

Health Transparency Bill 2019

Amendments during consideration in detail to be moved by
The Honourable the Minister for Health and Minister for Ambulance
Services

1 Part 6 (Amendment of Acts)

Page 19, line 1—

omit, insert—

Part 6 **Amendments of Acts relating to health matters**

2 Before clause 69

Page 57, before line 3—

insert—

68A Amendment of s 20 (Powers of Services)

Section 20—

insert—

- (6) To remove any doubt, it is declared that a regulation made under subsection (4) may be amended or repealed to revoke the prescription of a Service under that subsection.

Note—

See also section 282(7) and (8).

68B Insertion of new s 80D

After section 80C—

insert—

80D Division does not limit making of particular regulations

To remove any doubt, it is declared that this division does not prevent the revocation of

the prescription of a Service under section 20(4).

3 After clause 69

Page 63, after line 11—

insert—

69A Amendment of s 282 (Regulation-making power)

(1) Section 282—

insert—

(6A) Without limiting subsections (2) to (5), and despite any other provision of this Act, a regulation may make provision about a matter if—

- (a) it is necessary or convenient to make provision for the matter to allow or facilitate the transition of a Service from a prescribed Service to a Service that is no longer prescribed under section 20(4); and
- (b) the following Acts do not make provision, or sufficient provision, for the matter—
 - (i) this Act;
 - (ii) the *Industrial Relations Act 2016*;
 - (iii) the *Public Service Act 2008*.

Examples of matters for which it may be necessary or convenient to make provision—

- the transfer of health service employees, other than health executives and senior health service employees, from the Service to the department
- the continuation of accrued rights, benefits and entitlements of a health service employee mentioned in the first dot point

- a proceeding related to the employment of a health service employee mentioned in the first dot point by the Service

(6B) Without limiting subsection (7), a regulation made under that subsection may state the way in which a provision of this Act, the *Industrial Relations Act 2016* or the *Public Service Act 2008* applies in relation to a matter to which the subsection applies.

- (2) Section 282(6A) to (7)—
renumber as section 282(7) to (9).

4 After part 6

Page 66, after line 8—

insert—

Part 7 Other amendments of legislation

Division 1 Amendment of Corrective Services Act 2006

76 Act amended

This division amends the *Corrective Services Act 2006*.

77 Amendment of s 308 (Powers of proper officer of a court)

- (1) Section 308(2)(a) and (b)—

omit, insert—

- (a) the chief executive to provide corrective services officers; or

- (b) the commissioner to provide police officers or, to the extent the commissioner considers it appropriate, watch-house officers.
- (2) Section 308—
- insert—*
- (6) In helping the proper officer of the court, a watch-house officer—
 - (a) is subject to any directions of the commissioner; and
 - (b) may—
 - (i) exercise a power of a watch-house officer under the *Police Powers and Responsibilities Act 2000*, section 648, 649 or 652 as if the prisoner of the court or person mentioned in subsection (1) were in custody at a watch-house; and
 - (ii) use reasonably necessary force under the *Police Powers and Responsibilities Act 2000*, section 653 for transferring or escorting the prisoner of the court or person mentioned in subsection (1) to or from a place mentioned in that section as if the prisoner or person were in custody and the transfer or escort were authorised by a watch-house manager.
 - (7) Subsection (6)(b) does not limit the help the watch-house officer may give to the proper officer of the court to perform the proper officer’s functions.
 - (8) In this section—
watch-house officer see the *Police Service Administration Act 1990*, section 1.4.

Division 2 Amendment of Police Powers and Responsibilities Act 2000

78 Act amended

This division amends the *Police Powers and Responsibilities Act 2000*.

79 Amendment of s 640 (Transfer of persons in watch-houses)

Section 640(2)—

omit.

80 Amendment of s 653 (Power to use force—transfer etc. of person in custody to or from court cell or other place)

(1) Section 653, heading, ‘court cell or other place’—

omit, insert—

holding place

(2) Section 653(1)—

omit, insert—

(1) It is lawful for a watch-house officer who is authorised by a watch-house manager for the purpose of transferring a person in custody to use reasonably necessary force—

(a) to transfer a person in custody from a holding place to another holding place;
or

(b) to ensure a person in custody at a court precinct appears before a court and is transferred to a holding place after the appearance, if the person is not otherwise released; or

- (c) to ensure a person in custody does not escape from lawful custody while the person is—
 - (i) being transferred to a holding place under paragraph (a) or (b); or
 - (ii) being held in a holding place to which the person has been transferred under paragraph (a) or (b); or
 - (iii) in a court under paragraph (b).
- (3) Section 653(2), ‘purpose to escort’—
omit, insert—
purpose of escorting
- (4) Section 653—
insert—
 - (4) In this section—
court precinct means any land or building, or the part of any land or building, used for the purposes of a court of the State, including, for example, a court cell.
holding place means a watch-house, court precinct or corrective services facility.

