



PRISON AMENDMENT ACT (No. 2) 1985

No. 120 of 1985

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AN ACT to amend the Prison Act 1977.

[Royal Assent 28 November 1985]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Prison Amendment Act (No. 2)* 1985. Short title.

2—This Act shall commence on the day on which it receives the Royal assent. Commencement.

3—In this Act, the *Prison Act 1977** is referred to as the *Principal Act*. Principal Act.

* No. 19 of 1977. Amended by No. 29 of 1984 and Nos. 4 and 51 of 1985.

Amendment of section 3 of Principal Act (Interpretation).

4—Section 3 of the Principal Act is amended as follows:—

- (a) by omitting the definition of “detainee” and substituting the following definition:—

“detainee” means a person, other than a prisoner, who is, for the time being, subject to an order of a court by which he is remanded or otherwise committed to prison;

- (b) by omitting the definition of “prisoner” and substituting the following definition:—

“prisoner” means a person who is, for the time being, subject to an order of a court by which he is sentenced to a term of imprisonment;

Amendment of section 5 of Principal Act (Power of Governor to declare prisons for certain exclusive or other uses).

5—Section 5 of the Principal Act is amended as follows:—

- (a) by inserting after subsection (1) the following subsection:—

(1A) The Governor may, by proclamation, declare that a prison shall be available for use for the detention in lawful custody of persons other than prisoners or detainees, and nothing in this Act shall apply to or in relation to the detention of such a person in that prison.

- (b) by omitting from subsection (2) “subsection (1)” and substituting “subsection (1) or (1A)”.

Amendment of section 7 of Principal Act (Powers and duties of Director).

6—Section 7 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “The Director” and substituting “Subject to sections 5 (1A) and 8, the Director”;

- (b) by omitting from paragraph (b) of subsection (1) “, subject to section 8,”.

Amendment of section 8 of Principal Act (Duties of prison officers, &c.).

7—Section 8 of the Principal Act is amended by adding at the end the following subsections:—

(3) Where a police officer holds office, pursuant to an appointment made under section 6 (5), as a gaoler of a prison, he may, with the approval of the Director, by instrument in writing signed by him, delegate to another police officer the

performance or exercise of such of his functions and powers (other than this power of delegation) as a gaoler as are specified in the instrument of delegation, and may, by like instrument, revoke wholly or in part any such delegation.

(4) A function or power the performance or exercise of which has been delegated under subsection (3) may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.

(5) A delegation under subsection (3) may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstance, as are specified in the instrument of delegation.

(6) Notwithstanding any delegation by him under subsection (3), a gaoler may continue to perform or exercise all or any of the functions or powers delegated.

(7) Any act or thing done by or to a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by or to the gaoler and shall be deemed to have been done by or to the gaoler.

(8) An instrument purporting to be signed by a delegate of a gaoler in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument signed by the gaoler and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the gaoler under subsection (3).

8—Section 13 of the Principal Act is amended by omitting from subsection (1) all the words from and including “Where” to and including “taken” and substituting “Subject to subsection (3) and to any order of a court to the contrary, a prisoner or detainee shall, immediately after the making of the order by reason of which he is a prisoner or detainee, be taken”.

Amendment of section 13 of Principal Act (Removal of prisoners and detainees into control of Director).

