

*I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.*

*Legislative Assembly Chamber,
Brisbane,*

The Clerk of the Parliament.

21 July 20 20

In the name and on behalf of the Queen, I assent to this Bill.

Paul de Jersey

Government House,

Brisbane,

21 July 20 20



Queensland

No. 23 of 2020

A BILL for

An Act to amend the Corrective Services Act 2006, the Criminal Code, the Criminal Law Amendment Act 1945, the Hospital and Health Boards Act 2011, the Penalties and Sentences Act 1992, the Petroleum and Gas (Production and Safety) Act 2004, the Public Health Act 2005, the Racing Integrity Act 2016, the Racing Integrity Regulation 2016, the Summary Offences Act 2005, the Weapons Act 1990, the Weapons Categories Regulation 1997 and the Weapons Regulation 2016 for particular purposes



Queensland

Corrective Services and Other Legislation Amendment Bill 2020

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2020

A Bill

for

An Act to amend the *Corrective Services Act 2006*, the *Criminal Code*, the *Criminal Law Amendment Act 1945*, the *Hospital and Health Boards Act 2011*, the *Penalties and Sentences Act 1992*, the *Petroleum and Gas (Production and Safety) Act 2004*, the *Public Health Act 2005*, the *Racing Integrity Act 2016*, the *Racing Integrity Regulation 2016*, the *Summary Offences Act 2005*, the *Weapons Act 1990*, the *Weapons Categories Regulation 1997* and the *Weapons Regulation 2016* for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Corrective Services and Other Legislation Amendment Act 2020*.

2 Commencement

- (1) The following provisions commence on the day immediately after the COVID-19 emergency period under the *COVID-19 Emergency Response Act 2020* ends—
 - (a) sections 36, 37(1), (2) and (4) and 41;
 - (b) section 52, to the extent it inserts section 490ZC;
 - (c) section 53(8).
- (2) Part 3B commences on 1 July 2020 immediately after the commencement of the *Resources Safety and Health Queensland Act 2020*, part 7, division 9.
- (3) The following provisions commence on a day to be fixed by proclamation—
 - (a) sections 39, 43 and 50;
 - (b) parts 5 and 6;
 - (c) schedule 1, part 2.

[s 6]

omit.

6 Insertion of new s 63A

After section 63—

insert—

63A Suspension of maximum security order

- (1) This section applies if a prisoner subject to a maximum security order is transferred to another place and lawfully given into another person's custody.

Note—

See, for example, section 68(5).

- (2) The maximum security order is suspended while the prisoner is in the other person's custody.
- (3) The suspension ends when the prisoner returns to the chief executive's custody.
- (4) Within 7 days after the prisoner returns to the corrective services facility, the chief executive must review the maximum security order and confirm, amend or cancel it.

7 Amendment of s 65 (Record)

- (1) Section 65(2)—

insert—

(da) if the maximum security order is suspended under section 63A—

- (i) the date on which the order was suspended; and
- (ii) the date on which the suspension ended;

- (2) Section 65(2)(da) to (f)—

renumber as section 65(2)(e) to (g).

8 Amendment of s 66 (Work order)

(1) Section 66(5)—

omit.

(2) Section 66(6) and (7)—

renumber as section 66(5) and (6).

9 Amendment of s 67 (Restriction on eligibility for transfer to work camp)

Section 67(1)(e)—

omit, insert—

(e) the prisoner is ineligible under section 68A for transfer to a low custody facility.

10 Amendment of s 68 (Transfer to another corrective services facility or a health institution)

Section 68(1)(a), before ‘another’—

insert—

subject to section 68A,

11 Insertion of new s 68A

After section 68—

insert—

68A Restriction on eligibility for transfer to low custody facility

(1) A prisoner (an *ineligible prisoner*) is not eligible to be transferred from a secure facility to a low custody facility if the prisoner—

(a) has been convicted of a sexual offence; or

[s 12]

- (b) has been convicted of murder; or
- (c) is serving a life sentence.
- (2) Subsection (1) is subject to section 268.
- (3) In this section—
low custody facility means—
 - (a) a prison, other than a secure facility; or
 - (b) a community corrections centre; or
 - (c) a work camp.

12 Amendment of s 73 (Compassionate leave)

- (1) Section 73(1)—

insert—

- (e) for a prisoner who is a child's parent or kin but, before being imprisoned, was not the primary care giver of the child—to establish a relationship, or maintain the relationship, with the child.

- (2) Section 73—

insert—

- (4) In this section—

kin, in relation to a child, see the *Child Protection Act 1999*, schedule 3.

13 Amendment of s 84 (Prisoner's duties while on leave)

- (1) Section 84(2)—

omit.

- (2) Section 84(3), penalty, 'subsection (3)'—

omit, insert—

subsection (2)

- (3) Section 84(3)—
renumber as section 84(2).

14 Omission of ch 2, pt 2, div 10 (Conditional release)

Chapter 2, part 2, division 10—
omit.

16 Amendment of s 111 (Remaining in corrective services facility after discharge day)

- (1) Section 111, heading, after ‘day’—
insert—

or release day

- (2) Section 111(1) and (4), after ‘day’—
insert—

or release day

- (3) Section 111(3), after ‘If’—
insert—

the prisoner has applied to remain in the
corrective services facility after the prisoner’s
discharge day and

- (4) Section 111—
insert—

- (8) In this section—

release day means the day on which a prisoner is
to be released on parole.