81 Amendment of s 659 (Custody continues while person in custody is being transferred or escorted by watch-house officer)

Section 659(a), ‘court cell’—

omit, insert—

holding place under section 653(1)

82 Amendment of sch 6 (Dictionary)

Schedule 6—

insert—

court cell means a place attached to or near a court that is used for detaining prisoners of the court and other persons.

Division 3 Amendment of Youth Justice Act 1992

83 Act amended

This division amends the *Youth Justice Act 1992*.

84 Amendment of s 56 (Custody of child if not released by court)

Section 56(1)—

insert—

Note—

See also part 5A in relation to a child who remains a prisoner of a court.

85 Insertion of new pt 5A

After part 5—

insert—

Part 5A Children who are prisoners of a court or detained in court cells

59B Definitions for part

In this part—

corrective services officer see the *Corrective Services Act 2006*, schedule 4.

watch-house officer see the *Police Service Administration Act 1990*, section 1.4.

youth justice staff member means—

- (a) a detention centre employee; or
- (b) another employee of the department in a capacity that involves supervising children in the chief executive's custody.

59C Child in custody of proper officer of a court

- (1) A child who is required by law to surrender himself or herself into the custody of a court must do so by surrendering himself or herself into the custody of the proper officer of the court.
- (2) A child who surrenders himself or herself into the custody of a court is in the custody of the proper officer of the court until the child is—
 - (a) released on bail or without bail; or
 - (b) discharged; or
 - (c) remanded into the custody of the chief executive; or
 - (d) otherwise dealt with as the court directs.

59D Powers of proper officer of a court

The proper officer of a court has, in relation to a child who is a prisoner of the court or mentioned in section 59H(1), all the powers of the chief executive under this Act, in relation to a detainee, that are necessary for the discharge of the proper officer's functions.

59E Proper officer of a court may ask for help to perform functions

- (1) To help the proper officer of a court perform the proper officer's functions, the proper officer may ask—
 - (a) the chief executive to provide youth justice staff members; or
 - (b) the chief executive (corrective services) to provide corrective services officers; or
 - (c) the commissioner to provide police officers or, to the extent the commissioner considers it appropriate, watch-house officers.
- (2) Subsection (1)(a) applies only in relation to functions performed at, or in relation to, a place prescribed by regulation.
- (3) The chief executive, chief executive (corrective services) or commissioner must comply with the request.
- (4) In this section—

chief executive (corrective services) means the chief executive of the department in which the *Corrective Services Act 2006* is administered.

59F Officers providing help to proper officer of a court

- (1) In helping the proper officer of a court under section 59E, a youth justice staff member, corrective services officer or watch-house officer may exercise powers—
 - (a) prescribed by regulation for this section; and
 - (b) as if—

- (i) the child who is a prisoner of the court or mentioned in section 59H(1) were a detainee; and
 - (ii) for a corrective services officer or watch-house officer—the officer were a youth justice staff member; and
- (c) as otherwise prescribed by regulation.
- (2) Subsection (1) does not limit the help the youth justice staff member, corrective services officer or watch-house officer may give to the proper officer of the court to perform the proper officer's functions.

59G Delegation of powers of proper officer of a court

The proper officer of a court may delegate the proper officer's functions or powers under this part, including functions or powers prescribed by regulation under section 59F or 59I, to an appropriately qualified person.

59H Detention of children in court cells

- (1) A child who is not a prisoner of a court may be detained in a court cell if the child is lawfully in custody to attend before a court or another entity.
- (2) While detained in the court cell, the child is in the custody of the proper officer of the court where the court cell is located.
- (3) The proper officer of the court is responsible for the management, security and good order of the court cell, despite anything in the *State Buildings Protective Security Act 1983*.

59I Regulation about exercise of powers

- (1) This section applies in relation to—
 - (a) the exercise of the chief executive’s powers by the proper officer of a court under section 59D; and
 - (b) the exercise of powers by a youth justice staff member, corrective services officer or watch-house officer under section 59F.
- (2) A regulation may state matters about the exercise of the powers, including, for example—
 - (a) conditions or requirements about the exercise of the powers and how the conditions or requirements may be satisfied or complied with; or
 - (b) requirements about keeping records, or giving information, about the exercise of the powers.
- (3) In this section—

condition includes a limitation or restriction.

86 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

corrective services officer, for part 5A, see section 59B.

court cell means a place attached to or near a court that—

- (a) is not a detention centre; and
- (b) is used for detaining prisoners of the court and other persons.

prisoner of a court or *prisoner of the court*

means a person who is in the custody of a court.

watch-house officer, for part 5A, see section 59B.

youth justice staff member, for part 5A, see section 59B.

Division 4 Amendment of Youth Justice Regulation 2016

87 Regulation amended

This division amends the *Youth Justice Regulation 2016*.

