

Western Australia

**Prisons and Sentencing Legislation Amendment  
Act 2006**

---

As at 08 Dec 2006

No. 65 of 2006

Extract from [www.slp.wa.gov.au](http://www.slp.wa.gov.au), see that website for further information



# Prisons and Sentencing Legislation Amendment Act 2006

---

## CONTENTS

---

### **Part 1 — Preliminary**

- |    |              |   |
|----|--------------|---|
| 1. | Short title  | 3 |
| 2. | Commencement | 3 |

### **Part 2 — *Prisons Act 1981* amended**

- |     |   |    |
|-----|---|----|
| 3.  | The Act amended in this Part  | 4  |
| 4.  | Section 3 amended   | 4  |
| 5.  | Section 5 amended   | 5  |
| 6.  | Section 6 amended   | 6  |
| 7.  | Section 7 amended   | 6  |
| 8.  | Section 8 replaced  | 6  |
|     | 8. Delegation by chief executive officer                                    | 6  |
| 9.  | Section 12 amended  | 7  |
| 10. | Section 13 amended  | 8  |
| 11. | Section 14 amended  | 8  |
| 12. | Section 15DA inserted   | 9  |
|     | 15DA. Penalty for breach  | 9  |
| 13. | Sections 21 and 22 repealed   | 9  |
| 14. | Sections 23, 24 and 25 replaced   | 9  |
|     | 23. Prisoner assigned to external facility in lawful custody                | 9  |
|     | 24. Prisoner absent under permit in lawful custody                          | 10 |
|     | 25. Prisoner attending legal or investigative proceedings in lawful custody | 10 |
| 15. | Sections 27 and 28 repealed   | 10 |

Contents

---

16.	Section 35 amended	10
17.	Sections 38, 39 and 40 repealed	10
18.	Section 45 repealed	11
19.	Section 51 amended	11
20.	Section 53 repealed	11
21.	Section 67 amended	11
22.	Section 67A inserted	11
	67A. Prisoner's mail not to be sent to certain persons	12
23.	Section 69 amended	12
24.	Section 70 amended	13
25.	Section 74 amended	13
26.	Section 74A inserted	13
	74A. Charges may be heard and determined by video link	13
27.	Section 79 amended	14
28.	Section 80 amended	14
29.	Section 83 replaced by sections 83, 83A and 83B	15
	83. Permits to be absent from prison	15
	83A. Effect of permit	17
	83B. Revocation or cancellation of permit	17
30.	Section 84 amended	17
31.	Sections 85 to 94 replaced by sections 85, 86, 87 and 88	17
	85. Attendance of prisoner at legal or investigative proceedings	17
	86. Consequence of escape or of failure to comply with absence permit or order	18
	87. Regulations about absences from prison	19
	88. Interstate arrangements	20
32.	Part IX replaced	20
	<b>Part IX — Prisoner wellbeing and rehabilitation</b>	
	95. Preparation and implementation of activity programmes	21
	95A. Medical care of prisoners	22
	95B. Duties of medical officers	23
	95C. Health inspection of prisons	24
	95D. Power of medical examination and treatment	25
	95E. Practice of religion or spiritual beliefs by prisoners	25
33.	Section 107 amended	26
34.	Section 110 amended	26
35.	Sections 112 to 113C inserted	26

112.	Community safety information	26
113.	Exchange of information	27
113A.	Disclosure to external agencies	28
113B.	Disclosure to victims	29
113C.	Disclosure authorised	29

**Part 3 — *Sentence Administration Act 2003* amended**

36.	The Act amended in this Part	31
37.	Section 4 amended	31
38.	Section 92 amended	31
39.	Section 94 amended	32
40.	Sections 97A to 97E inserted	32
	97A. Community safety information	32
	97B. Exchange of information	32
	97C. Disclosure to external agencies	34
	97D. Disclosure to victims	34
	97E. Disclosure authorised	35
41.	Section 98A inserted	35
	98A. Duties of CCOs	36
42.	Section 119 amended	36
43.	References to supervisors amended	36

**Part 4 — *Sentencing Act 1995* amended**

44.	The Act amended in this Part	37
45.	Section 4 amended	37
46.	Section 22 amended	37
47.	Section 33N amended	38
48.	Section 148 amended	38
49.	References to “CEO” changed to “CEO (corrections)”	38

**Part 5 — *Bail Act 1982* amended**

50.	The Act amended in this Part	39
51.	Section 3 amended	39
52.	Section 66A amended	39
53.	References to “CEO (Justice)” changed to “CEO (corrections)”	40

**Part 6 — *Children’s Court of Western  
Australia Act 1988* amended**

54.	The Act amended in this Part	41
55.	Section 3 amended	41
56.	Section 28 amended	41
57.	Section 33 amended	42
58.	Section 40 amended	42

**Part 7 — *Criminal Law (Mentally  
Impaired Accused) Act 1996*  
amended**

59.	The Act amended in this Part	43
60.	Section 32 amended	43

**Part 8 — *Fines, Penalties and  
Infringement Notices  
Enforcement Act 1994* amended**

61.	The Act amended in this Part	44
62.	Section 3 amended	44
63.	Section 28 amended	44
64.	References to “CEO” changed to “CEO (corrections)”	44

**Part 9 — *Juries Act 1957* amended**

65.	The Act amended in this Part	45
66.	Second Schedule amended	45

**Part 10 — *Restraining Orders  
Act 1997* amended**

67.	The Act amended in this Part	46
68.	Section 70A amended	46

**Part 11 — *Spent Convictions Act 1988*  
amended**

69.	The Act amended in this Part	47
70.	Schedule 3 amended	47

**Part 12 — *Victims of Crime Act 1994*  
amended**

71.	The Act amended in this Part	48
72.	Section 4 amended	48
73.	Section 5 inserted	49
	5. Regulations	49

**Part 13 — *Young Offenders Act 1994*  
amended**

74.	The Act amended in this Part	50
75.	Section 12 amended	50
76.	Section 15A amended	51
77.	Section 16 replaced by sections 16 and 16A	52
	16. Exchange of information	52
	16A. Disclosure authorised	54
78.	Section 151 amended	54



Western Australia

## **Prisons and Sentencing Legislation Amendment Act 2006**

---

**No. 65 of 2006**

---

**An Act to amend the —**

- *Prisons Act 1981*;
- *Sentence Administration Act 2003*; and
- *Sentencing Act 1995*,

**and to make related and other amendments to the —**

- *Bail Act 1982*;
- *Children’s Court of Western Australia Act 1988*;
- *Criminal Law (Mentally Impaired Accused) Act 1996*;
- *Fines, Penalties and Infringement Notices Enforcement Act 1994*;
- *Juries Act 1957*;
- *Restraining Orders Act 1997*;
- *Spent Convictions Act 1988*;
- *Victims of Crime Act 1994*; and
- *Young Offenders Act 1994*.