17 Amendment of s 114 (Breach of discipline constituting an offence)

Section 114(2)—

[s 17A]

omit, insert—

- (2) The chief executive must decide whether to refer the matter to the commissioner.
- (3) However, if the matter could be prosecuted as a sexual offence mentioned in schedule 1 or as an offence that has a maximum penalty of 14 years or more, the chief executive must refer the matter to the commissioner.
- (4) Subsection (5) applies if the chief executive—
 - (a) decides to refer the matter to the commissioner under subsection (2); or
 - (b) must refer the matter to the commissioner under subsection (3).
- (5) The chief executive must, within 48 hours after the corrective services officer informs the chief executive of the matter—
 - (a) refer the matter to the commissioner; and
 - (b) tell the prisoner that the matter has been referred to the commissioner.

17A Insertion of new ch 3, pt 2A

Chapter 3—

insert—

Part 2A Offences by staff members

124A Prohibition on intimate relationships between staff members and offenders

- (1) A person has an *intimate relationship* with another person if the relationship between the persons includes either or both of the following—

- (a) sexual conduct or other physical expressions of affection or sexual contact;
 - (b) the exchange of written or other forms of communication of a sexual or intimate nature.
- (2) A staff member must not have an intimate relationship with a person who is an offender.
- Maximum penalty—100 penalty units or 3 years imprisonment.
- (3) Subsection (2) does not apply to a staff member if—
- (a) the staff member did not know, or could not reasonably have known, the person was an offender; or
 - (b) the staff member and the person were in an intimate relationship before the person became an offender.

18 Amendment of s 138 (Seizing property)

Section 138—

insert—

- (3) Section 140(6) does not apply in relation to a thing seized under this section if the chief executive refers the matter to the commissioner under section 114.

19 Amendment of s 140 (Forfeiting seized thing)

Section 140(5)(b)(iii)—

omit, insert—

- (iii) destroying it.

[s 20]

20 Amendment of s 173 (Search of staff member)

(1) Section 173(1), from ‘scanning search’—

omit, insert—

scanning search—

- (a) at any time the staff member is at the facility; or
- (b) before entering the facility.

(2) Section 173(2), after ‘search’—

insert—

or scanning search

22 Insertion of new ch 4, pt 5

Chapter 4—

insert—

Part 5 Scanning searches

175A Conducting scanning searches of persons

A corrective services officer conducting a scanning search of a person must—

- (a) ensure, as far as reasonably practicable, the way the person is searched causes minimal embarrassment to the person; and
- (b) take reasonable care to minimise any physical contact with the person.

23 Amendment of s 188 (Submission from eligible person)

(1) Section 188(3)—

insert—

(d) the person may apply to the parole board to extend the period under paragraph (c) for making written submissions to the parole board.

(2) Section 188—

insert—

(3A) The eligible person may apply to the parole board to extend the period under subsection (3)(c) for making written submissions to the parole board.

(3B) The parole board may extend the period if the parole board considers it reasonable in the circumstances.

(3) Section 188(4), after ‘subsection (3)(c)’—

insert—

or in the further period allowed under subsection (5)

(4) Section 188(3A) to (4)—

renumber as section 188(4) to (6).

24 Amendment of s 193A (Deciding particular applications where victim’s body or remains have not been located)

Section 193A(7)(a)(iii)—

omit, insert—

(iii) any relevant remarks made by the sentencing court that sentenced the prisoner to the term of imprisonment the prisoner is serving for the offence; and

(iv) if the prisoner requests the board to consider a transcript of a proceeding against the prisoner for the offence—the transcript; and

[s 25]

25 Amendment of s 193E (Reports about prisoners' links to terrorism)

(1) Section 193E(2)(b), from 'with—'—
omit, insert—
with a law enforcement agency.

(2) Section 193E(6)—
omit.

26 Amendment of s 194 (Types of parole orders granted by parole board)

(1) Section 194(4)—
omit.

(2) Section 194(5)—
renumber as section 194(4).

27 Amendment of s 199 (Court ordered parole order)

(1) Section 199(4)—
omit.

(2) Section 199(5)—
renumber as section 199(4).

28 Amendment of s 200A (Directions to prisoners subject to parole order)

(1) Section 200A(2)(c), before 'the place'—
insert—
a stated place, including, for example,

(2) Section 200A(2)—
insert—

Note—

See section 267(2).

29 Amendment of s 206 (Warrant for prisoner’s arrest)

Section 206(3)—

insert—

Notes—

- 1 See section 112 for the power of the parole board, a magistrate or the chief executive, on the application of a corrective services officer, to issue a warrant for a prisoner’s arrest if the prisoner is unlawfully at large and the prisoner’s parole order is suspended or cancelled.
- 2 See section 112(1)(a) for the power of a corrective services officer to arrest a prisoner without warrant if the prisoner is unlawfully at large and the prisoner’s parole order is suspended or cancelled.

30 Amendment of s 208 (Reconsidering decision to suspend or cancel parole order)

Section 208(3), after ‘effect’—

insert—

on the day stated in the written notice

31 Amendment of s 208B (Parole board or prescribed board member may suspend parole order and issue warrant)

(1) Section 208B, heading—

omit, insert—

208B Decision on request for immediate suspension of parole order

(2) Section 208B(1)—

omit, insert—

(1) If a request is made under section 208A, the

[s 31]

parole board or a prescribed board member must as soon as practicable consider the request.