88 Insertion of new pt 4A

After part 4—

insert—

Part 4A Children who are prisoners of a court

Division 1 General matters about helping proper officer of a court

43A Places where youth justice staff member may help proper officer of a court—Act, s 59E

For section 59E(2) of the Act, the following places are prescribed—

- (a) the Brisbane Magistrates Court building;

- (b) QEII Courts of Law.

43B Powers for helping proper officer of a court—Act s 59F

For section 59F of the Act—

- (a) the following powers are prescribed—
- (i) the power of a detention centre employee to give an instruction under section 16(1) or use reasonable force under section 16(5);
 - (ii) the power of a staff member to use approved restraints under section 19;
 - (iii) the power of a detention centre employee to conduct a search under part 4, division 6, subdivision 1;
 - (iv) the power of a detention centre employee to help a doctor to conduct a search under part 4, division 6, subdivision 2; and
- (b) the powers may be exercised only as provided under division 2.

Division 2 Exercise of powers by persons helping proper officer of a court

43C Application of division

This division prescribes matters about a youth justice staff member, corrective services officer or watch-house officer (each a *relevant officer*) exercising a power under

section 59F of the Act.

43D Definitions for division

In this division—

condition includes a limitation or restriction.

proper officer of a court, in relation to the exercise of a relevant power by a relevant officer, means the proper officer of a court for whom the relevant power is exercised under part 5A of the Act.

relevant officer see section 43C.

relevant power means a power mentioned in section 43B(a).

43E General conditions and requirements

- (1) A relevant officer may exercise a relevant power only if—
 - (a) any condition under this regulation about the circumstances in which the power may be exercised is satisfied; and

Example—

A relevant officer may use reasonable force under section 16(5) only if the conditions mentioned in section 16(5)(a) and (b) are satisfied.

- (b) the relevant officer complies with any requirements under this regulation about the way the power may be exercised.

Example—

A relevant officer conducting a search of a child under section 24 must comply with section 24(3).

- (2) Also, a relevant officer may help a doctor to

conduct a search under part 4, division 6, subdivision 2 only if the proper officer of a court has authorised the doctor to conduct the search.

Note—

See section 59D of the Act in relation to the proper officer exercising powers of the chief executive under the Act.

43F Authorisation of exercise of power

- (1) This section applies if a relevant power may be exercised only if the chief executive has authorised the exercise of the power.
- (2) A relevant officer may exercise the power only if the proper officer of a court has authorised the relevant officer to exercise the power.
- (3) Any condition under this regulation on the chief executive giving the authorisation applies in relation to the proper officer of a court authorising the relevant officer to exercise the power.

Example—

A relevant officer may be authorised to use approved restraints to restrain a child under section 19 only if the condition mentioned in section 18(2) is satisfied.

43G Supervision of exercise of power

- (1) This section applies if, under this regulation, the chief executive must ensure a thing in relation to the exercise of a relevant power.
- (2) The proper officer of a court must ensure the thing in relation to a relevant officer exercising the relevant power.

Example—

If a relevant officer is using approved restraints to restrain a child under section 19, the proper officer of a court must ensure the things mentioned in section 19(2).

Division 3 Other matters about exercise of powers

43H Information and record keeping requirements

- (1) This section applies to the proper officer of a court who exercises a power, or for whom a power is exercised, under part 5A of the Act.
- (2) The proper officer of the court must comply with each information or record keeping provision applying to the exercise of the power—
 - (a) as if—
 - (i) a reference in the provision to the chief executive were a reference to the proper officer of the court; and
 - (ii) a reference in the provision to a detention centre employee or staff member were a reference to a person exercising a power under section 59F of the Act; and
 - (iii) a reference in the provision to a detention centre were a reference to the place at which the child is detained or otherwise in custody under part 5A of the Act; and
 - (b) with any other necessary changes.
- (3) In this section—

information or record keeping provision means the following—

- (a) section 16(6);
- (b) section 17;
- (c) section 20;
- (d) section 27.

43I Property found during search

Section 28 applies in relation to a search of a child by a person under part 5A of the Act as if—

- (a) a reference in the section to a detention centre were a reference to the place at which the child is detained or otherwise in custody under part 5A of the Act; and
- (b) a reference in the section to the chief executive were a reference to the proper officer of a court conducting the search or for whom the search is conducted.

89 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

condition, for part 4A, division 2, see section 43D.

proper officer of a court, for part 4A, division 2, see section 43D.

relevant officer, for part 4A, division 2, see section 43C.

relevant power, for part 4A, division 2, see section 43D.

5 Long title

Long title, after ‘this Act,’—

insert—

the *Corrective Services Act 2006*,

6 Long title

Long title, after ‘*Boards Act 2011*,’—

insert—

the *Police Powers and Responsibilities Act 2000*,

7 Long title

Long title, from ‘and the’ to ‘2005’—

omit, insert—

, the *Public Health Act 2005*, the *Youth Justice Act 1992* and the *Youth Justice Regulation 2016*

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