[Assented to 8 December 2006]

**s. 1**

---

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This is the *Prisons and Sentencing Legislation Amendment Act 2006*.

### **2. Commencement**

- (1) This Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

## **Part 2 — Prisons Act 1981 amended**

### **3. The Act amended in this Part**

The amendments in this Part are to the *Prisons Act 1981*\*.

[\* *Reprint 4 as at 20 August 2004* .

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2005, Table 1, p. 359.]*

### **4. Section 3 amended**

(1) Section 3(1) is amended as follows:

- (a) by deleting the definition of “Executive Director (Corrective Services)”;
- (b) in paragraph (b) of the definition of “prison” by deleting “by proclamation”;
- (c) by inserting in the appropriate alphabetical positions —

“

“**absence permit**” has the meaning given to that term in section 83(2);

“**judicial body**” means a court, tribunal or other body or person that has judicial or quasi judicial functions or otherwise acts judicially, and includes —

- (a) a Royal Commission under the *Royal Commissions Act 1968*; and
- (b) the Corruption and Crime Commission established under the *Corruption and Crime Commission Act 2003*;

”.

- (2) Section 3(2) is amended in the Table as follows:
- (a) by deleting the items “s. 24”, “s. 25”, “s. 27(3)” and “s. 83(4) and (6)”;
  - (b) by deleting the item “s. 85(2)(a)” and inserting instead —  
“ s. 86(2)(a) ”.

**5. Section 5 amended**

- (1) Section 5(1) is amended as follows:
- (a) by deleting “The Governor may by proclamation —” and inserting instead —  
“ The Minister may, by order — ”;
  - (b) in paragraph (c) by deleting “proclamation” in both places where it occurs and inserting instead —  
“ order ”.
- (2) Section 5(2) is repealed and the following subsections are inserted instead —
- “
- (2) A building, enclosure or place that was a prison immediately before the coming into operation of section 5 of the *Prisons and Sentencing Legislation Amendment Act 2006* continues as a prison as if the Minister had made an order under subsection (1) declaring it to be a prison.
  - (3) The Minister may, by order, amend or revoke —
    - (a) an order under subsection (1); or
    - (b) a proclamation under subsection (1) as enacted before the coming into operation of section 5 of the *Prisons and Sentencing Legislation Amendment Act 2006*.

**s. 6**

---

- (4) An order under this section does not have effect until it is published in the *Gazette*, and may be expressed to have effect from a time that is after its publication in the *Gazette*.

”.

**6. Section 6 amended**

Section 6(1) and (2) are repealed.

**7. Section 7 amended**

- (1) Section 7(1) is amended by inserting after “welfare” —  
“ and safe custody ”.

- (2) After section 7(2) the following subsection is inserted —

“

- (2a) The chief executive officer may —

- (a) consult and collaborate with; and  
(b) make use of the assistance of,

any individual or organisation in any way that the chief executive officer considers expedient for the purpose of the performance of functions under this Act.

”.

**8. Section 8 replaced**

Section 8 is repealed and the following section is inserted instead —

“

**8. Delegation by chief executive officer**

- (1) The chief executive officer may delegate to any person any power or duty of the chief executive officer under another provision of this Act other than section 9, 35, 104, 105 or 106.

- (2) The delegation must be in writing signed by the chief executive officer.
- (3) A person to whom a power or duty is delegated under this section cannot delegate the power or duty.
- (4) A person exercising or performing a power or duty that has been delegated under this section, is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Unless the contrary is shown, it is to be presumed that a document purporting to have been signed by a person as a delegate of the chief executive officer was signed by a person in the performance of a function that at the time was delegated to the person by the chief executive officer.
- (6) Nothing in this section limits the ability of the chief executive officer to perform a function through an officer or agent.

”.

**9. Section 12 amended**

Section 12 is amended as follows:

- (a) by deleting paragraph (a) and inserting instead —

“

- (a) shall comply with —
- (i) this Act and all regulations, rules and standing orders made under this Act; and
  - (ii) any other written law conferring functions on officers; and
  - (iii) the orders and directions of the chief executive officer;

and

”;

**s. 10**

---

- (b) in paragraph (b) by deleting “welfare of prisoners;” and inserting instead—  
“ welfare or safe custody of prisoners; and ”.

**10. Section 13 amended**

- (1) Section 13(2) is amended in paragraph (a) of the oath of engagement by deleting “Queen of Australia” and inserting instead —  
“ State ”.
- (2) Section 13(5) and (6) are repealed and the following subsections are inserted instead —

“

- (5) The delegation may expressly authorise the chief executive officer to further delegate a power.
- (6) The chief executive officer, in exercising a power that has been delegated under subsection (4), is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (7) Unless the contrary is shown, it is to be presumed that a document purporting to have been signed by the chief executive officer as a delegate of the Minister was signed by the chief executive officer in the exercise of a power that at the time was delegated to the chief executive officer by the Minister.
- (8) Nothing in this section limits the ability of the Minister to perform a function through an officer or agent.

”.

**11. Section 14 amended**

Section 14(1)(c) is amended by inserting after “placed” —

“

and the orders and directions of the chief executive officer

”.

**12. Section 15DA inserted**

After section 15D the following section is inserted —

“

**15DA. Penalty for breach**

- (1) A contract may provide for a party to the contract to be liable to pay an amount determined under the contract, by way of penalty, in respect of a breach of the contract.
- (2) The contract may provide for an increase in the amount of the penalty because of each day or part of a day during which a breach continues.
- (3) A penalty provided for in accordance with this section is recoverable even though no damage may have been suffered or the penalty may be unrelated to the extent of any damage suffered.

”.

**13. Sections 21 and 22 repealed**

Sections 21 and 22 are repealed.

**14. Sections 23, 24 and 25 replaced**

Sections 23 to 25 are repealed and the following sections are inserted instead —

“

**23. Prisoner assigned to external facility in lawful custody**

- (1) In this section —

**“external facility”** means a facility outside a prison that is used to confine prisoners to facilitate their being provided with opportunities for work or participation in programmes or activities.

- (2) A prisoner who is assigned to an external facility shall be deemed to be in lawful custody while confined in that external facility.

**24. Prisoner absent under permit in lawful custody**

A prisoner who is absent from a prison or other facility under an absence permit shall be deemed to be in lawful custody while absent as authorised by the permit.

