

Western Australia

# **Court Security and Custodial Services (Consequential Provisions) Act 1999**

(No. 47 of 1999)

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Western Australia

# **Court Security and Custodial Services (Consequential Provisions) Act 1999**

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**No. 47 of 1999**

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**An Act to amend various Acts as a consequence of the enactment of  
the *Court Security and Custodial Services Act 1999*.**

*[Assented to 8 December 1999]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This Act may be cited as the *Court Security and Custodial Services (Consequential Provisions) Act 1999*.

**2. Commencement**

This Act comes into operation on such day as is, or such days as are respectively, fixed by proclamation.

## Part 2 — *Anti-Corruption Commission Act 1988*

### 3. Act amended by this Part

The amendments in this Part are to the *Anti-Corruption Commission Act 1988*\*.

[\* Reprinted as at 1 November 1996.]

### 4. Section 3 amended

Section 3(1) is amended as follows:

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

“

“**contractor**” means a contractor as defined in the *Court Security and Custodial Services Act 1999*;

“**subcontractor**” means a subcontractor as defined in the *Court Security and Custodial Services Act 1999*;

”;

- (b) in the definition of “public authority” —

- (i) after paragraph (b) by deleting “or”; and  
(ii) after paragraph (c) by inserting —

“

or

- (d) a contractor or subcontractor;

”.

### 5. Section 14 amended

- (1) Section 14(6) is amended as follows:

- (a) after paragraph (a) by deleting “or”;

**s. 5**

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(b) after paragraph (b) by deleting the full stop and inserting instead —

“ ; or ”;

(c) after paragraph (b), the following paragraph is inserted —

“

(c) in the case of a contractor and any subcontractor under the relevant contract, the holder of the office specified in the relevant contract to be the principal officer for the purposes of this Act.

”.

(2) Section 14(7) is amended by deleting “to any person or body who or which has the power to take disciplinary action against the person to whom this section applies.” and inserting instead —

“

—

(a) to any person or body who or which has the power to take disciplinary action against the person to whom this section applies; or

(b) in the case of a principal officer referred to in subsection (6)(c), to the CEO as defined in the *Court Security and Custodial Services Act 1999*.

”.



**Part 3 — *Bail Act 1982***

**6. Act amended by this Part**

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

[\* *Reprinted as at 13 March 1997.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 17, and Act No. 38 of 1998.]*

**7. Section 3 amended**

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

“

“**lock-up**” includes a place prescribed as a lock-up for the purposes of the *Court Security and Custodial Services Act 1999*;

”.

**8. Section 11 amended**

- (1) Section 11(2) is amended by deleting “officer in charge of the lock-up or prison, and that officer” and inserting instead —

“

person in charge of the lock-up or prison, and that person

”.

- (2) Section 11(3) is amended by deleting “the officer” and inserting instead —

“ the person ”.

**Part 4 — *Coroners Act 1996***

**9. Section 3 amended**

Section 3 of the *Coroners Act 1996*\* is amended in the definition of “person held in care” after paragraph (a) by inserting the following paragraph —

“

- (aa) a person for whom the CEO as defined in the *Court Security and Custodial Services Act 1999* is responsible under section 10, 13, 15 or 16 of that Act, whether that person is at a custodial place as defined in that Act, is being moved between custodial places or escapes, or becomes absent, from a custodial place or during movement between custodial places;

”

[\* *Act No. 2 of 1996.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 52.]*

## **Part 5 — *The Criminal Code***

### **10. Section 1 amended**

Section 1(1) of *The Criminal Code*\* is amended in the definition of “public officer” after paragraph (c) by inserting the following paragraph —

“

- (ca) a person who holds a permit to do high-level security work as defined in the *Court Security and Custodial Services Act 1999*;

”.

[\* *Reprinted as at 21 April 1997 as the Schedule to the Criminal Code Act 1913 appearing in Appendix B to the Criminal Code Compilation Act 1913.*  
*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 58, and Acts Nos. 15, 29 and 38 of 1998.*]

**Part 6 — *Freedom of Information Act 1992***

**11. Act amended by this Part**

The amendments in this Part are to the *Freedom of Information Act 1992*\*.

[\* *Reprinted as at 8 July 1997.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 90, and Act No. 13 of 1998.]*

**12. Section 63 amended**

After section 63(3)(a) the following is inserted —

“

- (aa) if the person is the principal officer of a contractor or subcontractor — the Minister to whom the administration of the *Court Security and Custodial Services Act 1999* is committed;  
or

”

**13. Section 96 amended**

After section 96(3) the following subsection is inserted —

“

- (4) A subcontractor does not have to comply with subsection (1) if the relevant contractor has complied with that subsection on behalf of the subcontractor.