- (1A) However, the parole board or a prescribed board member may decide the priority for considering requests made under section 208A, having regard to the seriousness of the nature of the grounds on which the requests are made.
- (1B) If the parole board considers the request, the parole board must decide whether to suspend or cancel the parole order.
- (1C) If a prescribed board member considers the request, the prescribed board member must decide whether to suspend the parole order.
- (3) Section 208B(2), from ‘The’ to ‘only’—
omit, insert—
The parole board may decide to suspend or cancel the parole order, or the prescribed board member may decide to suspend the parole order, only
- (4) Section 208B(3), after ‘suspend’—
insert—
or cancel
- (5) Section 208B(4), from ‘If’ to ‘order’—
omit, insert—
If the parole board decides not to suspend or cancel the parole order, or the prescribed board member decides not to suspend the parole order
- (6) Section 208B(5)(b), ‘prescribed by regulation’—
omit.
- (7) Section 208B(8)—
omit, insert—
(8) When arrested, the prisoner must be taken to a prison—

- (a) if the order was suspended—to be kept there for the suspension period; or
- (b) if the order was cancelled—to serve the unexpired portion of the prisoner’s period of imprisonment.

Notes—

- 1 See section 112 for the power of the parole board, a magistrate or the chief executive, on the application of a corrective services officer, to issue a warrant for a prisoner’s arrest if the prisoner is unlawfully at large and the prisoner’s parole order is suspended.
- 2 See section 112(1)(a) for the power of a corrective services officer to arrest a prisoner without warrant if the prisoner is unlawfully at large and the prisoner’s parole order is suspended.

- (8) Section 208B(1A) to (8)—

renumber as section 208B(2) to (11).

32 Amendment of s 208C (Parole board must consider suspension by prescribed board member)

- (1) Section 208C(1)(b)—

omit, insert—

- (b) cancel the parole order; or
- (c) set aside the decision.

- (2) Section 208C(2), from ‘member’s decision’ to ‘suspend’—

omit, insert—

member’s decision or cancel the parole order as if it were a decision to suspend or cancel

33 Amendment of s 209 (Automatic cancellation of order by further imprisonment)

Section 209(1) and (2)—

omit, insert—

[s 34]

- (1) If a prisoner is sentenced to another period of imprisonment for an offence committed, in Queensland or elsewhere, during the period of the prisoner's parole order, the order is taken to have been automatically cancelled on the date on which the offence occurred.
- (2) Subsection (1) applies—
 - (a) whether or not the prisoner is sentenced to the other period of imprisonment before or after the parole order has expired; and
 - (b) subject to section 205.

Note—

See section 211 for the effect of the cancellation.

34 Amendment of s 210 (Warrant for prisoner's arrest)

- (1) Section 210(1)(a), 'prescribed by regulation'—

omit.

- (2) Section 210(3)—

insert—

Notes—

- 1 See section 112 for the power of the parole board, a magistrate or the chief executive, on the application of a corrective services officer, to issue a warrant for a prisoner's arrest if the prisoner is unlawfully at large and the prisoner's parole order is cancelled.
- 2 See section 112(1)(a) for the power of a corrective services officer to arrest a prisoner without warrant if the prisoner is unlawfully at large and the prisoner's parole order is cancelled.

35 Amendment of s 211 (Effect of cancellation)

Section 211(1)—

insert—

Note—

For subsection (1)(a), (b), (c) and (d), see also sections 208B(6) and 208C(2).

36 Amendment of s 228 (Acting appointments)

Section 228(2), ‘3 months’—

omit, insert—

1 year

37 Amendment of s 234 (Meetings about particular matters relating to parole orders)

(1) Section 234(1), ‘Subsection (2)’—

omit, insert—

This section

(2) Section 234(3) to (6)—

omit.

(3) Section 234(7), definition *prescribed prisoner*, paragraph (a)—

insert—

(vi) section 193A(1); or

(4) Section 234(7)—

renumber as section 234(3).

38 Amendment of s 265 (Administrative procedures)

(1) Section 265(3), note—

omit.

(2) Section 265(4), from ‘publication’—

omit, insert—

publication—

[s 39]

- (a) may pose a risk to the security or good order of a corrective services facility; or
- (b) may compromise the safety or effective management of offenders.

39 Amendment of s 266 (Programs and services to help offenders)

- (1) Section 266(1), after ‘establish’—

insert—

or facilitate

- (2) Section 266(1)(a), ‘medical or’—

omit.

- (3) Section 266(1)—

insert—

(aa) to support the health and wellbeing of prisoners; and

- (4) Section 266(1)(aa) to (d)—

renumber as section 266(1)(b) to (e).

- (5) Section 266(2), example—

omit.

40 Amendment of s 267 (Monitoring devices)

- (1) Section 267, from ‘may’ to ‘location.’—

omit, insert—

may, for monitoring an offender’s location, direct the offender—

- (a) to wear a stated device; or
- (b) to permit the installation of any device or equipment at a stated place, including, for

example, the place where the offender resides.

(2) Section 267—

insert—

- (2) An offender who has been directed under subsection (1) or section 200A(2) to wear a stated device or permit the installation of any device or equipment (each *associated equipment*) at a stated place must not, without a reasonable excuse, remove or tamper with the stated device or associated equipment.

Maximum penalty for subsection (2)—30 penalty units or 3 months imprisonment.

41 Amendment of s 268 (Declaration of emergency)

(1) Section 268(1), from ‘at a prison’—

omit, insert—

that threatens or is likely to threaten—

- (a) the security or good order of a prison; or
- (b) the safety of a prisoner or another person in a prison.