**25. Prisoner attending legal or investigative proceedings in lawful custody**

A prisoner who is brought up or produced before a judicial body or to a place under an order lawfully made under this Act or any other Act or any Act of the Commonwealth shall be deemed to be in lawful custody while absent from prison for the purpose specified in the order.

”.

**15. Sections 27 and 28 repealed**

Sections 27 and 28 are repealed.

**16. Section 35 amended**

Section 35(1) is amended by deleting “on the recommendation of the Executive Director (Corrective Services) and”.

**17. Sections 38, 39 and 40 repealed**

Sections 38 to 40 are repealed.

**18. Section 45 repealed**

Section 45 is repealed.

**19. Section 51 amended**

Section 51(2) to (6) are repealed and the following subsections are inserted instead —

“

- (2) A prison officer to whom a power is delegated under this section cannot delegate the power.
- (3) A prison officer exercising a power that has been delegated under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (4) Nothing in this section limits the ability of the superintendent to perform a function through a subordinate or agent.

”.

**20. Section 53 repealed**

Section 53 is repealed.

**21. Section 67 amended**

Section 67(4) is amended by inserting after “subsections (2) and (3),” —

“ and section 67A, ”.

**22. Section 67A inserted**

After section 67 the following section is inserted —

“

**67A. Prisoner’s mail not to be sent to certain persons**

- (1) A person, or an agent of a person, may give the chief executive officer written notification —
  - (a) advising that the person does not wish to receive mail from a prisoner named in the notification; and
  - (b) specifying the person’s reasons for not wishing to receive that mail.
- (2) If the chief executive officer receives a notification under subsection (1) and is satisfied that the reasons put forward in it are appropriate, the chief executive officer is to ensure that the superintendent of the prison at which the prisoner is detained from time to time is made aware of the notification.
- (3) If a letter or parcel from a prisoner is addressed to a person and the superintendent is aware that a notification has been received under subsection (1) advising that the person does not wish to receive mail from that prisoner, the superintendent is to —
  - (a) return the letter or parcel to the prisoner; or
  - (b) otherwise deal with the letter or parcel in accordance with an order of the chief executive officer.
- (4) In this section —

**“person”** is not limited to a victim of the prisoner.

”.

**23. Section 69 amended**

Section 69 is amended as follows:

- (a) by deleting paragraph (j) and inserting instead —

“

- (j) fails to return to prison on or before the expiry of a period of absence authorised by an absence permit or fails to comply with a condition or restriction set out in an absence permit; or
- (k) fails to return to prison when no longer required for the purposes of the proceedings to which an order made under section 85 relates,

”.

(b) by inserting after each of paragraphs (a) to (h) —

“ or ”.

**24. Section 70 amended**

Section 70 is amended by deleting “27(5), 85(2), 92(2) or 94(6),”.

**25. Section 74 amended**

Section 74(1) is amended by inserting after “Act,” —

“ and in particular section 74A, ”.

**26. Section 74A inserted**

After section 74 the following section is inserted —

“

**74A. Charges may be heard and determined by video link**

(1) In this section —

“**hearing officer**” means a superintendent or a visiting justice;

“**video link**” means facilities (including closed circuit television) that enable, at the same time, a superintendent or visiting justice at one place to

**s. 27**

---

see and hear a person at another place and vice versa.

- (2) The hearing officer inquiring into, hearing and determining a charge of a prison offence may, on the hearing officer's own initiative or on an application by the prosecutor or the prisoner, direct that the prisoner and any witnesses appear by video link from a suitable place in this State.
- (3) A direction under subsection (2) is not to be made unless —
  - (a) the video link is available or can reasonably be made available; and
  - (b) the prisoner and the witnesses (if any) are available or can reasonably be made available to appear by video link; and
  - (c) in the opinion of the hearing officer, it is appropriate for the matter to be dealt with using video link.
- (4) The hearing and determining of a prison offence by video link is to be conducted as if the prisoner and any witnesses were present before the hearing officer in a suitable place.
- (5) More than one video link may be operated under this section at any one time.

”.

**27. Section 79 amended**

Section 79(1)(b) is amended by deleting “, 27(5), 70(c), 85(2), 92(2) or 94(6)” and inserting instead —

“ or 70(c) ”.

**28. Section 80 amended**

After section 80(1) the following subsection is inserted —

“

- (1a) If a punishment is imposed using a video link under section 74A and the punishment book is not available for immediate signing, the visiting justice shall sign and date a statement of the nature of the offence for which punishment has been imposed, the date of the offence, the name of the offender and the punishment imposed, and send it to the relevant superintendent for entry into the punishment book.

”.

**29. Section 83 replaced by sections 83, 83A and 83B**

Section 83 is repealed and the following sections are inserted instead —

“

**83. Permits to be absent from prison**

- (1) The objectives of this section are —
- (a) the rehabilitation of prisoners and the successful reintegration of prisoners into the community; and
  - (b) the compassionate or humane treatment of prisoners and their families; and
  - (c) the facilitation of the provision of medical or health services to prisoners; and
  - (d) the furthering of the interests of justice.
- (2) Subject to this section and the regulations, the chief executive officer may give written permission for a prisoner to be absent from a prison or other facility (an **“absence permit”**) —
- (a) for a period specified in the absence permit; and
  - (b) for a reason described in the absence permit; and

- (c) subject to any conditions or restrictions set out in the absence permit.
- (3) An absence permit may be given —
  - (a) for a purpose or in circumstances prescribed in the regulations; or
  - (b) to deal with circumstances that are, in the chief executive officer's opinion, exceptional,and not for any other reason.
- (4) One absence permit may be given in relation to —
  - (a) more than one prisoner;
  - (b) more than one period of absence.
- (5) The chief executive officer is not to give an absence permit unless the chief executive officer is satisfied that the absence will facilitate the achievement of one or more of the objectives of this section.
- (6) The chief executive officer is not to give an absence permit in relation to a prisoner for the purpose of the prisoner engaging in employment unless the chief executive officer is satisfied that suitable employment is available.
- (7) When considering —
  - (a) whether to give an absence permit; and
  - (b) the conditions or restrictions to which an absence permit is to be subject; and
  - (c) whether and what arrangements are to be made for the supervision of a prisoner in relation to whom an absence permit is to be given,the chief executive officer must take into account the safety and interests of the public.

**83A. Effect of permit**

An absence permit has effect despite the sentence, order or direction under which a prisoner was confined in prison.

**83B. Revocation or cancellation of permit**

The chief executive officer may at any time revoke, suspend or vary an absence permit whether or not a prisoner has failed to comply with a condition or restriction set out in the absence permit.

”.

**30. Section 84 amended**

Section 84 is amended by deleting “to whom a permit has been granted under section 83” and inserting instead —

“ in relation to whom an absence permit has been given ”.

