

NORTHERN TERRITORY OF AUSTRALIA
PRISONS (CORRECTIONAL SERVICES) AMENDMENT ACT (NO. 2) 2000

No. 53 of 2000

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NORTHERN TERRITORY OF AUSTRALIA

No. 53 of 2000

AN ACT

to amend the *Prisons (Correctional Services) Act*

[Assented to 14 November 2000]
[Second reading 18 October 2000]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Prisons (Correctional Services) Amendment Act (No. 2) 2000*.

2. Principal Act

The *Prisons (Correctional Services) Act* is in this Act referred to as the Principal Act.

3. Visits not to be monitored, etc.

Section 43 of the Principal Act is amended —

- (a) by omitting from subsection (1) "Visits" and substituting "Subject to this section, visits";
- (b) by adding at the end of subsection (2) "except as permitted under this Act"; and
- (c) by adding at the end the following:

"(4) The officer in charge of a prison or police prison may direct that a visit between a prisoner and his or her legal representative to be visually monitored."

4. New section

The Principal Act is amended by inserting before section 44, in Part XII, the following:

"43A. Definitions

"In this Part, unless the contrary intention appears –

'authorised legal practitioner' means a legal practitioner authorised under section 48A;

'inspect' includes read;

'letter' includes a document, memorandum, note, telegram, facsimile and any other electronic transmission."

5. Letters may be intercepted

Section 47 of the Principal Act is amended by inserting "or addressed to" after "dispatched by".

6. Letters to Ministers, etc.

Section 48 of the Principal Act is amended by omitting from subsection (1) ", the Director or the prisoner's legal representative" and substituting "or the Director".

7. New section

The Principal Act is amended by inserting after section 48 the following:

"48A. Letters to and from legal representative

"(1) If the officer in charge of a prison or police prison is of the opinion that –

(a) a letter or parcel passing between a prisoner and his or her legal representative during a visit to the prisoner by the legal representative may contain material described in subsection (3)(b);
or

(b) a letter or parcel dispatched by a prisoner to his or her legal representative or addressed to a prisoner from his or her legal representative may contain material described in subsection (3)(b),

the officer may order that the letter or parcel be intercepted, opened and inspected in accordance with this section.

"(2) As soon as practicable after giving an order under subsection (1), the officer in charge of a prison or police prison must advise the Director, in writing, of the order being made and his or her reason for making the order.

"(3) If an order is made under subsection (1), an authorised legal practitioner may open and inspect the letter or parcel in respect of which the order is made and may –

- (a) forward the letter or parcel as addressed; or
- (b) forward the letter or parcel to the Director if, in the opinion of the authorised legal practitioner –
 - (i) the contents may jeopardize the security or good order of a prison or police prison or a prisoner;
 - (ii) the contents contains subject-matter that would constitute a breach of this Act, the Regulations or any determination of the Director made under this Act;
 - (iii) the contents contains subject-matter that would constitute a breach of a law of the Territory, the Commonwealth, a State or another Territory of the Commonwealth;
 - (iv) the contents may be threatening or insulting to any person;
 - (v) the contents may have a detrimental influence or effect on a prisoner; or
 - (vi) the letter is written in a code or is illegible.

"(4) A letter or parcel forwarded to the Director under subsection (3) may be –

- (a) censored by the Director and then forwarded as addressed;
- (b) returned to the prisoner or legal representative by the Director, as the case may be;
- (c) retained by the Director; or
- (d) destroyed by the Director.

"(5) If action is taken under subsection (3)(b), the officer in charge of the prison or police prison must inform the prisoner and the legal representative that the action has been taken.

"(6) The Minister may, in writing, authorise a legal practitioner for the purposes of this section.

"(7) A legal practitioner cannot be authorised for the purposes of this section unless he or she has practised as a legal practitioner, either in the Territory or elsewhere, for not less than 10 years."

8. Director may censor letters

Section 49 of the Principal Act is amended by inserting after subsection (1)(b) the following:

"(ba) the contents contains subject-matter that would constitute a breach of a law of the Territory, the Commonwealth, a State or another Territory of the Commonwealth;"

9. Telephone calls

Section 50 of the Principal Act is amended by omitting "or to send and receive telegrams".

10. Information not to be disclosed

Section 51 of the Principal Act is amended –

(a) by omitting "The Director or an officer" and substituting "(1) The Director, an officer or authorised legal practitioner"; and

(b) by adding at the end the following:

"(2) The Director may disclose information that he or she obtains under section 48A to a law enforcement agency if, in the opinion of the Director, disclosing the information to the agency would assist in law enforcement generally.

"(3) An authorised legal practitioner may disclose information that he or she obtains under section 48A to the Attorney-General or to the Law Society of the Northern Territory if, in the opinion of the authorised legal practitioner, the information disclosures conduct by a legal practitioner that may constitute professional misconduct under the *Legal Practitioners Act*."