(2) Section 268(2), from ‘approval’—

omit, insert—

approval—

- (a) declare that an emergency exists in relation to the prison for a stated period that must not be more than 3 days; and
- (b) declare a place to be a corrective services facility (a *temporary corrective services facility*) for the period the declaration of the emergency is in force.

(3) Section 268(4)—

[s 42]

insert—

- (aa) transfer the prisoners to another corrective services facility, including a temporary corrective services facility; or
- (ab) if the prisoners have been transferred under paragraph (b) to another corrective services facility, return the prisoners to the prison; or

(4) Section 268(4)(aa) to (c)—

renumber as section 268(4)(b) to (e).

42 Amendment of s 271 (Delegation of functions of chief executive)

Section 271(1), after ‘Act’—

insert—

, other than section 306F(1) or 306K(1)

43 Omission of ch 6, pt 5 (Doctors)

Chapter 6, part 5—

omit.

44 Amendment of s 294 (Appointing inspectors generally)

(1) Section 294(2)—

insert—

- (aa) to investigate alleged misconduct or alleged corrupt conduct of a staff member; or

(2) Section 294(2), ‘probation and parole office’—

omit, insert—

community corrections office

(3) Section 294(2)(aa) to (d)—

renumber as section 294(2)(b) to (e).

45 Amendment of s 303 (Inspector's powers generally)

(1) Section 303(1)(a)—

omit, insert—

(a) at any time, enter—

(i) a corrective services facility; or

(ii) a community corrections office; or

(2) Section 303(1)(c) and (d), 'probation and parole office'—

omit, insert—

community corrections office

46 Amendment of s 304 (Inspector's power to require information)

(1) Section 304(1)—

omit, insert—

(1) This section applies if an inspector investigating an incident, or alleged misconduct or alleged corrupt conduct of a staff member, reasonably believes a person performing a function under this Act may be able to give information about the incident or alleged misconduct or alleged corrupt conduct.

(2) Section 304(2), after 'incident'—

insert—

or alleged misconduct or alleged corrupt conduct

47 Amendment of s 305 (Inspectors' reports)

Section 305(1), after 'incident'—

insert—

, or alleged misconduct or alleged corrupt conduct of a staff member,

[s 48]

48 Insertion of new ch 6, pt 9A

Chapter 6—

insert—

Part 9A Alcohol and drug testing

Division 1 Preliminary

306A Definitions for part

In this part—

alcohol test means a test for determining whether a corrective services person is over the limit applying to the person when the test is conducted.

corrective services officer recruit means a person who is participating in a training program.

corrective services person see section 306B.

low alcohol limit see section 306C(b).

no alcohol limit see section 306C(a).

random alcohol test means an alcohol test conducted under section 306F.

random substance test means a substance test conducted under section 306K.

sample means—

- (a) for an alcohol test—a sample of breath or blood; or
- (b) for a substance test—a sample of urine or another bodily substance, including, for example, hair or saliva.

substance test means a test for determining the presence and concentration of a dangerous drug or

targeted substance in a sample taken from a corrective services person.

targeted substance means—

- (a) a substance, other than a dangerous drug, that is a controlled drug, a restricted drug or a poison under the *Health Act 1937* that may impair a person's physical or mental capacity; or
- (b) another substance, other than a dangerous drug, that may impair a person's physical or mental capacity.

training program means a training program about corrective services, the successful completion of which is a requirement for appointment as a corrective services officer.

306B Persons to whom part applies

This part applies to a person (a **corrective services person**) who is—

- (a) a corrective services officer; or
- (b) a corrective services officer recruit.

Division 2 Provisions about alcohol testing

306C When is a person over the limit

For this part—

- (a) a person is over the **no alcohol limit** if—
 - (i) the concentration of alcohol in the person's breath is more than 0g of alcohol in 210L of breath; or

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- (ii) the concentration of alcohol in the person's blood is more than 0g of alcohol in 100mL of blood; and
- (b) a person is over the *low alcohol limit* if—
 - (i) the concentration of alcohol in the person's breath is, or is more than, 0.2g of alcohol in 210L of breath; or
 - (ii) the concentration of alcohol in the person's blood is, or is more than, 0.2g of alcohol in 100mL of blood.

306D Alcohol limits

- (1) A corrective services person who is on duty for performing a function or exercising a power under this Act or another Act must not be over the low alcohol limit.
- (2) A corrective services person who is on duty for performing a function or exercising a power under this Act or another Act, and is performing a role prescribed by regulation for this section, must not be over the no alcohol limit.
- (3) For subsections (1) and (2), a corrective services person is on duty for performing a function or exercising a power under this Act or another Act if the person—
 - (a) is about to perform the function or exercise the power; or
 - (b) is performing the function or exercising the power; or
 - (c) has just performed the function or exercised the power.

306E Circumstances for alcohol testing

- (1) The chief executive may require a corrective

services person to submit to an alcohol test if—

- (a) the corrective services person has been involved in an incident; or
 - (b) the test is required under section 306F; or
 - (c) the chief executive reasonably suspects the person is contravening, or has contravened, section 306D(1) or (2).
- (2) The chief executive may require a corrective services officer recruit to submit to an alcohol test at any time during the period in which the recruit is participating in a training program.
 - (3) The chief executive may require a person who has been notified of the person's appointment as a corrective services officer recruit to submit to an alcohol test before the person starts a training program.

306F Random alcohol testing

- (1) The chief executive may require a corrective services person to submit to a random alcohol test.
- (2) A regulation may prescribe the criteria for deciding—
 - (a) when and where a random alcohol test may be conducted; and
 - (b) other matters about the conduct of a random alcohol test.

