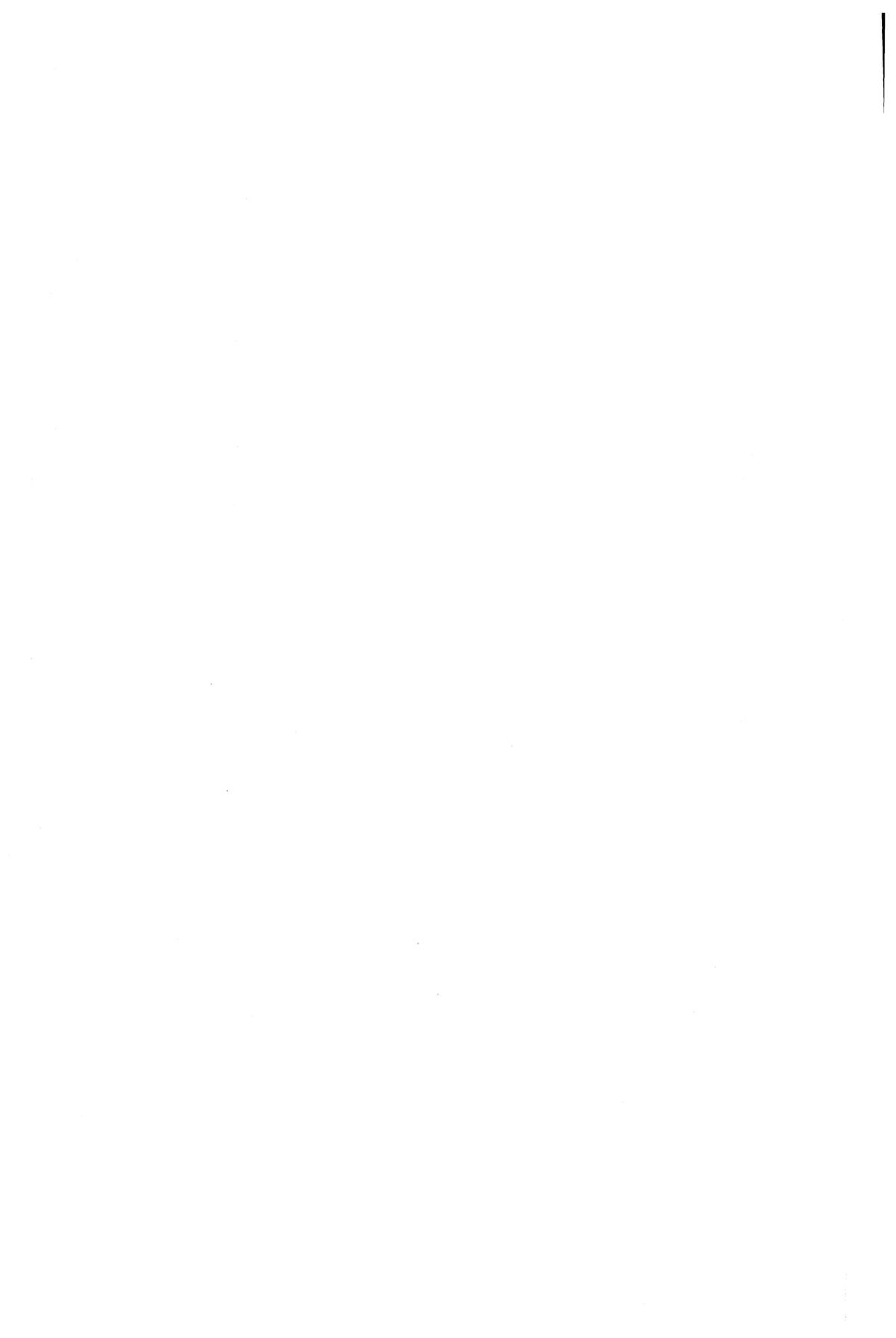

PRISON AMENDMENT ACT 1985

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PRISON AMENDMENT ACT 1985

—————
 No. 4 of 1985
 —————

AN ACT to amend the Prison Act 1977 and the Tasmanian State Service (Miscellaneous Amendments) Act 1984.

