



Australian Capital Territory

Corrections and Sentencing Legislation Amendment Act 2023

A2023-21

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J2022-217

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Australian Capital Territory

Corrections and Sentencing Legislation Amendment Act 2023

A2023-21

An Act to amend legislation about corrections management and sentencing, and
for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Corrections and Sentencing Legislation Amendment Act 2023*.

2 Commencement

- (1) This Act (other than section 18 and part 4) commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) Section 18 and part 4 commence on a day fixed by the Minister by written notice.

Note A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

- (3) If section 18 and part 4 have not commenced within 12 months beginning on this Act's notification day, they automatically commence on the first day after that period.

- (4) The [Legislation Act](#), section 79 (Automatic commencement of postponed law) does not apply to section 18 and part 4.

3 Legislation amended

This Act amends the following legislation:

- [Corrections Management Act 2007](#)
- [Crimes \(Sentence Administration\) Act 2005](#)
- [Crimes \(Sentence Administration\) Regulation 2006](#).

Part 2 Corrections Management Act 2007

4 Strip search on admission Section 70 (2)

substitute

- (2) The following provisions apply in relation to the direction and any strip search conducted under the direction:
- (a) part 9.4 (Searches), other than section 113A, section 113B and section 113C;
 - (b) part 9.5 (Seizing property).

5 Nonsmoking areas Section 86 (1)

substitute

- (1) The director-general may declare the whole or part of a correctional centre as an area in which smoking is prohibited (a **nonsmoking area**).
- (1A) However, the director-general may only declare the whole of a correctional centre as a nonsmoking area if the director-general is reasonably satisfied that appropriate therapeutic support is available to help detainees at the correctional centre stop smoking.

6 Section 111 heading

substitute

111 Scanning, frisk and ordinary searches—direction to search detainee

7 Section 111 (1)

omit

, another corrections officer or anyone else working at or visiting a correctional centre

8 Section 111 (1), examples

substitute

Examples of searches

- 1 searching a detainee returning to a correctional centre after performing community service
- 2 searching a detainee returning to the detainee's accommodation at a correctional centre after working in another part of the centre

9 Section 112

substitute

112 Scanning, frisk and ordinary searches—requirements for search of detainee

- (1) A corrections officer may conduct a scanning search, frisk search or ordinary search of a detainee under section 111 only if—
 - (a) the officer is the same sex as the detainee; or
 - (b) if that is not practicable—another person of the same sex as the detainee is present while the search is conducted.
- (2) The other person mentioned in subsection (1) (b) must not be a detainee.

112A Scanning and ordinary searches—direction to search non-detainee

The director-general may direct a corrections officer to conduct a scanning search or ordinary search of another corrections officer or a visitor—

- (a) on entry or admission to a correctional centre; or
- (b) at any other time the director-general believes on reasonable grounds that it is prudent to conduct the search to protect—
 - (i) the safety of anyone at a correctional centre; or
 - (ii) security or good order at a correctional centre.

112B Scanning and ordinary searches—requirements for search of non-detainee

- (1) A corrections officer of any sex may conduct the following searches of another corrections officer or a visitor at a correctional centre under section 112A:
 - (a) an ordinary search involving only an x-ray of the articles in the other officer's or visitor's possession;
 - (b) a scanning search involving the other officer or visitor passing through a metal-detecting device or a hand-held metal detecting device being passed over the other officer or visitor.
- (2) A corrections officer may conduct any other kind of scanning search or ordinary search of another corrections officer or a visitor only if—
 - (a) the officer is the same sex as the other officer or visitor; or
 - (b) if that is not practicable—another person of the same sex as the other officer or visitor is present while the search is conducted.
- (3) The other person mentioned in subsection (2) (b) must not be a detainee.

- (4) A corrections officer or visitor, or articles in the officer's or visitor's possession, must not be searched without the officer's or visitor's consent.
- (5) A corrections officer or visitor may refuse or withdraw consent and have the search discontinued at any time.
- (6) If the corrections officer or visitor refuses to allow a search or, if the search has started, withdraws consent, the corrections officer seeking to conduct the search may refuse to allow the other officer or visitor to enter the correctional centre.
- (7) This section does not apply to an article in a corrections officer's or visitor's possession that the officer or visitor leaves in a secure place provided at the entrance to a correctional centre.

Example—secure place

a lockable cupboard

112C Frisk searches—direction to search non-detainee

The director-general may, at any time, direct a corrections officer to conduct a frisk search of another corrections officer or visitor if the director-general believes on reasonable grounds that it is prudent to conduct the search to protect—

- (a) the safety of anyone at a correctional centre; or
- (b) security or good order at a correctional centre.

112D Frisk searches—requirements for search of non-detainee

- (1) A corrections officer may conduct a frisk search of another corrections officer or a visitor at a correctional centre under section 112C only if—
 - (a) the officer is the same sex as the other officer or visitor; or
 - (b) if that is not practicable—another person of the same sex as the other officer or visitor is present while the search is conducted.