306G Giving samples for alcohol testing

- (1) A regulation may prescribe the following for an alcohol test—
 - (a) the types of samples a person may be required to give;
 - (b) the methods of collection of a sample.

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- (2) The chief executive may require a corrective services person to give to a person prescribed by regulation for this section (a *prescribed person*) at a specified place and time a sample for the purpose of an alcohol test.
- (3) If the sample is required because the corrective services person has been involved in an incident, the requirement must be made and the sample must be given as soon as reasonably practicable after the incident happens.
- (4) The prescribed person may give reasonably necessary directions to the corrective services person to facilitate the giving of the sample for the alcohol test.
- (5) As soon as practicable after the sample has been given, the sample must be dealt with in the way prescribed by regulation for this section.

306H Failure to give sample for alcohol testing

A corrective services person who fails to give a sample as required for alcohol testing is taken to have been tested for alcohol and to have been over the limit for alcohol applying to the person when the failure happened.

Division 3 Provisions about drug testing

306I Dangerous drugs and targeted substances levels

- (1) A corrective services person must not have evidence of a dangerous drug present in a sample taken from the person at any time for substance testing.

- (2) A corrective services person who is lawfully taking a targeted substance must not perform duties in or involving an operational capacity or critical role if the substance impairs the person's capacity to perform the duties without danger to the person or someone else.
- (3) A corrective services person must not have present in a sample taken from the person for substance testing—
 - (a) evidence of a targeted substance that the person may not lawfully take; or
 - (b) evidence of having taken a targeted substance in a way contrary to a direction of a doctor or a recommendation of the manufacturer of the substance.

306J Circumstances for substance testing

- (1) The chief executive may require a corrective services person to submit to a substance test if—
 - (a) the corrective services person has been involved in an incident; or
 - (b) the test is required under section 306K; or
 - (c) the chief executive reasonably suspects the person is contravening, or has contravened, section 306I.
- (2) The chief executive may require a corrective services officer recruit to submit to a substance test at any time during the period in which the recruit is participating in a training program.
- (3) The chief executive may require a person who has been notified of the person's appointment as a corrective services officer recruit to submit to a substance test before the person starts a training program.

306K Random substance testing

- (1) The chief executive may require a corrective services person to submit to a random substance test.
- (2) A regulation may prescribe the criteria for deciding—
 - (a) when and where a random substance test may be conducted; and
 - (b) other matters about the conduct of a random substance test.

306L Giving sample for substance testing

- (1) A regulation may prescribe the following for a substance test —
 - (a) the types of samples a person may be required to give;
 - (b) the methods of collection of a sample.
- (2) The chief executive may require a corrective services person to give to a person prescribed by regulation (a *prescribed person*) at a specified place and time a sample for the purpose of a substance test.
- (3) If the sample is required because the corrective services person has been involved in an incident, the requirement must be made and the sample must be given as soon as reasonably practicable after the incident happens.
- (4) The prescribed person may give reasonably necessary directions to the corrective services person to facilitate the giving of the sample for the substance test.
- (5) As soon as practicable after the sample has been given, the sample must be dealt with in the way prescribed by regulation for this section.

306M Failure to give sample for substance testing

A corrective services person who fails to give a sample as required for substance testing is taken to have been tested for a targeted substance and to have been found to have had evidence of a targeted substance in the person's sample.

Division 4 What happens if a test result is positive

306N Positive alcohol or substance test

- (1) This section applies if an alcohol test or substance test conducted under this part shows a corrective services person, when tested—
 - (a) was over the limit applying to the person when the test was conducted; or
 - (b) had evidence of a dangerous drug in the person's sample; or
 - (c) had evidence of a targeted substance in the person's sample and the person was contravening section 306I(2) or (3).
- (2) The chief executive may do any 1 or more of the following—
 - (a) suspend the corrective services person from duty until the person is no longer over the relevant alcohol limit or no longer has evidence of a dangerous drug or targeted substance in a sample given by the person;
 - (b) correct the corrective services person by way of guidance;
 - (c) require the corrective services person to undergo counselling or rehabilitation approved by the chief executive;

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- (d) require the corrective services person to submit to a medical examination under the *Public Service Act 2008*, chapter 5, part 7;
 - (e) take disciplinary or other action against the corrective services person under the *Public Service Act 2008*, chapter 5 or 6;
 - (f) require the corrective services person to submit to further testing from time to time until the chief executive is satisfied the reason for making the requirement no longer exists.
- (3) Subsection (2)(a), (b), (c) and (e) does not apply to the corrective services person if the person was contravening section 306I(2).

306O Effect of failure to comply

- (1) This section applies if a corrective services person—
 - (a) fails to attend or complete counselling or rehabilitation under a requirement under section 306N(2)(c); or
 - (b) fails to submit to a medical examination under a requirement under section 306N(2)(d).
- (2) The chief executive may take disciplinary action against the corrective services person under the *Public Service Act 2008*.

Division 5 General

306P Interfering with samples

A person must not unlawfully interfere with a sample given under this part for an alcohol test or

substance test.

Maximum penalty—100 penalty units.

