

# PRISONS.

---

No. 94 of 1978.

---

## AN ACT to amend the Prisons Act, 1903-1971.

[Assented to 17th November, 1978.]

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

1. (1) This Act may be cited as the *Prisons Act Amendment Act, 1978*.

Short  
title  
and  
citation.

(2) In this Act the Prisons Act, 1903-1971 is referred to as the principal Act.

Reprinted  
as approved  
for reprint  
1st April,  
1976.

(3) The principal Act as amended by this Act may be cited as the Prisons Act, 1903-1978.

Commence-  
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

Section 4  
amended.

3. Section 4 of the principal Act is amended by adding immediately above the interpretation "Criminal Prisoner" an interpretation as follows—

"Assistant Director" means a person appointed, under and subject to the Public Service Act, 1904, to be an Assistant Director of the Department of Corrections. .

Section 11  
amended.

4. Section 11 of the principal Act is amended by adding subsections as follows—

(3) There may be appointed, under and subject to the Public Service Act, 1904, such Assistant Directors of the Department of Corrections as are required for the purposes of this Act.

(4) Subject to the approval of the Director, anything by this Act appointed or authorised or required to be done or signed by the Director may be done or signed by any Assistant Director.

(5) All Courts and all persons having in Western Australia, by law or by consent of parties, authority to hear, receive, and examine evidence shall take judicial notice of the official signature of every person who is for the time being, and of every person who has at any time been, the Director or an Assistant Director and the fact that such person holds or has held such office. .

5. Section 34 of the principal Act is amended by deleting everything contained in the section after the word "by" in line four and inserting in lieu thereof the passage—

Section 34  
amended.

imposing on the offender any one or more of the following penalties:—

- (1) confinement in a punishment cell for any term not exceeding seven days;
- (2) forfeiture of any remission of sentence, not exceeding twenty-eight days, earned under any Act or any regulations made under any Act;
- (3) restitution;
- (4) caution.

6. Section 36 of the principal Act is amended by deleting everything contained in the section after the word "conviction", in line seven, and inserting in lieu thereof the passage—

Section 36  
amended.

to any one or more of the following penalties—

- (1) imprisonment for a period not exceeding six months, the term to be cumulative upon any term or terms of imprisonment that the offender is then undergoing, or liable to undergo;
- (2) a fine not exceeding fifty dollars;
- (3) confinement in a punishment cell for a period not exceeding twenty-eight days, but so that any such confinement ordered may be served by the prisoner, at his election, in periods of seven days separated by a forty-eight hour period out of the punishment cell.

Section 37  
amended.

7. Section 37 of the principal Act is amended by deleting every paragraph after paragraph (3) and inserting in lieu thereof paragraphs as follows—

- (4) profane cursing or swearing;
- (5) indecent or insulting language or behaviour;
- (6) pretending illness or injury;
- (7) wilfully or maliciously breaking, damaging, or destroying the prison property;
- (8) preferring a false or frivolous complaint against an officer of the prison;
- (9) any insubordination or misconduct subversive of the order and good government of the prison. .

Section 38  
amended.

8. Section 38 of the principal Act is amended—

- (a) as to paragraph (3), by inserting after the word "escaping" the passage ", preparing to escape," ; and
- (b) by deleting everything contained in the section after line one of paragraph (4) and inserting in lieu thereof the passage "fellow-prisoner."

Section 52  
amended.

9. Section 52 of the principal Act is amended—

- (a) by inserting immediately after the section number "52." the subsection designation "(1)";
- (b) by deleting everything contained in the last five lines and inserting in lieu thereof a passage as follows—

"bring up or cause to be brought up such prisoner accordingly to such place, there to be dealt with according to law." ; and

(c) by adding subsections as follows—

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

(3) Every prisoner 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, without prejudice to any cause or matter for which he was originally in custody.

(4) If the proceeding which such prisoner is required to attend is adjourned, the prisoner 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.

10. Section 64 O of the principal Act is amended by inserting after the word "inebriates", in the last line, the passage " , and the Governor may vary or revoke any such proclamation by a subsequent proclamation".

Section 64 O  
amended.

11. The principal Act is amended by adding immediately after section 64 T a section as follows—

Section 64 U  
added.

64U. Where a prisoner fails to comply with any condition of a grant of his leave of absence or where his leave of absence has been terminated, he may, without any warrant other than

Arrest of  
prisoners  
in certain  
cases.

this Act, be arrested by any member of the police force or by any person thereto authorised in writing by the Director and be returned to the prison from which he was granted leave, or to such other prison or place of confinement as the Director directs. .

Section 72  
amended.

12. Section 72 of the principal Act is amended—

(a) by inserting immediately after the section number "72." the subsection designation "(1)";

(b) by deleting everything contained in lines eight to twelve both inclusive and inserting in lieu thereof a passage as follows—

"Australia, or Justice of the Peace may by order in writing direct the gaoler to bring up such person to such place as aforesaid, and the gaoler shall obey such order and bring up or cause to be brought up such person accordingly to such place, there to be dealt with according to law." ; and

(c) by adding subsections as follows—

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

(3) Every 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 person to the custody from which he shall have so been brought up, without prejudice to any cause or matter for which he was originally in custody.

(4) If the proceeding which such person is required to attend is adjourned, the 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. .

---