”

**14. Section 97 amended**

After section 97(2) the following subsection is inserted —

“

- (3) A subcontractor does not have to comply with subsections (1) and (2) if the relevant contractor has complied with those subsections on behalf of the subcontractor.

”

**15. Schedule 2 Glossary amended**

- (1) Schedule 2 is amended by inserting in the appropriate alphabetical positions in the Glossary the following definitions —

“

“**contractor**” means a contractor as defined in the *Court Security and Custodial Services Act 1999*;

“**subcontractor**” means a subcontractor as defined in the *Court Security and Custodial Services Act 1999*;

”

- (2) Schedule 2 is amended in the definition of “officer” in the Glossary as follows:

- (a) after paragraph (b) by deleting “and”;
- (b) after paragraph (c) by inserting —

“

and

- (d) if the agency is a contractor or subcontractor, a director of the contractor or subcontractor (in addition to the persons referred to in paragraphs (a), (b) and (c));

”

**s. 15**

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- (3) Schedule 2 is amended in the definition of “principal officer” in the Glossary after paragraph (f) by inserting the following paragraph —

“

- (fa) in relation to a contractor or to any subcontractor under the relevant contract — the holder of the office specified in the relevant contract to be the principal officer for the purposes of this Act;

”

- (4) Schedule 2 is amended in the definition of “public body or office” in the Glossary as follows:

- (a) after paragraph (f) by deleting “or”;  
(b) after paragraph (g) by inserting —

“

or

- (h) a contractor or subcontractor;

”

**Part 7 — Justices Act 1902**

**16. Act amended by this Part**

The amendments in this Part are to the *Justices Act 1902*\*.

[\* Reprinted as at 4 June 1997.

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 122, and Act No. 29 of 1998.]*

**17. Section 41 amended**

Section 41 is amended by inserting after “police officer” —

“

or a person who is authorized to exercise a power set out in clause 3 of Schedule 2 to the *Court Security and Custodial Services Act 1999*,

”.

**18. Section 81 amended**

Section 81 is amended by deleting “officer” and inserting instead —

“ person ”.

**19. Section 83 amended**

Section 83 is amended by deleting “officer” and inserting instead —

“ person ”.

**20. Section 203 amended**

Section 203(1), (2) and (4) are amended by deleting “officer” and inserting instead —

“ person ”.

**s. 21**

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**21. Schedule 4 amended**

(1) Forms 15 and 16 in Schedule 4 are amended as follows:

(a) by inserting after “said State,” —

“

and to all persons authorized to exercise a power set out in clause 2 or 3, as the case requires, of Schedule 2 to the *Court Security and Custodial Services Act 1999*,

”.

(b) by inserting after “said police officers” —

“ and authorized persons ”.

(2) Forms 52, 56, 57, 58 and 62 in Schedule 4 are amended as follows:

(a) by inserting after “Western Australia,” —

“

and to all persons authorized to exercise a power set out in clause 2 or 3, as the case requires, of Schedule 2 to the *Court Security and Custodial Services Act 1999*,

”.

(b) by inserting after “said police officers” —

“ and authorized persons ”.

(3) Form 53 in Schedule 4 is amended by inserting after “said State” where it first occurs —

“

and to all persons authorized to exercise a power set out in clause 3 of Schedule 2 to the *Court Security and Custodial Services Act 1999*

”.



- (4) Form 54 in Schedule 4 is amended by inserting after “Western Australia,” —

“

and to all persons authorized to exercise a power set out in clause 2 or 3, as the case requires, of Schedule 2 to the *Court Security and Custodial Services Act 1999*,

”

**Part 8 — Parliamentary Commissioner Act 1971**

**22. Act amended by this Part**

The amendments in this Part are to the *Parliamentary Commissioner Act 1971*\*.

[\* *Reprinted as at 20 January 1997.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 171, and Acts Nos. 41 of 1997 and 10 of 1998.]*

**23. Section 4 amended**

- (1) Section 4 is amended by inserting in the appropriate alphabetical positions the following definitions —

“

“**contractor**” means a contractor as defined in the *Court Security and Custodial Services Act 1999*;

“**subcontractor**” means a subcontractor as defined in the *Court Security and Custodial Services Act 1999*;

”.