306Q Alcohol or drug test results generally inadmissible

- (1) Evidence of the following is inadmissible in a civil or criminal proceeding before a court—
 - (a) anything done under this part;
 - (b) the result of any test conducted under this part.
- (2) Also, the chief executive and anyone else involved in any way in anything done under this part can not be compelled to produce to a court any document kept or to disclose to a court any information obtained because of the doing of the thing.
- (3) This section does not apply to—
 - (a) a proceeding for a charge of an offence arising from an incident; or
 - (b) an inquest in a Coroners Court into the death of a person in an incident; or
 - (c) a proceeding on an application under the *Industrial Relations Act 2016*, section 317 for reinstatement because of unfair dismissal; or
 - (d) an investigation or other proceeding under the *Crime and Corruption Act 2001*; or
 - (e) disciplinary action as provided for under the *Public Sector Ethics Act 1994*.

49 Amendment of s 311A (Dealing with amounts received for prisoners in particular cases)

- (1) Section 311A(1)—

[s 50]

insert—

(aa) the donor of the amount is not an approved donor for the prisoner;

(ab) the donor of the amount was released from a corrective services facility within 1 year before the chief executive received the amount;

(2) Section 311A(1)(aa) to (c)—

renumber as section 311A(1)(b) to (e).

(3) Section 311A—

insert—

(2A) However, the chief executive may decide to receive an amount for the prisoner even if the donor of the amount was released from a corrective services facility within 1 year before the chief executive received the amount.

(3A) A donor is an ***approved donor*** for a prisoner unless the chief executive decides not to receive an amount for the prisoner from the donor for payment into the prisoner's account in the prisoners trust fund.

(4) Section 311A(4), 'subsection (3)(b)'—

omit, insert—

subsection (4)(b)

(5) Section 311A(2A) to (5)—

renumber as section 311A(3) to (7).

50 Omission of s 319F (Complaint to official visitor required first)

Section 319F—

omit.

51 Amendment of s 324A (Right of eligible persons to receive particular information)

(1) Section 324A(2)(a), after ‘subsection (1)(a)’—

insert—

or (b)

(2) Section 324A(2)(b)—

omit.

(3) Section 324A(2)(c), ‘and’—

omit, insert—

or

(4) Section 324A(2)(c)—

renumber as section 324A(2)(b).

52 Insertion of new ch 7A, pt 14

Chapter 7A—

insert—

**Part 14 Transitional provisions
for Corrective Services
and Other Legislation
Amendment Act 2020**

490Z Definition for part

In this part—

amending Act means the *Corrective Services and Other Legislation Amendment Act 2020*.

490ZA Extending period for submissions from eligible person

(1) This section applies if—

[s 53]

- (a) the chief executive gave each eligible person in relation to a prisoner written notice under section 188(2) of the prisoner's application for a parole order; and
 - (b) the decision on the application had not been made under section 193 before the commencement.
- (2) Section 188, as amended by the amending Act, applies to the application.

490ZB Deciding particular applications made before the commencement where victim's body or remains have not been located

- (1) This section applies if a prisoner made an application under section 193A for a parole order but the decision on the application had not been made before the commencement.
- (2) Sections 193A and 234, as amended by the amending Act, apply to the application.

490ZC Meetings about particular matters relating to parole orders

- (1) This section applies to a meeting of the parole board under section 234 to consider an application for a parole order made but not decided before the commencement.
- (2) Section 234, as amended by the amending Act, applies to the meeting.

53 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *conditional release*, *conditional release order*, *dangerous drug*, *probation and parole office*, *released*, *scanning search*, *secure facility* (both mentions) and *sexual offence*—

omit.

(2) Schedule 4—

insert—

alcohol test, for chapter 6, part 9A, see section 306A.

community corrections office means an office where an offender subject to a parole order or community based order may be required to report to a corrective services officer.

corrective services officer recruit, for chapter 6, part 9A, see section 306A.

corrective services person, for chapter 6, part 9A, see section 306B.

dangerous drug means a dangerous drug under the *Drugs Misuse Act 1986*.

low alcohol limit, for chapter 6, part 9A, see section 306C(b).

misconduct, for a staff member, means conduct that would constitute a disciplinary ground under the *Public Service Act 2008*, section 187 if the staff member were a public service employee under that Act.

no alcohol limit, for chapter 6, part 9A, see section 306C(a).

random alcohol test, for chapter 6, part 9A, see section 306A.

random substance test, for chapter 6, part 9A, see section 306A.

released means released on parole.

sample, for chapter 6, part 9A, see section 306A.

scanning search, of a person—

[s 53]

- 1 A *scanning search* of a person is a search of the person by electronic or other means that does not require the person to remove the person's clothing but may require another person or an apparatus to touch or come into contact with the person.

Examples—

- using an electronic apparatus through which a person is required to pass
- using a corrective services dog that is trained to detect the scent of a prohibited thing to search a person

- 2 For paragraph 1, an apparatus for touching or coming into contact with a person who is submitting to a scanning search is an apparatus prescribed by regulation for this definition.

secure facility—

- (a) generally, means a prison with a perimeter fence, or other security measures, that are designed to prevent the escape of a prisoner; and
- (b) for chapter 6, part 13A, see section 344B.

sexual offence means—

- (a) an offence mentioned in schedule 1; or
- (b) an offence against a law applying, or that applied, in another jurisdiction if the offence substantially corresponds to an offence mentioned in schedule 1.

substance test, for chapter 6, part 9A, see section 306A.

targeted substance, for chapter 6, part 9A, see section 306A.

training program, for chapter 6, part 9A, see section 306A.

