convicted person, or authorizes that a convicted person be disqualified, from holding or obtaining a driver's licence;
- (h) any proceeding against the offender for a subsequent offence.

In paragraph (g) the expression "driver's licence" has the meaning ascribed to that term by the *Traffic Act 1949-1985*.

(2) Subsection (1) shall cease to apply in a case where an offender is subsequently sentenced for the offence in respect of which any order referred to in subsection (1) was made.

(3) This section does not affect the right of an offender to appeal against a conviction in relation to which a probation order or a community service order is or both such orders are made or to rely on such conviction in bar of a subsequent proceeding for the same offence or the re-vesting or restoration of property in consequence of the conviction.

253. Appeal in case of conviction in a Magistrates Court where probation order or community service order made. A person aggrieved by a summary conviction of a Magistrates Court for an offence (other than for an indictable offence dealt with summarily) in respect of which a probation order or a community service order is or both such orders are made may appeal against that conviction pursuant to the *Justices Act 1886-1988* notwithstanding that no fine, penalty or forfeiture is imposed thereby.

254. Notification by court. (1) Where pursuant to this Part a court subsequently deals with a person in respect of whom a probation order or community service order was made for the offence in respect of which the order was made, it shall cause notice of that fact and the manner in which it dealt with the person to be furnished—

(a) to the Commission;

and

(b) where the court is other than the court that actually made the order—to the court that actually made the order.

(2) Where a fine option order is revoked by a court pursuant to this Part and that court is not the court which actually made the order, the first mentioned court shall cause notice of the revocation to be given to the court which actually made the order.

255. Community service. The Commission may declare any activity to be community service for the purposes of this Act.

256. Compensation for personal injury. (1) A person, in respect of—

(a) community service performed by him under a community service order or fine option order;

and

(b) travelling undertaken by him in order to perform community service under a community service order or fine option order,

shall be deemed to be a worker within the meaning of the *Workers Compensation Act 1916-1988* employed by the Crown and that Act shall apply and extend accordingly.

(2) Where for the purpose of calculating the compensation payable under the *Workers Compensation Act 1916-1988* in respect of an injury

suffered by a person to whom subsection (1) applies reference to weekly earnings is necessary, the person shall be deemed to have been in receipt of weekly earnings equal to the estimate published by the Commonwealth Statistician of the average weekly earnings in the State per employed male unit or, as the case requires, female unit for the June quarter last preceding.

257. Warrants. (1) Where a complaint under the *Justices Act 1886-1988* alleging an offence against section 203 or 221 is in writing and on oath a justice may issue a warrant directed to all police officers to arrest the person in respect of whom the complaint is made and bring him before justices to answer the complaint and to be further dealt with according to law.

(2) Where a person summoned to appear before the Supreme Court or a District Court pursuant to section 206 (1) does not appear before the court at the time and place mentioned in the summons when called and it is made to appear to the court, by oath or by deposition as provided in section 56 of the *Justices Act 1886-1988* with respect to the service of a summons, that the summons was duly served upon the person a reasonable time before the time appointed for his appearance, the court may direct a warrant to be issued to arrest him and bring him before the court to be dealt with according to law.

(3) Where the Supreme Court or a District Court before which a person appears to answer a complaint made under section 206 (1) adjourns or further adjourns the hearing of the complaint, and at the time and place to which the hearing is adjourned the person does not appear, the court may, if it is satisfied that the person was given notice of the time and place to which the hearing was adjourned a reasonable time before the adjourned hearing, direct a warrant to be issued to arrest him and bring him before the court to be dealt with according to law.

