

PRISONS ACT AMENDMENT.

9° GEO. V., No. XXI.

No. 31 of 1918.**AN ACT to amend the Prisons Act, 1903.**

[Assented to 16th December, 1918.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *Prisons Act Amendment Act, 1918.*

Amendment of Section 4.

2. Section four of the Prisons Act, 1903 (hereinafter called the principal Act) is hereby amended by the insertion of the words "reformatory prison" between the words "police gaol" and "or" in the interpretation of "Prison."

Insertion of new Part (VI.A Reformatory Prisons) in the principal Act.

3. The following new Part is hereby inserted in the principal Act between Parts VI. and VII.:—

PART VI.A.—REFORMATORY PRISONS.

64A. (1.) The Governor may by proclamation—

- (a) set apart any suitable place to be a reformatory prison for the reception and detention of persons sentenced to be detained in or ordered to be transferred to a reformatory prison;
- (b) set apart any reformatory prison or any part thereof for the detention of habitual criminals or persons of any prescribed class.

(2.) Subject to the provisions of this Act and the Criminal Code every person detained in a reformatory prison shall be detained during the Governor's pleasure.

Establishment of Reformatory Prisons.

Power to transfer persons from gaol to reformatory prison.

64B. (1.) When any person apparently of the age of eighteen years or upwards, and not being a person on whom a subsisting indeterminate sentence has been im-

posed, is confined in any prison under sentence of imprisonment, it shall be the duty of the Comptroller General to consult with the Indeterminate Sentences Board appointed as hereinafter provided as to whether it is desirable that such person should be transferred to a reformatory prison.

(2.) If the Comptroller General and the Board agree that such person ought to be so transferred the Comptroller General may make a recommendation to that effect to the Minister, specifying in the recommendation the reformatory prison to which such person should be transferred, and transmitting therewith a statement setting forth such person's record and the reasons for the recommendation.

(3.) The Minister shall lay such recommendation and statement before the Governor who may, by Order in Council, direct that the recommendation be carried into effect, and it shall be carried into effect accordingly, and unless such person is re-transferred under the provisions hereinafter contained such order shall operate as a remission of the residue of his sentence of imprisonment.

(4.) No person so transferred shall be detained in the reformatory prison for any period longer than the residue of his sentence unexpired immediately prior to the making of the Order in Council.

64c. (1.) Where the behaviour of any person so transferred as aforesaid is in the opinion of the Indeterminate Sentence Board such as to be injurious to the discipline of the reformatory prison, the Comptroller General may report to the Minister to that effect.

Power to re-transfer such person to gaol.

(2.) The Minister shall lay such report before the Governor who may, by Order in Council, direct such person to be re-transferred either to the prison from which he was transferred or to some other specified prison to serve the unexpired residue of his sentence.

(3.) Thereupon such person shall be removed to the prison named in the Order in Council, and shall, pursuant to the original authority under which he was imprisoned, serve the unexpired residue of his sentence, and the time spent on probation shall not be reckoned as part thereof, unless so stated in the Order in Council.

Effect of Order
in Council as to
transfer and
detention.

64d. When an Order in Council has been made under either of the last two preceding sections directing that any person be transferred from a prison to a reformatory prison or from a reformatory prison to a prison, no authority other than such Order in Council or a copy thereof purporting to be signed and certified as a true copy by the officer to whose custody the original is intrusted shall be necessary to warrant such transfer or the detention of such person.

Indeterminate
Sentences
Board.

64E. (1.) For the purposes of this Part there shall be constituted a Board to be called the Indeterminate Sentences Board.

Constitution.

(2.) The Board shall consist of three members who shall be appointed by the Governor, and shall hold office for a period of three years, and shall be eligible for re-appointment.

Quorum.

(3.) Any two members shall form a quorum; but the three members of the Board shall be present when any resolution is carried recommending the release on probation of any person detained in a reformatory prison or the transfer of any person from a prison to a reformatory prison, or from a reformatory prison to a prison.

Removal.