[Royal Assent 17 April 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 1985*. Short title.

2—(1) This section and section 1 shall commence on the day Commence- on which this Act receives the royal assent. ment.

(2) Except as provided in subsection (1), each of the provisions of this Act, other than—

(a) sections 5 and 10 (1) and Schedule 2, where the *Tasmanian State Service (Miscellaneous Amendments) Act 1984* commences on or before the day on which those provisions commence; or

(b) section 10 (2) and Schedule 3, where the *Tasmanian State Service (Miscellaneous Amendments) Act 1984* commences after the day on which those provisions commence,

shall commence on a day to be fixed by proclamation and—

(c) where the *Tasmanian State Service (Miscellaneous Amendments) Act 1984* commences on or before the day on which those provisions commence, sections 5 and 10 (1) and Schedule 2; or

(d) where the *Tasmanian State Service (Miscellaneous Amendments) Act 1984* commences after the day on which those provisions commence, section 10 (2) and Schedule 3,

are repealed on that last-mentioned day.

Principal Act.

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

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 “Controller” and substituting the following definition:—

“Chief Superintendent” means the Chief Superintendent of the Prison Service appointed pursuant to section 6;

(b) by omitting the definition of “Deputy Controller” and substituting the following definition:—

“Deputy Chief Superintendent” means the Deputy Chief Superintendent of the Prison Service appointed pursuant to section 6;

(c) by inserting the following definition after the definition of “detainee”:—

“Director” means the Director of Corrective Services appointed pursuant to section 6;

(d) by omitting “section 6 (5)” from the definition of “gaoler” and substituting “section 6 (6)”;

(e) by omitting the definition of “prison officer” and substituting the following definition:—

“prison officer” means an officer or person employed in any capacity in the control and administration of a prison;

* No. 19 of 1977. Amended by No. 29 of 1984.

(f) by inserting the following definition after the definition of “prisoner” :—

“ Secretary ” means the Secretary of the Law Department;

(g) by omitting the definition of “ superintendent ” and substituting the following definition :—

“ superintendent ” means a superintendent appointed pursuant to section 6 (3).

5—Section 6 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 6 of Principal Act.

6—(1) The Governor may appoint a Director of Corrective Services.

Appointment of Director and other officers.

(2) The Governor may appoint a Chief Superintendent of the Prison Service, a Deputy Chief Superintendent of the Prison Service, and such other officers as are required for the purposes of this Act or otherwise for the management of prisons.

(3) The Governor may appoint a superintendent and a deputy superintendent for a prison to which the Minister, by order, declares this subsection to apply.

(4) The Chief Superintendent may hold office as a superintendent in conjunction with his office as Chief Superintendent.

(5) The Deputy Chief Superintendent may hold office as a deputy superintendent in conjunction with his office as Deputy Chief Superintendent.

(6) The Governor may, pursuant to subsection (2), appoint a gaoler for a prison other than one referred to in subsection (3).

(7) An officer appointed under this section shall be appointed under and in accordance with the *Public Service Act 1973* and while exercising his functions and duties has the same powers, privileges, and immunities as a police officer.

6—Section 7 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 7 of Principal Act.

7—(1) The Director is responsible to the Secretary—

Powers and duties of Director.

(a) for the care and direction of all prisons, prisoners, and detainees and the control of all prisons;

(b) for, subject to section 8, the order and control of all prison officers, prisoners, and detainees.

(2) The Director has the other powers, functions, and duties vested in or conferred or imposed on him by this Act, the *Probation of Offenders Act 1973*, the *Parole Act 1975*, and the *Mental Health Act 1963*.

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

7—Section 8 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

(1) The Director is responsible to the Secretary for determining the duties of a prison officer.

Substitution of section 9 of Principal Act.