**31. Sections 85 to 94 replaced by sections 85, 86, 87 and 88**

Sections 85 to 94 are repealed and the following sections are inserted instead —

“

**85. Attendance of prisoner at legal or investigative proceedings**

- (1) If a prisoner is required or entitled to be present at proceedings of a judicial body —
- (a) the judicial body or a person constituting it for the proceedings; or
  - (b) an officer of the judicial body authorised in accordance with its procedures; or
  - (c) a person authorised under the regulations,
- may, by written order, direct that the prisoner be brought up to the place named in the order.

- (2) If 2 or more people constitute the judicial body for the proceedings, subsection (1)(a) applies to each of them.
- (3) An absence permit is not required if an order has been made under this section.
- (4) In this section —  
**“proceedings”** of a judicial body includes anything done in the performance of the functions of the judicial body.

**86. Consequence of escape or of failure to comply with absence permit or order**

- (1) A prisoner in relation to whom an absence permit has been given who —
  - (a) being in the charge or under the supervision of an officer or other person, escapes or prepares or attempts to escape from that charge or supervision; or
  - (b) fails to return to prison on or before the expiry of a period of absence authorised by the absence permit; or
  - (c) fails to comply with a condition or restriction set out in the absence permit,may be dealt with under Part VII.
- (2) A prisoner in relation to whom an order has been made under section 85 who —
  - (a) escapes or prepares or attempts to escape from the charge of an officer; or
  - (b) fails to return to prison when no longer required for the purposes of the proceedings to which the order relates,

may be dealt with under Part VII.

**87. Regulations about absences from prison**

Without limiting section 110, the regulations may deal with absences from prison generally and, in particular, may —

- (a) provide for purposes for which or circumstances in which absence permits may be given and circumstances or cases in which absence permits are not to be given; and
  - (b) impose restrictions on the giving of absence permits —
    - (i) for prescribed purposes or in prescribed circumstances; or
    - (ii) in relation to prisoners of prescribed classes;
- and
- (c) regulate the duration of the periods for which absence permits may be given; and
  - (d) provide for circumstances in which and the extent to which financial contributions, payments or commitments may be required to be made by or on behalf of a prisoner in relation to whom an absence permit is given; and
  - (e) regulate the conduct, escorting, supervision, apprehension and return to custody of prisoners in relation to whom absence permits are given; and
  - (f) deal with the consequences that being charged or convicted of a prison offence has for a prisoner in relation to whom an absence permit is given; and
  - (g) provide for procedures to be implemented and precautions to be taken to ensure security in the

case of prisoners released for medical treatment; and

- (h) provide for and authorise the execution of orders made under section 85 and regulate the conduct, conveyance, escorting, supervision, confinement, apprehension and return to custody of prisoners brought up under them.

**88. Interstate arrangements**

Without limiting section 87 or 110, the regulations may —

- (a) declare a law of another State or a Territory to be a corresponding law for the purposes of the regulations; and
- (b) provide for circumstances in which an absence permit may be given permitting the prisoner to travel to and be in another State or a Territory in which a corresponding law is in force; and
- (c) regulate the conduct, escorting, supervision, apprehension and return to custody of persons subject to detention under the law of another State or a Territory who have been given leave or permission to be absent under a corresponding law and are in this State.

”.

**32. Part IX replaced**

Part IX is repealed and the following Part is inserted instead —

“

## **Part IX — Prisoner wellbeing and rehabilitation**

### **95. Preparation and implementation of activity programmes**

- (1) Without limiting the responsibility of the chief executive officer for the welfare of prisoners conferred by section 7(1), the chief executive officer may arrange for the provision of services and programmes for the wellbeing and rehabilitation of prisoners.
- (2) In particular, services and programmes may be designed and instituted with the intention of —
  - (a) promoting the health and wellbeing of prisoners; and
  - (b) enabling prisoners to acquire knowledge and skills that will assist them to adopt law abiding lifestyles on release; and
  - (c) assisting prisoners to integrate within the community on release; and
  - (d) maintaining and strengthening supportive family, community and cultural relationships for prisoners; and
  - (e) providing counselling services and other assistance to prisoners and their families in relation to personal and social matters and problems; and
  - (f) providing opportunities for prisoners to utilise their time in prison in a constructive and beneficial manner by means of educational and occupational training programmes and other means of self improvement; and
  - (g) providing opportunities for work, leisure activities, and recreation; and

- (h) assisting prisoners to make reparation for the offences they have committed.
- (3) Subject to subsection (4) a prisoner cannot be compelled to use or participate in services or programmes provided under this section.
- (4) As long as a prisoner is medically fit the prisoner may be required to work.
- (5) The chief executive officer is to ensure that, in the provision of services and programmes under this section, the needs of female prisoners and prisoners who are Aboriginal people or Torres Strait Islanders are addressed.
- (6) Services and programmes under this section may be provided inside or outside a prison.
- (7) A prisoner may be confined in a facility outside a prison to facilitate the prisoner being provided with opportunities for work or participation in services or programmes under this section.
- (8) This section does not authorise a prisoner to be absent from a prison, or facility referred to in subsection (7), without an absence permit.

**95A. Medical care of prisoners**

- (1) The chief executive officer is to ensure that medical care and treatment is provided to the prisoners in each prison.
- (2) Subject to subsection (3), a prisoner may be attended upon and examined by a medical practitioner other than a medical officer only with the prior approval of the superintendent or a medical officer and with the prior approval also of the chief executive officer and for the purpose of providing to a medical officer an

opinion on the medical condition of and the treatment recommended for the prisoner.

- (3) The superintendent may, after consultation with the medical officer who is responsible for the medical care and treatment of the prisoner concerned, permit the prisoner to be attended upon and examined by a medical practitioner —
- (a) for official purposes affecting that prisoner; or
  - (b) for the purposes of the proceedings or pending proceedings of a judicial body; or
  - (c) to facilitate the consideration or pursuance of any claim for compensation, damages, insurance, or other benefit by or in respect of the prisoner; or
  - (d) for any other purpose or proceeding which the superintendent and the chief executive officer are satisfied is bona fide and necessary or desirable.

**95B. Duties of medical officers**

A medical officer shall —

- (a) attend at a prison at such times and on such occasions as are specified in the terms of the medical officer's appointment or engagement; and
- (b) on the request of the chief executive officer, examine a prisoner as soon as practicable after the prisoner's admission to prison and ascertain and record the prisoner's state of health and any other circumstance connected with the prisoner's health, as the medical officer considers necessary; and
- (c) maintain a record of the medical condition and the course of treatment prescribed in respect of

- each prisoner under the medical officer's care;  
and
- (d) make such returns and reports to the chief executive officer as the chief executive officer may from time to time direct; and
  - (e) make records referred to in paragraphs (b) and (c) relating to a prisoner available, upon request, to the chief executive officer; and
  - (f) on the request of the chief executive officer, give close medical supervision to a prisoner in separate confinement; and
  - (g) on the request of the chief executive officer, examine and treat a prisoner who requires medical care and treatment; and
  - (h) on the request of the chief executive officer or a superintendent, examine a prisoner.