(4.) The Governor may at any time remove any member of the Board and fill up any vacancy however occurring in the office of any member of the Board and appoint a person to act temporarily as a member of the Board during the absence of any member through illness or any cause which in the opinion of the Governor renders such temporary appointment necessary.

Duties of Board.

(5.) It shall be the duty of the Board—

(a.) to make careful inquiry as to whether any persons detained in any reformatory prison are sufficiently reformed to be released on probation or whether there are any good and sufficient reasons for the release on probation of any persons so detained;

(b) to consult with the Comptroller General and to make careful inquiry as to whether pursuant to this Part any person should be transferred from a prison to a reformatory prison and to report to the Comptroller General on the behaviour of persons so transferred and to make recommendations regarding them.

(c) to make recommendations to the Comptroller General as to the release on probation of any person detained in a reformatory prison, or as to any such transfer, setting forth in each case the reasons for the recommendation;

(d.) in making any recommendation as to such release, to have regard to the safety of the public or of any individual or class of persons and the welfare of the person whom it is proposed to release;

(e) to report through the Comptroller General to the Governor as to any matters on which the Governor may desire a report;

(6) On or before the thirtieth day of September in each year the Board shall report through the Comptroller General to the Minister as to— Board to report to Minister.

(a) the operations of the Board up to the preceding thirtieth day of June;

(b) the number of persons detained, transferred, released on probation, or recommitted during the period covered by the report; and

(c) generally as to the operation and effect of this Part of this Act and the regulations, and such report shall be laid upon the Table of both Houses of Parliament.

(7.) The Board shall execute all such other powers and duties as may be conferred on it by any Act. General powers and duties.

64F. (1.) Every person detained in a reformatory prison shall, subject to the regulations, work at some trade or vocation or be employed in some labour. Persons detained to be required to work.

(2.) Any such person may be required to work outside the prison, as may be prescribed by regulation, and shall, whilst outside such prison for the purpose of so working or of going to or coming from such work, be deemed in the lawful custody of the Superintendent, and, subject to any regulations made under this Part, shall be subject to the same liabilities and obligations and governed by the same laws and rules as if he were within the prison.

(3.) The products of his work shall be sold or otherwise disposed of. Products of work.

Disposal of net proceeds and of wages.

(4.) Of the net proceeds arising from the sale or disposal of the products of his work such portion as may be prescribed shall be credited to him; or such portion as may be prescribed of the wages earned by him according to the scale prescribed for the class of labour in which he is employed shall be credited to him.

(5.) The manner of dealing with the remainder of such net proceeds or wages shall be as prescribed; and such amounts thereof as may be prescribed shall, in the discretion of the Minister, be applied from time to time towards the maintenance during the period of his detention of his wife and family (if any) or of any person dependent upon him.

Account to be kept.

Balance to be handed over to Board.

(6.) An account of the same shall be kept in each reformatory prison and any sum standing to his credit on his release on probation shall be handed over to the Minister, who shall disburse it in such manner as the Board considers conducive to his welfare; but if during his period of probation he is sentenced to imprisonment he shall, if the Minister so directs, forfeit the said sum or so much thereof as is in the hands of the Minister (as the case may be), and the same shall be paid into the Consolidated Revenue.

Release on probation and re-committal.

64g. (1.) The Governor shall not direct the release on probation of any person undergoing an indeterminate sentence or otherwise detained in a reformatory prison until after he has received through the Comptroller General a report on the case from the Indeterminate Sentences Board.

(2.) The provisions of the Criminal Code relating to the release on probation of persons undergoing indeterminate sentences and the recommitment of such persons after release shall, subject to this Part of this Act, apply to any person transferred to and being in a reformatory prison under this Act as if such person were serving an indeterminate sentence: Provided that the period of probation shall not exceed the period for which such person might lawfully be detained in the reformatory prison, and that if no order of recommitment be made against him during the period of probation he shall be discharged from his detention, but if so recommitted shall, subject to this Part, be liable to be detained until the expiry of his original term of detention.

64H. (1.) The Indeterminate Sentences Board by order in writing signed by any two members thereof, and with the concurrence of the Comptroller General, may permit any person detained in a reformatory prison who is in the highest class but has not been released on probation to leave the prison temporarily in order to test the reform of such person.

