



Western Australia.

ANNO PRIMO ET SECUNDO

EDWARDI VII. REGIS.

No. III.

AN ACT to provide for the establishing of Lock-ups as Police Gaols, and to amend the law relating to Gaols, Prisons, and Houses of Correction.

[Assented to, 19th February, 1902.]

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:—

1. THIS Act may be cited as the Gaols Acts Amendment Act, 1902, and shall be read and construed as one with Acts 12 Victoriae, No. 7, 21 Victoriae, No. 12, and 58 Victoriae, No. 10.

Short title and incorporation of 12 Vict., No. 7, 21 Vict., No. 12, and 58 Vict., No. 10.

2. THE Governor may, by notice in the *Government Gazette*, declare any lock-up, or place used for the reception or detention of accused persons before trial, to be a police gaol, and thereupon such lock-up or place shall be a police gaol within the meaning of this Act.

Lock-ups may be proclaimed as police gaols.

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Gaols Act—Amendment.

Court may commit to police gaols for terms not exceeding three calendar months instead of to public gaols, etc.

3. (1.) ANY Court or person having jurisdiction to commit any person to gaol or prison or to a house of correction for imprisonment with or without hard labour may, subject to the next subsection, commit such person to and direct his sentence to be served in a police gaol.

(2.) No person shall be committed to a police gaol whose sentence exceeds three months.

(3.) This section shall apply to any person committed for contempt of Court should the Court so direct.

Sheriff to have control of persons committed to police gaols.

4. IN relation to all persons imprisoned in a police gaol under the last preceding section, such police gaol shall for all purposes be deemed a public gaol or prison, and the Sheriff shall, subject to the control of the Governor, have the charge, care, and direction of all such persons.

Reference to section 2 of Act of 1894.

5. IN section two of the Colonial Prisoners Removal Act, 1894, the word "gaol" shall include a police gaol.

Keepers of police gaols to be appointed and to retain office in the same manner and on same conditions as keepers of public gaols.

6. (1.) KEEPERS of police gaols and their assistants, and all other persons required and employed for the safety and care of such gaols, shall be nominated and appointed in accordance with section three of 12 Victoriae, No. 7, and shall hold and retain their respective offices on conditions similar to those on which keepers of public gaols and their assistants, and other persons employed therein, hold and retain office, and shall enjoy the same privileges, immunities, perform the same duties, and exercise the same powers in relation to persons imprisoned as aforesaid in police gaols.

(2.) Any keeper, assistant, or other person appointed under this section may, in addition to his duties as such, be a keeper of or an assistant or person employed in a lock-up.

Sheriff to be deemed keeper of police gaols for purposes of *habeas corpus* during vacancies in office of such keeper.

7. UNTIL the appointment of a keeper of any police gaol, and during any vacancy in the office, the Sheriff shall be deemed to be the keeper of such police gaol for the purposes of any application for a writ of *habeas corpus* or other proceedings to obtain the discharge from custody of any person committed to or imprisoned in any police gaol under section three.

Police gaols still to remain lock-ups.

8. NOTWITHSTANDING that any lock-up or place as aforesaid is declared a police gaol, the same shall continue to be and to be used as a lock-up for any purpose for which the same might have been or was used before such declaration; and in relation to all accused persons from time to time in custody therein awaiting trial, the same shall for all purposes be deemed a lock-up only.

Gaols Act—Amendment.

9. (1.) THIS Act shall not affect the immediate control of the Commissioner of Police over lock-ups which are declared to be police gaols, and over the management of the same and the officers employed thereat, so far as such control and management and officers relate to accused persons before trial, and the use and management of the police gaol as a lock-up.

Commissioner of Police to retain immediate control of lock-ups.

(2.) Any question arising out of any conflict or apparent conflict of the respective powers and authorities of the Sheriff and the Commissioner of Police in relation to any lock-up or police gaol, or in relation to any person employed thereat or confined therein, shall be decided by the Colonial Secretary.

Any question between Sheriff and Commissioner to be decided by Colonial Secretary.