**95C. Health inspection of prisons**

- (1) In this section —  
“**ED, PH**” means the Executive Director, Public Health of the department principally assisting the Minister administering the *Health Act 1911*.
- (2) The ED, PH is to cause the health and hygiene standards and conditions at every prison to be inspected from time to time.
- (3) Following the inspection of a prison under subsection (2) the ED, PH is to report in writing to the chief executive officer any matter concerned with health and hygiene standards and conditions at the prison which, in the opinion of the ED, PH, requires attention.

**95D. Power of medical examination and treatment**

If a prisoner —

- (a) refuses to undergo a medical examination by a medical officer upon admission to a prison; or
- (b) refuses to undergo a medical examination by a medical officer required by the chief executive officer or the superintendent; or
- (c) refuses to undergo a medical examination which a medical officer considers necessary; or
- (d) refuses to undergo medical treatment and a medical officer is of the opinion that the life or health of the prisoner or any other person is likely to be endangered by that refusal,

the medical officer and any person acting in good faith may, under the direction of the medical officer, make the medical examination or administer the medical treatment and use force to the extent that is reasonably necessary for the purpose.

**95E. Practice of religion or spiritual beliefs by prisoners**

Subject only to any restrictions that the chief executive officer imposes for the security, good order and management of the prison and the prisoners, a prisoner may —

- (a) engage in practices in observance of the prisoner's religious or spiritual beliefs; and
- (b) receive religious or spiritual guidance and visits for that purpose from a person approved by the chief executive officer being a recognised religious or spiritual adviser or other responsible person with similar religious or spiritual beliefs to those of the prisoner.

”.

**s. 33**

---

**33. Section 107 amended**

- (1) Section 107(1)(a) is amended by deleting “Governor” and inserting instead —
- “ Minister ”.
- (2) After section 107(3) the following subsection is inserted —
- “
- (4) The person who was the chairman of the Appeal Tribunal immediately before the coming into operation of section 33 of the *Prisons and Sentencing Legislation Amendment Act 2006* continues in office as if the person had been appointed by the Minister.

”.

**34. Section 110 amended**

Section 110(1) is amended as follows:

- (a) by deleting paragraph (t);
- (b) by inserting after each of paragraphs (a) to (sa), (u) and (v) —
- “ and ”.

**35. Sections 112 to 113C inserted**

After section 111 the following sections are inserted —

“

**112. Community safety information**

The chief executive officer may disclose to the public information about a person who is a prisoner or has escaped from lawful custody if the chief executive officer is of the opinion that it is necessary to do so for the safety of the community.

**113. Exchange of information**

(1) In this section —

“**contractor**” has the meaning given to that term in section 3 of the *Court Security and Custodial Services Act 1999*;

“**public authority**” means —

- (a) a department of the Public Service; or
- (b) a State agency or instrumentality; or
- (c) a court or tribunal to the extent that it is an agency for the purposes of the *Freedom of Information Act 1992*; or
- (d) a body, whether corporate or unincorporate, or the holder of an office, post or position, established or continued for a public purpose under a written law;

“**relevant information**” means information that, in the opinion of the chief executive officer, is, or is likely to be, relevant to —

- (a) the management of a prisoner; or
- (b) the performance of a function under this Act or the *Bail Act 1982*;

“**research**” means research to promote the development of criminology or corrective services;

“**service provider**” means —

- (a) an individual or organisation mentioned in section 7(2a); or
- (b) an individual or organisation involved in providing support services to a prisoner or the family of a prisoner.

(2) The chief executive officer may disclose relevant information to a public authority, service provider or contractor.

- (3) The chief executive officer may request a public authority, service provider or contractor that holds relevant information to disclose the information to the chief executive officer.
- (4) A request under subsection (3) —
  - (a) may relate to particular information or information of a particular kind; and
  - (b) may relate to information that may be held from time to time.
- (5) A public authority, service provider or contractor may disclose information in compliance with a request under subsection (3).
- (6) The chief executive officer may disclose information regarding prisoners or persons who have been prisoners to a public authority or other body for use in research.
- (7) A public authority, service provider, contractor or other body may disclose information regarding prisoners or persons who have been prisoners to the chief executive officer for use in research.
- (8) The chief executive officer must establish procedures for the disclosure of information under subsection (2) or (6).
- (9) The regulations may include provisions about —
  - (a) the receipt and storage of information disclosed under this section; and
  - (b) the restriction of access to such information.

**113A. Disclosure to external agencies**

- (1) The Minister may, from time to time, approve circumstances in which, or purposes for which, information relating to a prisoner or a person who has

been a prisoner may be disclosed by the chief executive officer to a person or class of persons in another Commonwealth, State, Territory or overseas government department or agency.

- (2) The chief executive officer may disclose information as approved under subsection (1).

**113B. Disclosure to victims**

- (1) In this section —  
“**victim**” of a prisoner means —
  - (a) a person who has suffered injury, loss or damage as a direct result of an offence for which the prisoner is in custody, whether or not that injury, loss or damage was reasonably foreseeable by the prisoner; or
  - (b) where an offence for which the prisoner is in custody resulted in a death, any member of the immediate family of the deceased.
- (2) The chief executive officer may disclose information of a prescribed kind regarding a prisoner to a victim of the prisoner or a person acting on a victim’s behalf.

**113C. Disclosure authorised**

- (1) Information may be disclosed under section 112, 113, 113A or 113B despite any written law relating to confidentiality or secrecy.
- (2) If information is disclosed, in good faith, under section 112, 113, 113A or 113B —
  - (a) no civil or criminal liability is incurred in respect of the disclosure; and
  - (b) the disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and

- (c) the disclosure is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.

”.

---

**Part 3 — *Sentence Administration Act 2003* amended**

**36. The Act amended in this Part**

The amendments in this Part are to the *Sentence Administration Act 2003*\*.

[\* *Act No. 49 of 2003.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2005, Table 1, p. 409-10.]*

**37. Section 4 amended**

(1) Section 4(2) is amended as follows:

- (a) by deleting the definition of “department”;
- (b) by inserting in the appropriate alphabetical position —

“

“**CEO**” means the chief executive officer of the Public  
Sector agency principally assisting the Minister  
administering Part 8 in its administration;

”.