8—Section 9 of the Principal Act is repealed and the following section is substituted:—

9—(1) The Chief Superintendent shall exercise—

(a) all the powers, functions, and duties of the Director that the Director directs him to exercise; and

(b) all the powers, functions, and duties of the Director under this or any other Act, if the Director is absent, incapacitated, or otherwise unable to act, unless otherwise determined by the Secretary.

(2) Anything done by the Chief Superintendent in pursuance of subsection (1) has the same force and effect as if it had been done by the Director.

(3) The Deputy Chief Superintendent shall exercise—

(a) all the powers, functions, and duties of the Chief Superintendent that the Chief Superintendent directs him to exercise; and

(b) all the powers, functions, and duties of the Chief Superintendent if the Chief Superintendent is absent, incapacitated, or otherwise unable to act.

(4) Anything done by the Deputy Chief Superintendent in pursuance of subsection (3) has the same force and effect as if it had been done by the Chief Superintendent.

(5) The superintendent of a prison shall be responsible to the Chief Superintendent for the management and direction of prison officers, prisoners, and detainees placed under his authority.

Exercise of functions of Director and other officers.

(6) The deputy superintendent of a prison shall exercise—

(a) all the powers, functions, and duties of the superintendent of the prison that the Chief Superintendent directs him to exercise; and

(b) all the powers, functions, and duties of that superintendent, if the superintendent is absent, incapacitated, or otherwise unable to act.

(7) Anything done by the deputy superintendent of a prison in pursuance of subsection (6) has the same force and effect as if it had been done by the superintendent of the prison.

(8) The Director may, by a written direction, require an officer appointed under section 6 (2) or (3) to exercise, during the period or in the circumstances specified in the direction, the functions of the Chief Superintendent or the Deputy Chief Superintendent and those functions are so exercisable as long as the direction remains in force.

(9) A reference in any other Act to the gaoler of a prison shall, in relation to a prison referred to in section 6 (3), be construed as a reference to the superintendent of that prison or any other person who, under this section, is for the time being exercising the functions of the superintendent of that prison.

9—The provisions of the Principal Act specified in column 1 of Schedule 1 are amended by omitting the expressions specified in column 2 opposite those provisions and substituting the expressions specified in column 3 opposite those provisions.

Consequential amendment of Principal Act.

10—(1) Schedule 2 has effect.

(2) Schedule 3 has effect.

Amendment consequential upon *Tasmanian State Service Act 1984*.

11—(1) The person holding office as Deputy Controller of Prisons immediately before the commencement of this Act shall, on that commencement, be deemed to have been appointed as Chief Superintendent of the Prison Service pursuant to section 6 (2) of the Principal Act, as substituted by this Act.

Savings and transitional provisions.

(2) The person holding office as Deputy Superintendent, Risdon Prison (Male) immediately before the commencement of this Act shall, on that commencement, be deemed to have been appointed as Deputy Chief Superintendent of the Prison Service pursuant to section 6 (2) of the Principal Act, as substituted by this Act.

(3) On and from the day fixed by proclamation under section 2 (2), a reference in any Act, instrument, or other document to the Controller of Prisons shall be construed as a reference to the Director of Corrective Services.