Power to permit person detained in reformatory prison to leave the prison temporarily.

(2.) Such leave shall be for the term and subject to the conditions specified in the order.

(3.) Any person so permitted to leave a reformatory prison temporarily—

(a) shall be deemed to continue in the legal custody of the superintendent of the prison; and

(b) may at any time during such leave or after the expiration thereof (if he has not returned to the reformatory prison) on an order in writing of the Board signed by any two members thereof be arrested without warrant by any warder of the prison or any member of the police force and by him returned to the prison.

64I. (1.) Where a person detained in a reformatory prison is sentenced to a term of imprisonment in a prison, such person on the expiry of such term of imprisonment—

Person in reformatory prison sent to gaol by visiting justice to be returned to reformatory prison on expiry of sentence.

(a) shall be removed to a reformatory prison; and

(b) shall continue to be detained in a reformatory prison pursuant to the sentence or order by which he had previously been detained therein.

(2.) Any visiting justice may issue any warrant necessary for the purposes of this section.

64J. (1.) The Indeterminate Sentences Board may, by order in writing signed by any two members thereof, and with the concurrence of the Comptroller General, direct that any person detained in any reformatory prison or part thereof may be transferred therefrom to any other reformatory prison or part thereof.

Transfers from one reformatory prison to another.

(2.) Where any such order is made no authority other than such order or a copy thereof purporting to be signed and certified as a true copy by the officer to whose custody the original, is intrusted shall be necessary to warrant such transfer or the detention of such person.

(3.) Any person transferred as aforesaid shall be subject to the regulations applying to the reformatory prison to which he is so transferred.

Provision to permitting prisoners to leave reformatory prisons for certain purposes.

64κ. (1.) If the Indeterminate Sentences Board reports that it is desirable that any person detained in a reformatory prison should be permitted to leave such prison temporarily—

- (a) for the purpose of being treated at any hospital;
or
- (b) for the purpose of visiting a relative believed to be dying; or
- (c) for any other reason which appears to the Board to be sufficient,

the Comptroller General may by writing under his hand make an order that such person may, subject to any conditions set forth in the order, be permitted to leave the prison for the purpose and for the period specified in the order.

Custody during absence.

(2.) The Comptroller General may in the order direct that such person shall during the said period be in the custody of any member of the police force, gaoler, or officer named in the order, who shall in due course return him into the custody from which he was removed pursuant to the order; and until such return he shall be deemed to be in the legal custody of the member of the police force, gaoler, or officer named in the order and acting thereunder.

(3.) If in any case the Comptroller General is of opinion that it is impracticable to require such person to be in the custody of any member of the police force, gaoler, or officer during the period of such absence from the prison, the Comptroller General may make the order without naming any police constable, gaoler, or officer therein; and in every such case such person shall be deemed to be in the legal custody of the superintendent of the prison.

Penalties.

(4.) Any person permitted to leave a reformatory prison under this section who—

- (a) escapes or attempts to escape from the custody of any police constable, gaoler, or officer;
- (b) does not return to the said prison immediately on the expiration of the period mentioned in the order; or
- (c) is guilty of a breach of any of the conditions of the order,

may, without any warrant other than this Act, be arrested by any member of the police force or by any person thereto authorised in writing by the Comptroller General and be returned to the reformatory prison; and shall, within the meaning of section fifty-nine of this Act, be deemed to have escaped or attempted to escape from custody and shall be liable to be imprisoned accordingly; and after the expiration of any such term of imprisonment (if any) shall, subject to this Part of this Act, be returned to and continue to be detained in the reformatory prison under the sentence or order by which he had previously been detained therein; or if no such term of imprisonment is imposed he shall be returned to the reformatory prison and continue to be detained as aforesaid; and any warrant necessary for the purposes of this section may be issued accordingly.

64L. (1.) This Part of this Act shall apply to persons undergoing preventive detention immediately prior to the commencement thereof.

Application to persons heretofore sentenced.