- (2) The other person mentioned in subsection (1) (b) must not be a detainee.

**10 Strip searches—when may be conducted
Section 113A (1), new note**

insert

Note 2 This section does not apply to a strip search conducted on a detainee on their admission to a correctional centre (see s 70 (2)).

**11 Taking prohibited things etc into correctional centre
Section 145 (1) (a) and (b)**

substitute

- (a) takes or sends a prohibited thing into a correctional centre; or
(b) gives or sends a prohibited thing to a detainee; or

12 New section 145 (1A)

insert

- (1A) For subsection (1), *send* does not require personal carriage of the prohibited thing into the correctional centre or for a prohibited thing to be personally given to a detainee.

Examples

- 1 a prohibited thing being dropped into a correctional centre by a drone or remotely piloted aircraft
- 2 a prohibited thing being thrown into a correctional centre

13 Section 145 (3), definition of *give*

omit

14 New section 230

insert

230 Review of strip search on admission provision

- (1) The Minister must review the operation of section 70 (Strip search on admission) as amended by the *Corrections and Sentencing Legislation Amendment Act 2023* (the **amending Act**).
- (2) The review must be started as soon as practicable 2 years after the commencement of the amending Act, section 4.
- (3) The Minister must present a report of the review to the Legislative Assembly within 6 months after the day the review is started.
- (4) This section expires 3 years after the day it commences.

15 Dictionary, definition of *visitor*

substitute

visitor, to a correctional centre, includes a person working at the correctional centre, other than a corrections officer, and a person who intends to enter the correctional centre as a visitor.

Examples—person working at correctional centre

counsellor, psychologist, tradesperson, volunteer

Part 3 Crimes (Sentence Administration) Act 2005

16 Notice of inquiry—breach of intensive correction order obligations Section 63 (1)

omit

director-general

substitute

board

17 Section 63 (4)

omit

18 Section 102

substitute

102 Good behaviour—breach of good behaviour obligation

- (1) This section applies if a corrections officer believes on reasonable grounds that an offender has breached any of the offender's good behaviour obligations (a *reportable breach*).
- (2) The corrections officer must, in writing—
 - (a) make a record of the reportable breach; and
 - (b) report the reportable breach to the sentencing court.
- (3) However, other than for a reportable breach the conduct of which could constitute an offence, the corrections officer—
 - (a) need not report the reportable breach to the sentencing court; and

- (b) may instead warn the offender about the reportable breach, and that further reportable breaches may be reported to the sentencing court.
- (4) A report under subsection (2) and a warning under subsection (3) must—
 - (a) be recorded in writing; and
 - (b) include the grounds for believing there has been a breach; and
 - (c) for a report under subsection (2)—include a summary of any reportable breach for which the offender has previously been warned and an explanation of why the warning was given; and
 - (d) for a warning under subsection (3)—comply with the guidelines under subsection (5).
- (5) The director-general must make guidelines about when a corrections officer may warn an offender about a reportable breach.
- (6) The guidelines must set out—
 - (a) the matters a corrections officer must consider before warning an offender; and
 - (b) procedures about how and when a corrections officer may warn an offender; and
 - (c) the circumstances in which a corrections officer must report a reportable breach to the sentencing court.
- (7) A guideline is a notifiable instrument.

Note Power to make a guideline includes power to make different provision in relation to different matters or different classes of matters, and to make a guideline that applies differently by reference to stated exceptions or factors (see [Legislation Act](#), s 48).

(8) In this section:

offender—

- (a) includes a young offender for whom the director-general responsible for this Act is responsible in accordance with a decision under section 320F; but
- (b) does not include any other young offender.

Note For other young offenders, see s 320G (Young offenders—breach of good behaviour obligations).

**19 Corrections officer's actions for breach of good behaviour obligations—COVID-19 emergency
Section 102A (7)**

omit

section 102 (4)

substitute

section 102 (8)

**20 Community-based sentence transfer—decision on request
New section 277 (2A) and (2B)**

insert

- (2A) The local authority may make procedures (*assessment procedures*), consistent with this Act, to assist in deciding whether to register interstate sentences.
- (2B) An assessment procedure is a notifiable instrument.

**21 Young offenders—breach of good behaviour obligations
Section 320G (3), definition of *young offender*, note**

substitute

Note Section 102 (Good behaviour—breach of good behaviour obligation) applies to these young offenders (see s 102 (8)).

Part 4 Crimes (Sentence Administration) Regulation 2006

22 Section 5

substitute

5 Community-based sentence transfer—participating jurisdictions—Act, s 265 (3)

Each State is declared to be a participating jurisdiction.

Note *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 30 November 2022.

2 Notification

Notified under the [Legislation Act](#) on 21 June 2023.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Corrections and Sentencing Legislation Amendment Bill 2023, which originated in the Legislative Assembly as the Corrections and Sentencing Legislation Amendment Bill 2022 and was passed by the Assembly on 7 June 2023.

Clerk of the Legislative Assembly

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