258. Facilitation of proof. (1) Where a person is before a court with a view to his being dealt with for contravening or failing to comply with a requirement contained in a probation order, or a requirement contained in a community service order, or a prescribed requirement within the meaning of Division 2 with respect to a community service order, and there is before the court—

(a) a complaint that particularizes matters relevant to a person's being so dealt with in the case in question;

or

(b) a statement purporting to be that of the Director of Community Corrections or a person authorized by the Commission to make the statement that particularizes matters relevant to a person's being so dealt with in the case in question,

it shall be presumed, until the contrary is proved—

(c) that the probation order or, as the case may be, community service order alleged in the complaint or statement to have

been made was made as alleged in relation to the person before the court;

and

- (d) that the person before the court contravened or failed to comply with the requirement or, as the case may be, prescribed requirement as alleged in the complaint or statement.

(2) Where a person is before a court with a view to his being dealt with in respect of his having been convicted of an offence committed during a probation period and there is before the court—

- (a) a complaint that particularizes matters relevant to a person's being so dealt with in the case in question;

or

- (b) a statement purporting to be that of the Director of Community Corrections or a person authorized by the Commission to make the statement that particularizes matters relevant to a person's being so dealt with in the case in question,

it shall be presumed, until the contrary is proved—

- (c) that the probation order alleged in the complaint or statement to have been made was made as alleged in relation to the person before the court;

and

- (d) that the person before the court was convicted of an offence committed during the probation period and dealt with in respect of the offence as alleged in the complaint or statement.

(3) A statement or complaint such as is referred to in subsection (1) or (2) is, upon its mere production to the court, admissible in evidence in the proceedings in question as evidence of the matters contained therein.

259. Application of Justices Act. (1) *The Justices Act 1886-1988* shall with all necessary adaptations apply and extend to and with respect to a complaint, summons, warrant or penalty referred to in section 206, 207, 209, 227 or 257 (1) and for the purposes of such application—

- (a) a complaint shall be deemed to be a complaint for an offence;

- (b) a summons shall be deemed to be a summons to answer a complaint;

and

- (c) a penalty imposed in accordance with any such section may be enforced by any order under that Act that might be made by the adjudicating justices for the enforcement of the payment of a penalty adjudged to be paid upon a conviction as for an offence under any Act not expressly providing for such enforcement.

(2) Notwithstanding section 43(2) or (3) of the *Justices Act 1886-1988*, where two or more matters are duly joined in the one complaint made for the purposes of section 203 or 206 by reason that the matters of complaint are alleged to be constituted by the same act or omission on the part of the defendant, or are founded on substantially the same facts, it shall not be necessary to set out each matter of complaint in a separate paragraph and it is not competent to a person to take objection to the complaint on the ground that each matter of complaint is not set out in a separate paragraph.

260. Approval of Commission required in certain cases. A—

- (a) community correctional officer shall not apply to a court pursuant to section 201 (1), 202 (1), 225, 226 or 244 (3);
- (b) supervisor shall not apply to a court pursuant to section 225, 226 or 244 (3),

unless he has the approval of the Commission to do so.

(2) A community correctional officer shall not give a notice to a person pursuant to section 242 unless he has obtained the approval of the Commission to do so.

261. Regulations for purposes of Part V. Regulations may be made under section 270 providing for or with respect to—

- (a) the forms to be used for the purpose of making an application to a court for the purposes of this Part;
- (b) the appointment of supervisors to supervise persons in the performance of community service under community service orders and fine option orders;
- (c) the conduct of supervisors and persons subject to community service orders or fine option orders;
- (d) the health and safety of supervisors and persons subject to community service orders or fine option orders;
- (e) the maximum number of hours of community service that a person may be required to perform under a community service order or fine option order on any one day;
- (f) travelling and transport arrangements to be made for persons performing community service under community service orders or fine option orders;
- (g) the effect an injury to or the sickness of a person who is subject to a community service order or a fine option order has in relation to the continuity or operation of the order;
- (h) the manner of computing the number of hours of community service performed by a person under a community service order or fine option order.

PART VI—MISCELLANEOUS

262. Appointment of voluntary community correctional officers. The Commission may from time to time appoint suitable persons to be

voluntary community correctional officers for the purposes of this Act and may at any time remove a person so appointed.