(2.) Any such person shall be placed in such class or position as the Indeterminate Sentences Board shall decide.

64M. The Governor may make regulations not inconsistent with this Part—

Power of Governor to make regulations.

- (a) for the conduct, management, control, inspection and supervision of reformatory prisons generally or of any reformatory prison or part thereof set apart for habitual criminals or persons of any prescribed class;
- (b) for the good order, discipline, employment, and health of persons detained therein, and for the classification of such persons and their promotion from class to class;
- (c) prescribing the trades, vocations, or classes of work at which persons detained therein are to be employed;
- (d) prescribing the mode of sale and disposal of the products of the work of persons so detained;
- (e) prescribing the disposal of the proceeds of such sale;

- (f) prescribing scale of wages for the several classes of labour in which persons so detained may be employed; and the disposal of such wages;
- (g) prescribing the punishments which may be imposed by a visitor (being a justice) for any breach of prison discipline or idleness or misconduct on the part of any person so detained, and empowering such visitor to direct the deduction of the amount of any fine from any sum at any time standing to the credit of such person in the account kept under Section 64f, and enacting that any punishment so prescribed shall be in addition or as an alternative to or in substitution for any other punishment which a visitor or a magistrate or two justices may be empowered to inflict under this Act;
- (h) classifying the persons who are detained under the provisions of this Act, or the Criminal Code, in a reformatory prison, or who are liable to be so detained.
- (i) prescribing such matters incidental to the appointment, resignation, and removal of members of the Indeterminate Sentences Board and to the performance of the duties of the Board and the regulation of its proceedings as may be necessary or convenient;
- (j) prescribing forms to be used under this Part; and
- (k) prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Part.

Application of other parts of this Act to reformatory prisons.

64N. The other parts of this Act, including any regulations made under any such part shall apply (so far as applicable) to reformatory prisons and to the persons detained therein as if such persons were under sentence of imprisonment for a term after conviction for an offence, subject, however, to the provisions of this Part and any regulations made under this Part.

Insertion of new section between Sections 72 and 73.

4. The following section is hereby inserted between sections seventy-two and seventy-three of the principal Act:—

Persons in custody required to attend on criminal appeal, etc.

72A. (1.) When it is necessary to bring a convicted appellant or other person who is in custody in any prison to any place at which he is entitled to be present for the

purpose of Chapter sixty-nine of the Criminal Code, or to any place to which the Court of Criminal Appeal or any Judge thereof may have ordered him to be taken for the purpose of any proceedings of that Court, or rendered necessary by or in consequence of any order of that Court, the Comptroller General or the Registrar of the Supreme Court, or any Justice of the Peace, may by order in writing direct the gaoler to bring up such appellant or person to such place as aforesaid, and the gaoler shall obey such order and bring up or cause to be brought up such appellant or person accordingly to such place, there to be dealt with according to law.

(2.) The gaoler may charge any warder, police constable, or other officer with the execution of such order.

(3.) Every appellant or person brought up under any order issued under this section shall, whilst he is absent from the prison for the purpose aforesaid, be kept in the custody of the police officer, warder, gaoler, or other officer acting under or in execution of such order, who shall in due course, subject to any lawful order to the contrary, return the prisoner to the custody from which he shall have so been brought up.

(4.) If the proceeding which such appellant or person is required to attend is adjourned, the appellant or person may during the adjournment be returned to the prison or kept at any place in the custody of the officer acting under or in execution of the order, and may be brought up from day to day and time to time to the place at which his attendance is required as often as necessary.

5. Section seventy-three of the principal Act is hereby amended by the insertion of the words "or seventy-two A" between the words "seventy-two" and "shall."

Amendment of
Section 73.

6. All copies of the principal Act hereafter printed by the Government Printer shall be printed as altered by the existing amendments thereof, including this Act, under the supervision of the Clerk of Parliaments, and all necessary references to the amending Acts shall be made in the margin. In any such reprint the short title shall be altered to the *Prisons Act, 1903-1918*, by which title the principal Act and the said amendments may be cited together.

Citation and
reprint of
principal Act
and amend-
ments.