- (3) Schedule 4, definition *community corrective services*, paragraph (b), ‘probation and parole office’—
omit, insert—
community corrections office
- (4) Schedule 4, definition *corrective services facility*—
insert—
(d) a temporary corrective services facility declared under section 268(2).
- (5) Schedule 4, definition *general search*, paragraph (a)—
omit, insert—
(a) to reveal the contents of the person’s outer garments or general clothes, or of a thing in the person’s possession, including touching or moving the thing without touching the person; or
- (6) Schedule 4, definition *law enforcement agency*, paragraphs (d) and (e)—
omit, insert—
(d) a police service of another State or of a foreign country; or
(e) an entity established under the law of the Commonwealth or a State to investigate corruption or crime; or
(f) the Australian Security Intelligence Organisation under the *Australian Security Intelligence Organisation Act 1979* (Cwlth); or
(g) a Commonwealth department in which any of the following laws is administered—
(i) the *Australian Border Force Act 2015* (Cwlth);

55 Amendment of s 340 (Serious assaults)

Section 340(2), after ‘officer’—

omit, insert—

commits a crime.

Maximum penalty—

(a) if the prisoner assaults a working corrective services officer in any of the following circumstances—

(i) the prisoner bites or spits on the corrective services officer or throws at, or in any way applies to, the corrective services officer a bodily fluid or faeces;

(ii) the prisoner causes bodily harm to the corrective services officer;

(iii) the prisoner is, or pretends to be, armed with a dangerous or offensive weapon or instrument—14 years imprisonment;
or

(b) otherwise—7 years imprisonment.

Part 3A Amendment of Hospital and Health Boards Act 2011

55A Act amended

This part amends the *Hospital and Health Boards Act 2011*.

55B Amendment of pt 3, hdg (Functions of chief executive and chief health officer)

Part 3, heading, ‘and chief health officer’—

omit, insert—

, chief health officer and deputy chief health

[s 55C]

officer

55C Amendment of pt 3, div 3, hdg (Chief health officer)

Part 3, division 3, heading, after ‘officer’—

insert—

and deputy chief health officer

55D Insertion of new ss 53AA–53AC

After section 53—

insert—

53AA Deputy chief health officer

- (1) The chief executive may appoint a deputy chief health officer for the State.
- (2) The deputy chief health officer is to be employed as a public service officer or as a health service employee.
- (3) The deputy chief health officer must be a medical practitioner.

53AB Functions of deputy chief health officer

The functions of the deputy chief health officer are—

- (a) to support the chief health officer in the exercise of the chief health officer’s functions under this or another Act; and
- (b) any functions given to the deputy chief health officer by the chief health officer or the chief executive; and
- (c) other functions under this or another Act.

53AC Delegation by chief health officer

The chief health officer may delegate the chief health officer's functions or powers under this or another Act to the deputy chief health officer.

55E Amendment of s 139A (Meaning of *designated person*)

Section 139A(1)—

insert—

(ca) the deputy chief health officer; or

55F Amendment of s 266 (Appointments and authority)

(1) Section 266—

insert—

(ba) the deputy chief health officer's appointment;

(2) Section 266(g)—

insert—

(iia) the deputy chief health officer;

55G Amendment of s 267 (Signatures)

Section 267—

insert—

(ca) the deputy chief health officer;

55H Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

deputy chief health officer means the deputy chief health officer under section 53AA.

[s 55I]

Part 3B **Amendment of Petroleum and Gas (Production and Safety) Act 2004**

55I Act amended

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

55J Amendment of s 735 (Appointment)

(1) Section 735(1)(d), ‘authorised officer’—

omit, insert—

authorised officer (safety and health)

(2) Section 735—

insert—

(1A) The chief executive may appoint a public service officer as an authorised officer (general).

(3) Section 735(2), after ‘subsection (1)’—

insert—

, and the chief executive may appoint a person under subsection (2),

(4) Section 735(1A) and (2)—

renumber as section 735(2) and (3).

55K Amendment of s 736 (Functions)

(1) Section 736(2)—

omit, insert—

(2) The functions of an authorised officer (safety and health) include—

- (a) conducting audits, investigations and inspections to monitor and enforce compliance with provisions of this Act, the Geothermal Act and the GHG storage Act relating to safety and health; and
 - (b) to provide the advice and help that may be required from time to time during emergencies at operating plants that may affect the safety or health of persons; and
 - (c) collecting information for this Act, the Geothermal Act and the GHG storage Act.
- (2A) The functions of an authorised officer (general) include—
- (a) conducting audits, investigations and inspections to monitor and enforce compliance with provisions of this Act other than royalty provisions, the Geothermal Act and the GHG storage Act, other than the provisions mentioned in subsection (2); and
 - (b) to provide the advice and help that may be required from time to time during emergencies at operating plants that may affect the safety or health of persons; and
 - (c) collecting information for this Act, the Geothermal Act and the GHG storage Act.
- (2) Section 736(2A) and (3)—
renumber as section 736(3) and (4).

55L Amendment of s 737 (Appointment conditions and limit on powers)

- (1) Section 737(4), definition *signed notice*, paragraph (c), ‘authorised officer’—
omit, insert—
authorised officer (safety and health)

[s 55M]

(2) Section 737(4), definition *signed notice*—

insert—

(d) for an authorised officer (general)—the chief executive.

55M Amendment of s 738 (Issue of identity card)

(1) Section 738(1), ‘authorised officer’—

omit, insert—

authorised officer (safety and health)

(2) Section 738—

insert—

(1A) The chief executive must issue an identity card to each person who is an authorised officer (general).

(3) Section 738(1A) to (3)—

renumber as section 738(2) to (4).