- (2) Section 4 is amended in the definition of “principal officer” as follows:

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

“

- (aa) in relation to a contractor and to any subcontractor under the relevant contract, the holder of the office specified in the relevant contract to be the principal officer for the purposes of this Act; and

”.

- (3) Section 4 is amended by deleting the definition of “responsible Minister” and inserting the following definition instead —

“

**“responsible Minister”** means —

- (a) in relation to action taken by any department or authority, the Minister charged with the administration of that department or the enactment in relation to the functions conferred by, or arising under, which the action was taken; and
- (b) in relation to action taken by a contractor or subcontractor, the Minister to whom the administration of the *Court Security and Custodial Services Act 1999* is committed;

”.

**24. Section 4A amended**

Section 4A(1) is amended as follows:

- (a) after paragraph (e) by deleting the full stop and inserting a semicolon instead;
- (b) after paragraph (e) the following paragraph is inserted —

“ (f) a contractor or subcontractor. ”.

**s. 25**

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**25. Section 13 amended**

Section 13(3)(b) and (c) are deleted and the following is inserted instead —

“

- (b) references to an officer of an authority shall be construed —
  - (i) as including references to an officer appointed by, or a person employed or engaged to work in, that authority under any enactment; and
  - (ii) in the case of a contractor or subcontractor, as also including references to an officer of, or a person employed or engaged to work for, the contractor or subcontractor;

and

- (c) references to a member of an authority shall be construed —
  - (i) as including references to the holder of any office created by an enactment who by virtue of his holding that office is a member of that authority; and
  - (ii) in the case of a contractor or subcontractor, as including references to each director of the contractor or subcontractor.

”

**26. Section 17A amended**

(1) Section 17A(4) is amended by inserting after “that Act,” —

“

the CEO as defined in the *Court Security and Custodial Services Act 1999*,

”.

(2) After section 17A(5) the following subsection is inserted —

“

(5a) A reference in subsection (1) to an officer in whose custody a person is detained includes a reference to a person authorized to exercise a power set out in Division 1, 2 or 3 of Schedule 2, or in Schedule 3, to the *Court Security and Custodial Services Act 1999* in relation to the detained person.

”.

**27. Section 19 amended**

Section 19(7)(b) is amended by inserting after “constituted” —

“

or, in the case of a contractor or subcontractor, to the Minister to whom the administration of the *Court Security and Custodial Services Act 1999* is committed

”.

**Part 9 — Police Act 1892**

**28. Act amended by this Part**

The amendments in this Part are to the *Police Act 1892*\*.

[\* Reprinted as at 31 January 1997.

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 184, and Act No. 10 of 1998.]*

**29. Section 2 amended**

Section 2 is amended by inserting in the appropriate alphabetical position the following definition —

“

“**lock-up**” includes a place prescribed as a lock-up for the purposes of the *Court Security and Custodial Services Act 1999*;

”.

**30. Section 22 amended**

Section 22 is amended by deleting “in attendance upon” and inserting instead —

“ available to ”.

**31. Section 53 amended**

Section 53 is amended in the definition of “police officer” as follows:

- (a) after paragraph (c) by deleting the semicolon and inserting a comma instead;

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

“

and includes a person who is authorized to exercise a power set out in clause 16 of Schedule 2 to the *Court Security and Custodial Services Act 1999* but the references to a police officer in section 53A and 53I (a), (b), (c) and (d)(ii) (except Item (A)) are not to be regarded as including the authorized person;

”.

**Part 10 — Prisons Act 1981**

**32. Act amended by this Part**

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

[\* *Reprinted as at 21 November 1996.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 188.]*

**33. Section 3 amended**

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

“

“**lock-up**” includes a place prescribed as a lock-up for the purposes of the *Court Security and Custodial Services Act 1999*;

”.

- (2) Section 3 is amended in the definition of “superintendent” by deleting “police officer who is in charge of a police lock up” and inserting instead —

“ person who is in charge of a lock-up ”.

- (3) Section 3 is amended by inserting before the first word the subsection designation “(1)”.

- (4) Section 3 is amended by inserting the following subsection —

“

- (2) A reference in a provision of this Act set out in the Table to this subsection to a prison officer or to an officer includes a reference to a person who is authorized to exercise a power set out in clause 2 of



Schedule 2 to the *Court Security and Custodial Services Act 1999*.