(2) Section 4(3) is amended by deleting the abbreviation “CEO”.

**38. Section 92 amended**

Section 92 is amended as follows:

- (a) by deleting “department prepared” and inserting  
instead —

“

Public Sector agency of which the CEO is the chief  
executive officer prepared

”;

- (b) by deleting “department under” and inserting instead —  
“ agency under ”.

**39.        Section 94 amended**

After section 94(4) the following subsection is inserted —

“

(5) The CEO may —

- (a) consult and collaborate with; and
- (b) make use of the assistance of,

any individual or organisation in any way that the CEO considers expedient for the purpose of the performance of a function under this Act, the *Sentencing Act 1995*, the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, or the *Bail Act 1982*.

”.

**40.        Sections 97A to 97E inserted**

After section 97 the following sections are inserted in Part 8 Division 1 —

“

**97A.      Community safety information**

The CEO may disclose information about an offender to the public if the CEO is of the opinion that it is necessary to do so for the safety of the community.

**97B.      Exchange of information**

(1) In this section —

“**contractor**” has the meaning given to that term in section 3 of the *Court Security and Custodial Services Act 1999*;

“**public authority**” means —

- (a) a department of the Public Service; or
- (b) a State agency or instrumentality; or

- (c) a court or tribunal to the extent that it is an agency for the purposes of the *Freedom of Information Act 1992*; or
- (d) a body, whether corporate or unincorporate, or the holder of an office, post or position, established or continued for a public purpose under a written law;

**“relevant information”** means information that, in the opinion of the CEO, is, or is likely to be, relevant to —

- (a) the management of an offender; or
- (b) the performance of a function under this Act, the *Sentencing Act 1995*, the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, or the *Bail Act 1982*;

**“research”** means research to promote the development of criminology or corrective services;

**“service provider”** means —

- (a) an individual or organisation mentioned in section 94(5); or
  - (b) an individual or organisation involved in providing support services to an offender or the family of an offender.
- (2) The CEO may disclose relevant information to a public authority, service provider or contractor.
  - (3) The CEO may request a public authority, service provider or contractor that holds relevant information to disclose the information to the CEO.
  - (4) A request under subsection (3) —
    - (a) may relate to particular information or information of a particular kind; and

- (b) may relate to information that may be held from time to time.
- (5) A public authority, service provider or contractor may disclose information in compliance with a request under subsection (3).
- (6) The CEO may disclose information regarding offenders to a public authority or other body for use in research.
- (7) A public authority, service provider, contractor or other body may disclose information regarding offenders to the CEO for use in research.
- (8) The CEO must establish procedures for the disclosure of information under subsection (2) or (6).
- (9) The regulations may include provisions about —
  - (a) the receipt and storage of information disclosed under this section; and
  - (b) the restriction of access to such information.

**97C. Disclosure to external agencies**

- (1) The Minister may, from time to time, approve circumstances in which, or purposes for which, information relating to an offender may be disclosed by the CEO to a person or class of persons in another Commonwealth, State, Territory or overseas government department or agency.
- (2) The CEO may disclose information as approved under subsection (1).

**97D. Disclosure to victims**

- (1) In this section —  
“**victim**” of an offender means —

- (a) a person who has suffered injury, loss or damage as a direct result of an offence committed by the offender, whether or not that injury, loss or damage was reasonably foreseeable by the offender; or
  - (b) where an offence committed by the offender resulted in a death, any member of the immediate family of the deceased.
- (2) The CEO may disclose information of a prescribed kind regarding an offender to a victim of the offender or a person acting on a victim's behalf.

**97E. Disclosure authorised**

- (1) Information may be disclosed under section 97A, 97B, 97C or 97D despite any written law relating to confidentiality or secrecy.
- (2) If information is disclosed, in good faith, under section 97A, 97B, 97C or 97D —
  - (a) no civil or criminal liability is incurred in respect of the disclosure; and
  - (b) the disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and
  - (c) the disclosure is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.

”.

**41. Section 98A inserted**

After section 98 the following section is inserted —

**s. 42**

---

“

**98A. Duties of CCOs**

A CCO must comply with this Act and any other written law conferring functions on CCOs and with the orders and directions of the CEO.

”.

**42. Section 119 amended**

Section 119(1)(c) is amended by deleting “from time to time” and inserting instead —

“ , or of a kind approved, ”.

**43. References to supervisors amended**

- (1) The provisions listed in the Table to this section are amended by deleting “supervisor” in each place where it occurs and inserting instead —

“ manager ”.

**Table**

s. 76(3)(a)(i), (3)(b)(i) and (4)(b)	s. 89(1), (2), (3) and (4)
s. 77	s. 90(1), (2) and (3)
s. 87(1), (2), (3), (4), (5) and (6)	s. 91(1), (3) and (4)
s. 88(1)(a), (1)(c), (4) and (5)	

Note: The heading to section 87 is to be altered by deleting “Supervisors” and inserting instead “**Managers**”.

- (2) Sections 89(3)(b) and (4)(d) and 90(4) are amended by deleting “supervisor’s” and inserting instead —

“ manager’s ”.

---

**Part 4 — *Sentencing Act 1995* amended**

**44. The Act amended in this Part**

The amendments in this Part are to the *Sentencing Act 1995*\*.

[\* *Reprint 4 as at 12 August 2005.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2005, Table 1, p. 412.]*

**45. Section 4 amended**

(1) Section 4(1) is amended as follows:

(a) by inserting in the appropriate alphabetical position —

“

“**CEO (corrections)**” means the chief executive officer of the Public Sector agency principally assisting the Minister administering Part 8 of the *Sentence Administration Act 2003* in its administration;

”;

(b) in the definition of “community work” by deleting “CEO;” and inserting instead —

“ CEO (corrections); ”.

(2) Section 4(2) is amended by deleting the abbreviation “CEO”.

**46. Section 22 amended**

After section 22(4) the following subsection is inserted —

“

(4a) The CEO (corrections) may use the information in a pre-sentence report to assist with the management of the convicted or sentenced offender to whom the report relates.

”.

**s. 47**

---

**47. Section 33N amended**

Section 33N(3) is amended by deleting all of the subsection after “33H(3) and (5)” and inserting instead —

“

, 75(3) and (5) and 84C(3) and (5), amend any curfew requirement in the PSO by extending its term by not more than one month at a time or add a curfew requirement the term of which is not more than one month.

”.

**48. Section 148 amended**

Section 148(2) is amended by deleting “CEO” and inserting instead —

“ chief executive officer ”.

**49. References to “CEO” changed to “CEO (corrections)”**

Each provision in the Table to this section is amended by inserting after “CEO” in each place where it occurs —

“ (corrections) ”.