SCHEDULE 1

Section 9

CONSEQUENTIAL AMENDMENT OF PRINCIPAL ACT

COLUMN 1 Provision	COLUMN 2 Expression Omitted	COLUMN 3 Expression Substituted
Section 10 (5)	" Controller "	" Director "
Section 12	" Controller "	" Director "
Section 13	" Controller " (twice occurring)	" Director "
Section 14 (2)	" Controller "	" Chief Superintendent "
Section 14 (3)	" Controller " (twice occurring)	" Director "
Section 17 (1)	" Controller "	" Director "
Section 18 (2)	" Controller "	" Chief Superintendent "
Section 19	" Controller " (twice occurring)	" Director "
Section 20	" Controller " (twice occurring)	" Chief Superintendent "
Section 22	" Controller " (twice occurring)	" Director "
Section 24 (1)	" Controller "	" Director "
Section 25	" Controller " (wherever occurring)	" Director "
Section 26	" Controller " (wherever occurring)	" Director "
Section 27	" Controller " (twice occurring)	" Director "
Section 28	" Controller " (twice occurring)	" Director "
Section 29 (5)	" Controller "	" Director "
Section 31 (3)	" Controller "	" Chief Superintendent "
Section 31 (4)	" The Controller shall refer to "	" The Chief Super- intendent shall refer, through the Director, to "
Section 31 (4)	" Controller " (secondly occurring)	" Chief Superintendent "
Section 33	" Controller " (wherever occurring)	" Director "
Section 34 (2)	" Controller "	" Chief Superintendent "
Section 39 (1)	" Controller "	" Director "
Section 40 (1)	" Controller "	" Director "

SCHEDULE 2

Section 10 (1)

AMENDMENT CONSEQUENTIAL UPON THE ENACTMENT OF THE TASMANIAN
STATE SERVICE ACT 1984

1—Schedule 1 to the *Tasmanian State Service (Miscellaneous Amendments) Act 1984* is amended by omitting item 2 relating to the *Prison Act 1977* and substituting the following item:—

2—Section 6 is repealed and the following section is substituted:—

Appointment
of Director of
Corrective
Services and
other persons.

6—(1) Subject to and in accordance with the *Tasmanian State Service Act 1984* there may be appointed or employed a Director of Corrective Services.

(2) Subject to and in accordance with the *Tasmanian State Service Act 1984* there may be appointed or employed a Chief Superintendent of the Prison Service, a Deputy Chief Superintendent of the Prison Service, and such other persons as are required for the purposes of this Act or otherwise for the management of prisons.

(3) Subject to and in accordance with the *Tasmanian State Service Act 1984*, a superintendent and a deputy superintendent may be appointed for a prison to which the Minister, by order, declares this subsection to apply.

(4) The Chief Superintendent may hold the position of superintendent in conjunction with his position as Chief Superintendent.

(5) The Deputy Chief Superintendent may hold the position of deputy superintendent in conjunction with his position as Deputy Chief Superintendent.

(6) The Secretary of the Law Department may appoint—

(a) an employee employed in that Agency; or

(b) with the approval of the Commissioner of Police, a police officer, to be a gaoler for a prison other than one referred to in subsection (3).

(7) An employee appointed or employed pursuant to this section shall, while exercising his functions and duties, have the same powers, privileges, and immunities as a police officer.

SCHEDULE 3

Section 10 (2)

AMENDMENT CONSEQUENTIAL UPON THE ENACTMENT OF THE TASMANIAN
STATE SERVICE ACT 1984

Section 6 of the Principal Act is repealed and the following section is substituted:—

6—(1) Subject to and in accordance with the *Tasmanian State Service Act* 1984 there may be appointed or employed a Director of Corrective Services.

Appointment
of Director of
Corrective
Services and
other persons.

(2) Subject to and in accordance with the *Tasmanian State Service Act* 1984 there may be appointed or employed a Chief Superintendent of the Prison Service, a Deputy Chief Superintendent of the Prison Service, and such other persons as are required for the purposes of this Act or otherwise for the management of prisons.

(3) Subject to and in accordance with the *Tasmanian State Service Act* 1984, a superintendent and a deputy superintendent may be appointed for a prison to which the Minister, by order, declares this subsection to apply.

(4) The Chief Superintendent may hold the position of superintendent in conjunction with his position as Chief Superintendent.

(5) The Deputy Chief Superintendent may hold the position of deputy superintendent in conjunction with his position as Deputy Chief Superintendent.

(6) The Secretary of the Law Department may appoint—

(a) an employee employed in that Agency; or

(b) with the approval of the Commissioner of Police, a police officer, to be a gaoler for a prison other than one referred to in subsection (3).

(7) An employee appointed or employed pursuant to this section shall, while exercising his functions and duties, have the same powers, privileges, and immunities as a police officer.