10. (1.) EVERY period of time during which a prisoner shall be away from lawful custody and restraint, without lawful permission or excuse, shall be included in computing the unexpired amount of such prisoner's sentence, and every such prisoner shall serve the full term of his sentence as if such periods of time had been originally added to and formed part of his sentence.

Time during every period which prisoners unlawfully at large to be excluded in computing sentences.

(2.) Except as aforesaid, this section shall not affect such prisoners liable to be punished by further imprisonment or otherwise, for breaking gaol or otherwise being away from lawful custody.

11. (1.) ALL laws and regulations affecting the discipline and conduct of persons sentenced to penal servitude or imprisonment, and all penalties for breaches of or offences against such laws and regulations, shall bind and affect such persons until *de facto* released from custody.

Prisoners sentenced within gaols for breaches of prison regulations to undergo punishment so ordered notwithstanding expiry of original sentence.

(2.) Any person who, before being actually released as aforesaid, does any act or thing which would, if committed by a prisoner whose sentence was unexpired, render such prisoner liable to any punishment whatsoever, under any such law or regulation, shall be liable to receive and undergo within the gaol, prison, police gaol, or house of correction in which such person is incarcerated, the same punishment as if his sentence or sentences had remained unexpired at the time he did such act or thing.

(3.) A prisoner who is charged with any breach of or offence against any such law or regulation, and whose sentence expires within ten days of such charge and before the same can be heard, shall continue in custody until the same has been heard and the punishment awarded (if any) undergone.

(4.) A prisoner who is sentenced to or undergoing any punishment for a breach of any such law or regulation at the time the sentence on which he was incarcerated expires shall nevertheless undergo or complete such punishment as the case may be.

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Goals Act—Amendment.

(5.) A prisoner within the operation of this section shall, until entitled to be released, be treated as if his original term of imprisonment were unexpired.

Guard, etc., may fire on prisoner in certain cases.

12. ANY guard, gaoler, warder, police officer, constable, or other person lawfully charged with the custody of any prisoner under sentence of death or penal servitude or imprisonment for any term, may fire upon any such prisoner while attempting to escape from any prison or from any road-party or other place of work, or while attempting to assault any guard, gaoler, warder, police officer, police constable, or other person aforesaid, or any other prisoner: Provided that such firing shall appear to be necessary to prevent the escape of such prisoner, or, as the case may be, that the assault committed or attempted by such prisoner was of a character apparently dangerous to the life or likely to cause bodily harm to the person assaulted or threatened.

Regulations to include superintendent of prisons.

13. IN any regulation made or to be made under the Ordinance 12 Victoriae, No. 7, or any Act or Ordinance amending the same, where the term gaoler is used, such term shall be read, unless the context forbids, as including the superintendent of any gaol, prison, or house of correction.

Debtors may be committed to police gaol.

14. COMMITMENTS under the provisions of the Debtors Act, 1871, may be made to any public gaol, prison, or house of correction, or police gaol, and the powers conferred upon the Governor to remove prisoners from any gaol, prison, house of correction, or police gaol may be exercised in relation to persons committed under the said Act.

Prisoner charged with any other offence may be brought up on order.

15. ANY prisoner charged with any offence not being the offence for which he is then in custody may, upon an order made by the Judge of the Court or the Justice or Justices before whom such charge is to be tried or heard, be brought up to answer such charge without a writ of *habeas corpus*.

Person in custody required to give evidence may be brought up on order.

16. WHEN any person is detained in any gaol under sentence or awaiting trial, or on remand for any offence, or for any other lawful cause, and an inquiry, inquest, or inquisition is pending before a coroner at which it is deemed necessary that such person should be present, the coroner or deputy coroner before whom such inquiry, inquest, or inquisition is to be held may issue an order directing the attendance of such person at a time and place to be mentioned in the order.

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17. EVERY person brought up under any order issued under either of the two preceding sections shall be deemed to be in the legal custody of the police constable, gaoler, or the officer having the temporary custody of such person and acting under such order, who shall in due course return the person into the custody from which the person shall have been so brought up.

Persons brought up
as aforesaid to be
returned to custody.

In the name and on behalf of the King I hereby assent
to this Act.

ARTHUR LAWLEY, Governor.