263. Commission to cause reports to be prepared. (1) When required to do so by a court, the Commission shall cause to be prepared and submitted to that court such reports on and information with respect to a specified person as the court requires.

- (2) A report referred to in subsection (1) shall be—
- (a) prepared by a community correctional officer;
 - (b) furnished to the court within such time (if any) as may be prescribed;
- and
- (c) where the report is in writing—submitted in triplicate.

264. Offender to report to community correctional officer where pre-sentence report required. Where a court proposes to grant bail upon an adjournment of a hearing to a person convicted of an offence and intends to require the Commission to cause to be prepared a report or reports in relation to that person the court shall by its order direct that person to report to a specified community correctional officer within a specified time.

265. Reports of community correctional officers. (1) A written report or oral statement made by a community correctional officer to any court with a view to assisting the court in determining the most suitable method of dealing with a convicted person shall be received by the court as *prima facie* evidence of the matters contained in that report or statement notwithstanding that the officer is not called as a witness.

(2) Where a written report is made as mentioned in subsection (1) the court shall show a copy of the report to the defence and the prosecution unless the court makes an order to the effect that a copy of the report or any part of the report be not shown to the convicted person in which case a copy of the report or part shall be shown only to the convicted person's legal representatives and to the prosecution.

(3) Where a copy of a written report or part thereof is shown to a person pursuant to subsection (2) the person shall return it to the court not later than the conclusion of the proceedings of the court to which it relates.

(4) Where a court receives a report or statement referred to in subsection (1) it shall give the defence and the prosecution such an opportunity as it thinks reasonable to controvert the whole or any part of that report or statement.

(5) No objection shall be taken or allowed to evidence received pursuant to subsection (1) on the ground that it is hearsay.

(6) A reference in subsection (1) to a written report or oral statement made by a community correctional officer to any court includes, but is

not limited to, a report or information submitted to a court pursuant to a requirement made under section 263 (1).

266. Commissioner of Police to provide criminal histories. (1) Upon being requested to do so by the Commission, the Commissioner of Police shall make available such information in respect of the criminal history of any person as is in the possession of or available to the Commissioner.

(2) Subject to subsection (3) information provided by the Commissioner of Police shall be used by the Commission only for the purposes of this Act.

(3) The Commission may supply any information supplied to it by the Commissioner of Police to—

(a) the person in charge of any institution (within or out of the State) to which a prisoner is or is to be transferred under this Act or any other Act;

or

(b) any person in another State or a Territory of the Commonwealth for the purpose of the transfer of the parole of a prisoner under the *Parole Orders (Transfer) Act 1984-1988*.

(4) Section 6 of the *Criminal Law (Rehabilitation of Offenders) Act 1986-1988* does not apply in respect of—

(a) the dissemination into, within or from Queensland of information concerning any person by an officer or employee of the Commission or by an officer or employee of a department or body responsible for corrective services in another State or a Territory of the Commonwealth;

(b) the filing and recording by an officer or employee of the Commission in the discharge of his duties of information in the possession of the Commission;

(c) the use for any purpose of this Act of information in the possession of the Commission.

267. Royal prerogative of mercy, etc., not affected. (1) Nothing in this Act affects—

(a) Her Majesty's Royal Prerogative of mercy;

(b) the power of the Governor, upon the recommendation of the Supreme Court or a Judge thereof to direct, under and pursuant to section 659G of *The Criminal Code*, the discharge of an habitual criminal.

(2) Subject to the express provisions of this Act, nothing in this Act shall be read so as to annul, abridge or alter any authority or jurisdiction which any court or any judge or justice may possess under any other Act or otherwise.

268. Proceedings for offences. Subject to this Act, proceedings for an offence against this Act, other than an offence defined in section 92—

- (a) shall be by way of summary proceedings under the *Justices Act 1886-1988*;
and
- (b) shall be commenced by complaint made by a person authorized by the Commission in that behalf either generally or in a particular case.

