

WESTERN AUSTRALIA

PRISONS AMENDMENT ACT 1995

No. 19 of 1995

AN ACT to amend the *Prisons Act 1981*.

[Assented to 4 July 1995.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Prisons Amendment Act 1995*.

Commencement

2. This Act comes into operation on such day as is fixed by proclamation.

Principal Act

3. In this Act the *Prisons Act 1981** is referred to as the principal Act.

[* *Reprinted as at 9 July 1992.*

For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, pp. 168-9 and Acts Nos. 32 and 92 of 1994.]

Section 49 amended

4. Section 49 (1) of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph —

- “ (a) a search of —
- (i) a person entering or seeking to enter a prison; or
 - (ii) a person outside but near a prison, where in the opinion of the superintendent that search is necessary for the purpose of the security or good order of the prison;
- ”

Section 49A inserted

5. After section 49 of the principal Act the following section is inserted —

“ **Use of dogs**

49A. (1) In this section —

“drugs search” means —

- (a) a search of a prisoner;

- (b) a search in a prison or in premises or a place near a prison;
- (c) a search of a vehicle in or near a prison; or
- (d) a search under section 49,

where the purpose of the search is to detect whether drugs are or have been present;

“prison dog” means a dog approved in accordance with the regulations for use by a prison officer in carrying out drugs searches.

(2) A prison officer may, in a manner authorized under the regulations, use a prison dog to assist the prison officer in carrying out a drugs search.

(3) A person who —

- (a) assaults; or
- (b) hinders or obstructs,

a prison dog under the control of a prison officer carrying out a drugs search is to be deemed to have assaulted, or to have hindered or obstructed, the prison officer handling the dog.

(4) A prison dog under the control of a prison officer may enter, and be in, any place that the prison officer may lawfully enter or be in while carrying out a drugs search, and no liability shall arise by reason only that the prison dog entered or was in that place, notwithstanding any other law.

(5) Without limiting the generality of section 111, a prison officer is not personally liable for injury or

damage caused by the use of a prison dog under the control of the prison officer in carrying out a drugs search, if that use was in accordance with this Act.

(6) Subsection (5) does not apply if injury or damage occurs as a result of anything commanded or permitted by the prison officer maliciously and without reasonable and probable cause.

”.

Section 110 amended

6. Section 110 (1) of the principal Act is amended —

(a) in paragraph (s) by deleting “searching persons entering or admitted to prisons” and substituting the following —

“ carrying out searches under this Act ”; and

(b) by inserting after paragraph (s) the following paragraph —

“

(sa) regulating the acquisition, training, assessment, approval and use of dogs to assist in carrying out searches under section 49A and the responsibilities of prison officers handling such dogs;

”.