**Table**

s. 22(1) and (4)	s. 33Q(5)	s. 83(1)(c)
s. 23(4)	s. 63(c)	s. 84C(15)
s. 29	s. 67(2)(c)	s. 84J(2)(a)
s. 33D(c)	s. 70(c)	s. 84M(4) and (5)
s. 33H(15)	s. 74(2)(c)	s. 129(3)(a) and (b)
s. 33I(5)	s. 75(15)	s. 131(2)(a) and (b)
s. 33P(1)	s. 79(3)	s. 134(5) and (6)

---

## Part 5 — *Bail Act 1982* amended

### 50. The Act amended in this Part

The amendments in this Part are to the *Bail Act 1982*\*.

[\* *Reprint 5 as at 1 April 2005.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2005, Table 1, p. 32 and Acts Nos. 34 of 2004 and 38 of 2005.]*

### 51. Section 3 amended

Section 3(1) is amended as follows:

- (a) by deleting the definition of “CEO (Justice)”;
- (b) by inserting in the appropriate alphabetical position —

“

“**CEO (corrections)**” means the chief executive officer of the Public Sector agency principally assisting the Minister administering Part 8 of the *Sentence Administration Act 2003* in its administration;

”;

- (c) in paragraph (a) of the definition of “authorised community services officer” by deleting “CEO (Justice)” in each place where it occurs and inserting instead —

“ CEO (corrections) ”.

### 52. Section 66A amended

Section 66A(2) is amended as follows:

- (a) by inserting after “detention centre” —  
“ under the *Young Offenders Act 1994* ”;

**s. 53**

---

- (b) by deleting “department of which the CEO (Justice) is the chief executive officer” and inserting instead —

“

Public Sector agency principally assisting the Minister administering that Act in its administration

”.

**53. References to “CEO (Justice)” changed to “CEO (corrections)”**

Each provision in the Table to this section is amended by deleting “(Justice)” in each place where it occurs and inserting instead —

“ (corrections) ”.

**Table**

s. 3(5)	s. 50E
s. 24A(4)	s. 50F(1), (3), (4) and (5)
s. 27A	s. 50H
s. 50A	s. 50J
s. 50C(4)(a) and (b)	s. 50L(1)
s. 50D(1)(a)	Schedule 1 Part D clause 3(3)(e)

Note: The headings to sections 50A, 50E, 50F and 50J are to be altered by deleting “(Justice)” and inserting instead “**(corrections)**”.

---

**Part 6 — *Children's Court of Western Australia Act 1988* amended**

**54. The Act amended in this Part**

The amendments in this Part are to the *Children's Court of Western Australia Act 1988*\*.

[\* *Reprint 3 as at 10 September 2004.*  
*For subsequent amendments see Western Australian Legislation Information Tables for 2005, Table 1, p. 62 and Act No. 34 of 2004.*]

**55. Section 3 amended**

Section 3(1) is amended as follows:

- (a) by inserting in the appropriate alphabetical positions —

“

“**CEO (young offenders)**” means the chief executive officer of the young offenders agency;

“**young offenders agency**” means the Public Sector agency principally assisting the Minister administering the *Young Offenders Act 1994* in its administration.

”;

- (b) in the definition of “registrar” by deleting “place.” and inserting instead —

“ place; ”;

- (c) by deleting the definitions of “CEO” and “Department”.

**56. Section 28 amended**

Section 28(2)(a) is amended by deleting “the CEO or” and inserting instead —

“ the CEO (young offenders) or ”.

**s. 57**

---

**57. Section 33 amended**

Section 33(1) is amended in the definition of “prescribed officer” by deleting paragraph (a) and “or” after it and inserting instead —

“

- (a) the CEO (young offenders) or an officer of the young offenders agency who is authorised by that CEO; or

”.

**58. Section 40 amended**

Section 40(2)(b) is amended by inserting after “CEO” —

“ (young offenders) ”.

**Part 7 — *Criminal Law (Mentally Impaired Accused)*  
*Act 1996* amended**

**59. The Act amended in this Part**

The amendments in this Part are to the *Criminal Law (Mentally Impaired Accused) Act 1996*\*.

[\* *Reprint 2 as at 12 August 2005.*]

**60. Section 32 amended**

Section 32(2) is amended by deleting “accused.” and inserting instead —

“

accused unless the reason for the absence is —

- (a) the facilitation of the provision of medical or health services to the accused; or
- (b) the furthering of the interests of justice.

”.

**Part 8 — *Fines, Penalties and Infringement Notices Enforcement Act 1994* amended**

**61. The Act amended in this Part**

The amendments in this Part are to the *Fines, Penalties and Infringement Notices Enforcement Act 1994*\*.

[\* Reprint 3 as at 9 December 2005.]

**62. Section 3 amended**

- (1) Section 3(1) is amended by inserting in the appropriate alphabetical position —

“

“**CEO (corrections)**” means the chief executive officer of the Public Sector agency principally assisting the Minister administering Part 8 of the *Sentence Administration Act 2003* in its administration;

”.

- (2) Section 3(2) is repealed.

**63. Section 28 amended**

Section 28(1) is amended in the definition of “court officer” by deleting “CEO” and inserting instead —

“ chief executive officer ”.

**64. References to “CEO” changed to “CEO (corrections)”**

Sections 48(1), (2), and (2a), 52(1) and 103 are amended by inserting after “CEO” in each place where it occurs —

“ (corrections) ”.

## **Part 9 — *Juries Act 1957* amended**

### **65. The Act amended in this Part**

The amendments in this Part are to the *Juries Act 1957*\*.

[\* *Reprint 4 as at 2 September 2005.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2005, Table 1, p. 237 and Act No. 34 of 2004.]*

### **66. Second Schedule amended**

The Second Schedule Part I clause 2 is amended as follows:

- (a) by deleting paragraph (i);
- (b) in paragraph (n) by deleting “1994.” and inserting instead —  
“ 1994; ”;
- (c) by inserting after paragraph (n) —  
“
  - (o) person who —
    - (i) is an officer or employee of an agency as defined in section 3(1) of the *Public Sector Management Act 1994*; or
    - (ii) provides services to such an agency under a contract for services; or
    - (iii) is a contract worker as defined in section 3 of the *Court Security and Custodial Services Act 1999* or section 15A of the *Prisons Act 1981*,being a person prescribed or of a class prescribed by regulations.”.

**Part 10 — *Restraining Orders Act 1997* amended**

**67.        The Act amended in this Part**

The amendments in this Part are to the *Restraining Orders Act 1997*\*.