269. Evidentiary provision. In any proceedings under or for the purposes of this Act or in any other proceedings—

- (a) it shall not be necessary to prove the appointment of any commissioner or of the Director of Custodial Corrections or the Director of Community Corrections or of any official visitor, inspector, general manager, correctional officer, medical officer, police officer or supervisor but this shall not prejudice the right of any person to prove that such person was not so appointed;
- (b) it shall not be necessary to prove the authority of the Commission, or of a person referred to in paragraph (a), to do any act or take any proceedings but this shall not prejudice the right of any person to prove the absence of authority;
- (c) a signature purporting to be that of a person referred to in paragraph (a) shall be taken to be the signature it purports to be until the contrary is proved;
- (d) a person who purports to do or to have done anything for the purposes of this Act pursuant to the authority of an instrument of delegation made pursuant to this Act or the *Corrective Services (Administration) Act 1988* shall, if the person purported to have made the delegation could pursuant to either Act have done that thing, be presumed to act or to have acted in accordance with a valid instrument of delegation unless the contrary is proved;
- (e) an instrument purporting to be made under this Act shall, unless the contrary is proved, be presumed to be validly made;
- (f) a certificate under the seal of the Commission or purporting to be signed by a person authorized in that behalf by the Commission stating that a place or premises described in the certificate is or was during a specified period a prison or part of a prison or a community corrections centre or part of a community corrections centre shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters stated.

270. Regulations. (1) The Governor in Council may make regulations, not inconsistent with this Act, prescribing any matter that this Act

requires or permits to be prescribed (other than any matter required to be prescribed otherwise than by regulation) or any matter that it is necessary or convenient to prescribe to give effect to this Act.

(2) Without limiting the generality of subsection (1), regulations may be made prescribing for or with respect to—

- (a) the forms to be used for the purposes of this Act;
- (b) the reports which are required by a court for the purposes of this Act, the persons who may be allowed access to those reports and the custody and safe keeping of those reports;
- (c) the records required for the purposes of this Act;
- (d) offences against the regulations and the amount of any penalty (not exceeding 20 penalty units) for any offence.

(3) Regulations may be of general or limited application and may differ according to differences in time, place or circumstance or according to the persons or classes of persons to whom they are expressed to apply.

SCHEDULE 1

PART A

[section 4 (1)]

Year and Number of Act	Short Title
7 Eliz. 2 No.64	<i>The Prisons Act of 1958</i>
1964 No.17	<i>The Prisons Act Amendment Act of 1964</i>
1969 No.24	<i>Prisons Act Amendment Act 1969</i>
1980 No.17	<i>Offenders Probation and Parole Act 1980</i>
1983 No.4	<i>Offenders Probation and Parole Act Amendment Act 1983</i>

PART B

[section 4 (2)]

Amendment of the Public Service Management and Employment Act 1988

Provision amended	Amendment
Schedule III	<p>omit the amendment to the <i>Offenders Probation and Parole Act 1980-1983</i> and the reference to that Act, the provision amended and the citation of that Act as amended</p> <p>omit the amendment to the <i>Prisons Act 1958-1974</i> and the reference to that Act, the provision amended and the citation of that Act as amended</p>

SCHEDULE 2

[section 5 (5)]

First Column	Second Column
Her Majesty's Prison, Brisbane	Brisbane Correctional Centre
Her Majesty's Prison, Townsville	Townsville Correctional Centre
Her Majesty's State Farm, Palen Creek	Palen Creek Correctional Centre
Her Majesty's State Farm, Numinbah	Numinbah Correctional Centre
Her Majesty's Prison at Wacol	Wacol Correctional Centre
Her Majesty's Prison, Rockhampton	Rockhampton Correctional Centre
Her Majesty's Prison, Woodford	Woodford Correctional Centre
Her Majesty's Prison, Far North Queensland	Lotus Glen Correctional Centre