Table

s. 18	s. 27(3)
s. 24	s. 83(4) and (6)
s. 25	s. 84
s. 26(1)	s. 85(2)(a)

”

**34. Section 14 amended**

- (1) Section 14 is amended by inserting before the first word the subsection designation “(1)”.
- (2) Section 14 is amended by inserting the following subsection —
  - “
  - (2) A person who is authorized to exercise a power set out in clauses 2 and 11(3) of Schedule 2 to the *Court Security and Custodial Services Act 1999* may issue to a prisoner such orders as are necessary for the purposes of the provisions of this Act set out in the Table to section 3(2).
  - ”

”

**s. 35**

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**35. Section 16 amended**

- (1) Section 16(5) is repealed and the following subsection is inserted instead —

“

- (5) The chief executive officer may allow a prisoner to serve all or part of the prisoner’s sentence of imprisonment in a lock-up if approval to do so has been given —
- (a) in the case of a place prescribed as a lock-up for the purposes of the *Court Security and Custodial Services Act 1999*, by the CEO as defined in that Act; or
  - (b) in the case of any other lock-up, by the Commissioner of Police.

”

- (2) Section 16(7) is repealed and the following subsection is inserted instead —

“

- (7) The chief executive officer may allow a person required to serve a period of imprisonment in default of a payment of a fine or other monetary penalty to serve that period of imprisonment in a lock-up if approval to do so has been given —
- (a) in the case of a place prescribed as a lock-up for the purposes of the *Court Security and Custodial Services Act 1999*, by the CEO as defined in that Act; or
  - (b) in the case of any other lock-up, by the Commissioner of Police.

”

- (3) Section 16(8) is amended by deleting “police officer in charge of the lock up” and inserting instead —

“ person in charge of the lock-up ”.

- (4) Section 16(9) and (10) are amended by deleting “police lock up” and inserting instead —

“ lock-up ”.

**36. Section 69 amended**

Section 69(a) is amended by inserting after “him” —

“ or a person referred to in section 14(2) ”.

**37. Section 71 amended**

Section 71(1) is amended by inserting after “prison officer” —

“

or person who is authorized to exercise a power set out in clause 14 of Schedule 2 to the *Court Security and Custodial Services Act 1999*

”.

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

**38. Schedule 3 amended**

The *Spent Convictions Act 1988*\* is amended in Schedule 3 by inserting after item 11 in the Table to clause 1 the following item —

“

12. A person —
- |     |  |  |
|-----|--|--|
| (a) | who is authorized, or who is being considered for authorization, to exercise a Schedule power as defined in the <i>Court Security and Custodial Services Act 1999</i> ; or | Section 18,<br>19, 20, 22<br>and<br>Division 4 |
| (b) | who holds, or who is applying to be issued with, a permit to do high-level security work as defined in that Act.   |  |

”.

[\* *Reprinted as at 19 November 1996.*  
*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 217, and Act No. 10 of 1998 and Gazette 27 February 1998 and 9 October 1998.*]

## **Part 12 — *Young Offenders Act 1994***

### **39. Act amended by this Part**

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

[\* *Reprinted as at 26 November 1996.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 259, and Act No. 29 of 1998.]*

### **40. Section 3 amended**

Section 3 is amended by inserting in the appropriate alphabetical position the following definition —

“

“**lock-up**” means a lock-up as defined in the *Court Security and Custodial Services Act 1999*;

”

### **41. Section 15 amended**

Section 15(1) is amended by inserting after “Act” —

“

or under the *Court Security and Custodial Services Act 1999* in relation to the young person, and to any person who is authorized to exercise a Schedule power as defined in that Act in relation to the young person or who does any high-level security work as defined in that Act in relation to the young person

”

**s. 42**

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**42. Section 16 amended**

Section 16(1) is amended by inserting after “Crown,” —

“

or by a contractor as defined in the *Court Security and Custodial Services Act 1999*,

”.

**43. Section 118A amended**

Section 118A(3) is amended by deleting “police”.

**44. Section 171 amended**

Section 171(1) is amended by inserting after “officer” —

“

or a person who is authorized to exercise a power set out in clause 15 of Schedule 2 to the *Court Security and Custodial Services Act 1999*

”.

**45. Section 179 amended**

Section 179(5) is amended by inserting after “control” —

“

or a person who is authorized to exercise a power set out in clause 2 of Schedule 2 to the *Court Security and Custodial Services Act 1999*

”.

**46. Section 188 amended**

Section 188(2) is amended by inserting after “Department” —

“

or if a person who is authorized to exercise a power set out in clause 2 of Schedule 2 to the *Court Security and Custodial Services Act 1999* has charge for the time being of a detainee

”.

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