[\* *Reprinted as at 6 October 2000.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2005, Table 1, p. 387 and Act No. 34 of 2004.]*

**68.        Section 70A amended**

Section 70A(1) is amended in the definition of “interested party” by deleting paragraph (b) and “or” after it and inserting instead —

“

or

- (b) the chief executive officer of the Public Sector agency principally assisting the Minister in the administration of this Act; or
- (ba) the chief executive officer of the Public Sector agency principally assisting the Minister administering Part 8 of the *Sentence Administration Act 2003* in its administration; or

”.

**Part 11 — *Spent Convictions Act 1988* amended**

**69. The Act amended in this Part**

The amendments in this Part are to the *Spent Convictions Act 1988*\*.

[\* *Reprint 4 as at 8 July 2005.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2005, Table 1, p. 421.]*

**70. Schedule 3 amended**

Schedule 3 clause 1(1) item 10 is amended by deleting  
“Community and Juvenile Justice Division or the Prisons  
Division of the Department of Justice” and inserting instead —

“ Department of Corrective Services ”.

## Part 12 — *Victims of Crime Act 1994* amended

### 71. The Act amended in this Part

The amendments in this Part are to the *Victims of Crime Act 1994*\*.

[\* *Reprint 1 as at 4 March 2005.*]

### 72. Section 4 amended

(1) Section 4(1) is amended as follows:

(a) by inserting in the appropriate alphabetical positions —

“

“**agency**” means the Public Sector agency principally assisting the Minister administering a relevant enactment in its administration;

“**relevant enactment**” means any provision of this Act, the *Prisons Act 1981* or the *Sentence Administration Act 2003*.

”;

(b) by deleting the definition of “Department”;

(c) in paragraph (g) of the definition of “prescribed information” by deleting “regulations.” and inserting instead —

“ regulations; ”.

(2) Section 4(2) and (3) are repealed and the following subsections are inserted instead —

“

(2) The Commissioner of Police may provide the chief executive officer of an agency with prescribed information in relation to a victim so that the agency can offer the victim the services it has available for victims.

- (3) The DPP may provide the chief executive officer of an agency with such information in relation to a victim as the DPP thinks fit so that the agency can offer the victim the services it has available for victims.

”.

- (3) Section 4(6) is amended by deleting “the Department” and inserting instead —

“ an agency ”.

**73. Section 5 inserted**

After section 4 the following section is inserted —

“

**5. Regulations**

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for carrying out or giving effect to the purposes of this Act.

”.

**Part 13 — *Young Offenders Act 1994* amended**

**74. The Act amended in this Part**

The amendments in this Part are to the *Young Offenders Act 1994*\*.

[\* *Reprint 3 as at 15 July 2005.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2005, Table 1, p. 515 and Act No. 34 of 2004.]*

**75. Section 12 amended**

- (1) Section 12(1) is amended by deleting “Governor” and inserting instead —

“ Minister ”.

- (2) After section 12(1) the following subsection is inserted —

“

- (1a) A facility that is a Departmental or subsidised facility immediately before the coming into operation of section 75 of the *Prisons and Sentencing Legislation Amendment Act 2006* continues as a Departmental or subsidised facility as if the Minister had made the order under subsection (1) declaring it to be such a facility.

”.

- (3) Section 12(2) is amended by deleting “Governor” and inserting instead —

“ Minister ”.

**76. Section 15A amended**

- (1) Section 15A(1) is amended as follows:
- (a) by deleting “Director-General of the Department” and inserting instead —  
“ CEO (child welfare) ”;
  - (b) by deleting “Director-General with” and inserting instead —  
“ CEO (child welfare) with ”;
  - (c) in paragraphs (c), (d) and (e) by deleting “Department” in each place where it occurs and inserting instead —  
“ welfare agency ”;
  - (d) in paragraph (e) by deleting “Director-General” and inserting instead —  
“ CEO (child welfare) ”.
- (2) Section 15A(2) is repealed and the following subsection is inserted instead —
- “
- (2) In subsection (1) —
    - “**CEO (child welfare)**” means the chief executive officer of the welfare agency;
    - “**welfare agency**” means the Public Sector agency principally assisting the Minister administering the *Children and Community Services Act 2004* in its administration.
- ”.
- (3) Section 15A(5)(b)(i) is amended by deleting “supervisor” and inserting instead —
- “ manager ”.

**s. 77**

---

**77. Section 16 replaced by sections 16 and 16A**

Section 16 is repealed and the following sections are inserted instead —

“

**16. Exchange of information**

(1) In this section —

“**contractor**” has the meaning given to that term in section 3 of the *Court Security and Custodial Services Act 1999*;

“**public authority**” means —

- (a) a department of the Public Service; or
- (b) a State agency or instrumentality; or
- (c) a court or tribunal to the extent that it is an agency for the purposes of the *Freedom of Information Act 1992*; or
- (d) a body, whether corporate or unincorporate, or the holder of an office, post or position, established or continued for a public purpose under a written law;

“**relevant information**” means information that, in the opinion of the chief executive officer, is, or is likely to be, relevant to the administration of this Act;

“**research**” means research to promote the development of juvenile justice services.

(2) The chief executive officer may request a public authority or contractor that holds relevant information to disclose the information to the chief executive officer.

- (3) A request under subsection (2) —
  - (a) may relate to particular information or information of a particular kind; and
  - (b) may relate to information that may be held from time to time.
- (4) A public authority or contractor may disclose information in compliance with a request under subsection (2).
- (5) The chief executive officer may disclose information regarding —
  - (a) young persons who have committed offences;  
or
  - (b) detainees or persons who have been detainees,  
to a public authority or other body for use in research.
- (6) A public authority, contractor or other body may disclose information regarding —
  - (a) young persons who have committed offences;  
or
  - (b) detainees or persons who have been detainees,  
to the chief executive officer for use in research.
- (7) The chief executive officer must establish procedures for the disclosure of information under subsection (5).
- (8) The regulations may include provisions about —
  - (a) the receipt and storage of information disclosed under this section; and
  - (b) the restriction of access to such information.

**s. 78**

---

**16A. Disclosure authorised**

- (1) Information may be disclosed under section 15 or 16 despite any written law relating to confidentiality or secrecy.
- (2) If information is disclosed, in good faith, under section 15 or 16 —
  - (a) no civil or criminal liability, or liability to be punished for a contempt of court, is incurred in respect of the disclosure; and
  - (b) the disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and
  - (c) the disclosure is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.

”.

**78. Section 151 amended**

Section 151(3) is repealed and the following subsections are inserted instead —

“

- (3) A person is to be appointed as the secretary of the Board.
- (4) The secretary and any other staff of the Board are to be appointed under Part 3 of the *Public Sector Management Act 1994*.

”.

