

**PRISONS AMENDMENT ACT
(No. 2) 1991**

No. 47 of 1991

AN ACT to amend the *Prisons Act 1981*.

[Assented to 17 December 1991]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Prisons Amendment Act (No. 2) 1991*.

Commencement

2. (1) This Act, other than section 6, shall come into operation on the day on which it receives the Royal Assent.

(2) Section 6 shall come 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.

[* Act No. 115 of 1981.

For subsequent amendments see 1990 Index to Legislation of Western Australia, p. 127.]

Section 70 repealed and a section substituted

4. Section 70 of the principal Act is repealed and the following section is substituted —

Aggravated prison offences

“ 70. Apart from an aggravated prison offence that may be committed under section 10 (2), 27 (5), 85 (2), 92 (2) or 94 (6), a prisoner commits an aggravated prison offence if he —

- (a) behaves in a riotous manner;
- (b) assaults a person;
- (c) escapes, or prepares or attempts to escape, from lawful custody or from a cell or place within a prison in which he is confined or from any place where he is obliged to remain by prison routine or any order;
- (d) uses, or is in possession of, drugs not lawfully issued to him;
- (e) uses drugs otherwise than as prescribed;
- (f) consumes, or is in possession of, alcohol not lawfully issued to him;

- (g) is, without the permission of the superintendent, in possession of glue containing toluene or another intoxicant;
- (h) is in possession of a weapon or a facsimile of a weapon; or
- (i) does not submit himself for the purpose of having a body sample taken where he is required to do so under this Act. ”.

Section 108 amended

5. (1) Section 108 (1) of the principal Act is amended —

- (a) by deleting “or” after paragraph (b); and
- (b) by inserting after paragraph (b) the following paragraph —

“ (ba) the finding of a person appointed under section 106 (1) (b) after an inquiry that he is guilty of a disciplinary offence; ”.

(2) An appeal against the finding of a person appointed under section 106 (1) (b) of the principal Act that was instituted before the coming into operation of this Act but that was not determined by the Prison Officers Appeal Tribunal for want of jurisdiction may be continued and determined as if it had been validly instituted.

(3) An appeal against the finding of a person appointed under section 106 (1) (b) of the principal Act purporting to have been instituted and determined under section 108 of the principal Act before the coming into operation of this Act shall be deemed to have been validly instituted and determined.

Section 110 amended**6. Section 110 of the principal Act is amended —**

- (a) by deleting subsection (1) (k) and substituting the following paragraphs —

“ (k) notwithstanding section 46, authorizing and regulating the taking of blood and other body samples from a prisoner by a prison officer where there is reasonable suspicion that the prisoner may have committed a prison offence, and regulating the treatment of samples taken;

(ka) notwithstanding section 46, authorizing the superintendent to direct an officer to take blood or other body samples from prisoners at random to detect whether an aggravated prison offence under section 70 (d), (e) or (f) has been committed by any prisoner, and regulating the taking of such samples and the treatment of samples taken;

(kb) authorizing a prison officer to take a sample of any drug, alcohol or other intoxicating substance found in the possession of a prisoner and not lawfully issued to the prisoner, and regulating the treatment of samples taken;

”;

- (b) by inserting after subsection (1) (r) the following paragraph —

“ (ra) prescribing security conditions to be complied with by all or any persons

for entry to a prison, including the application of a stamp to the skin or other conditions that involve reasonable physical contact, or the use of any form of electronic system; ”;

and

- (c) by inserting after subsection (1) the following subsection —

“ (1a) Any security conditions prescribed under subsection (1) (ra) shall be complied with notwithstanding any provisions of this Act otherwise regulating the right of entry of any person to a prison. ”.

Miscellaneous amendments

7. The provisions of the principal Act specified in the first column of the table are amended by deleting what is set out in the second column and substituting, where applicable, what is set out in the third column.

TABLE

Provision	Deleted	Substituted
Sections 3, 26(2)(b)(ii) and 29(1)	<i>"Offenders Probation and Parole Act 1963"</i>	<i>"Offenders Community Corrections Act 1963"</i>
Sections 6(2) and (5) and 13(1)	"Public Service Board"	"Public Service Commissioner"
Sections 10(2), 27(5), 85(2), 92(2) and 94(6)	"under section 70"	
Sections 77(1)(c) and 78(1)(d)	<i>"Offenders Probation and Parole Regulations 1964"</i>	<i>"Offenders Community Corrections Regulations 1991"</i>
Section 79(1)(a)	"paragraph (a), (b), (d), (e) or (f) of section 70"	"section 70, other than paragraph (c)"
Section 79(1)(b)	"paragraph (c) or (g) of section 70"	"section 10(2), 27(5), 70(c), 85(2), 92(2) or 94(6)"
Section 79(2)	"under this section other than a charge under paragraph (c) or (g) of section 70"	"of an offence referred to in subsection (1)(a),"
Section 93	"Industrial Arbitration Act 1979 or the Conciliation and Arbitration Act 1904"	<i>"Industrial Relations Act 1979 or the Industrial Relations Act 1988"</i>
Section 114(12)	" "Commission" means The Western Australian Industrial Commission constituted under the Industrial Arbitration Act 1979"	" "Commission" means The Western Australian Industrial Relations Commission continued and constituted under the <i>Industrial Relations Act 1979</i> ."