55N Amendment of s 741 (Resignation)

(1) Section 741, ‘authorised officer’—

omit, insert—

authorised officer (safety and health)

(2) Section 741—

insert—

(2) An authorised officer (general) may resign by a signed notice given to the chief executive.

55O Replacement of s 742 (Return of identity card)

Section 742—

omit, insert—

742 Return of identity card

- (1) A person who stops being an inspector or authorised officer (safety and health) must return the person's identity card to the CEO within 20 business days after the person stops being an inspector or authorised officer (safety and health) unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) A person who stops being an authorised officer (general) must return the person's identity card to the chief executive within 20 business days after the person stops being an authorised officer (general) unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

55P Amendment of s 772 (Return of seized things)

- (1) Section 772(2)—

omit, insert—

- (2) If the thing is not returned to its owner within 1 year after it was seized, the owner may apply for its return—
- (a) if the thing was seized by an authorised officer (safety and health)—to the chief inspector; or
 - (b) if the thing was seized by an authorised officer (general)—to the chief executive.

- (2) Section 772(3) and (4), after 'chief inspector'—

insert—

or chief executive

[s 55Q]

55Q Amendment of s 773 (Forfeiture of seized things)

(1) Section 773(1), ‘authorised officer’—

omit, insert—

authorised officer (safety and health)

(2) Section 773—

insert—

(1A) The chief executive may decide to forfeit a thing seized under this Act if the authorised officer (general) (also the *seizing officer*) who seized the thing—

(a) can not find its owner, after making reasonable inquiries; or

(b) can not return it to its owner, after making reasonable efforts; or

(c) reasonably believes it is necessary to retain the thing to prevent it being used to commit an offence against this Act; or

(d) reasonably considers it is dangerous to the extent that, to ensure safety, it must be destroyed; or

(e) reasonably considers it has no intrinsic value and use.

(3) Section 773(2), ‘subsection (1)’—

omit, insert—

subsections (1) and (2)

(4) Section 773(3), after ‘forfeit a thing’—

insert—

, or the chief executive decides under subsection (2)(c), (d) or (e) to forfeit a thing,

(5) Section 773(4), ‘Subsection (3)’—

omit, insert—

[s 55U]

Part 3C Amendment of Public Health Act 2005

55U Act amended

This part amends the *Public Health Act 2005*.

55V Amendment of s 89 (Functions of contact tracing officer)

Section 89—

insert—

- (2) A contact tracing officer's functions may be exercised within or outside Queensland or in relation to persons within or outside Queensland.
- (3) Without limiting subsection (2), if the chief health officer has made an arrangement under subsection (4) with the corresponding officer for a jurisdiction, a contact tracing officer's functions may be exercised under the arrangement in relation to the jurisdiction or persons connected with the jurisdiction.
- (4) For subsection (3), the chief health officer may make an arrangement with a corresponding officer for a jurisdiction for contact tracing officers to exercise functions in relation to the jurisdiction or persons connected with the jurisdiction.
- (5) In this section—
corresponding officer, for a jurisdiction, means a person who has functions under a law of the jurisdiction that correspond with the chief health officer's functions.

jurisdiction means the Commonwealth or another State.

55W Insertion of new s 104A

After section 104—

insert—

104A Extraterritorial operation

It is the intention of the Parliament that this division have effect outside Queensland and in relation to persons outside Queensland.

55X Amendment of s 362D (Failure to comply with public health directions)

Section 362D, penalty, after ‘units’—

insert—

or 6 months imprisonment

55Y Insertion of new s 362FA

After section 362F—

insert—

362FA Delegation

- (1) The chief health officer may delegate the chief health officer’s functions or powers under this part to—
 - (a) the deputy chief health officer; or
 - (b) an appropriately qualified medical practitioner who is a public service officer or employee, or a health service employee.
- (2) However, the chief health officer must not delegate the chief health officer’s power to give a public health direction.
- (3) Subsection (2) does not prevent the chief health officer delegating a function or power under a public health direction.

[s 55Z]

(4) This section has effect despite the *Hospital and Health Boards Act 2011*, section 53AC.

55Z Amendment of s 456 (Protecting prescribed persons from liability)

Section 456(3)(b), note, ‘chief executive’—
omit, insert—

chief executive, chief health officer, deputy chief health officer

55ZA Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

deputy chief health officer see the *Hospital and Health Boards Act 2011*, schedule 2.

Part 4 Amendment of Racing Integrity Act 2016

56 Act amended

This part amends the *Racing Integrity Act 2016*.

57 Insertion of new ch 2, pt 6A, hdg

Chapter 2—

insert—

Part 6A Information sharing

58 Amendment of s 83 (Other matters about suitability)

Section 83(2), ‘section 98A’—

omit, insert—

section 53A

59 Relocation and renumbering of s 98A (Exchange of information)

Section 98A—

relocate to chapter 2, part 6A, as inserted under this Act, and *renumber* as section 53A.

60 Amendment of s 101 (Grounds for cancellation)

Section 101(3), ‘section 98A’—

omit, insert—

section 53A

Part 4A Amendment of Summary Offences Act 2005

60A Act amended

This part amends the *Summary Offences Act 2005*.

60B Amendment of s 11 (Trespass)

Section 11(3), after ‘entering’—

insert—

, or remaining in,

60C Amendment of s 12 (Persons unlawfully gathering in or on a building or structure)

Section 12(4), after ‘entering’—

insert—

[s 60D]

, or remaining in or on,

60D Amendment of s 13 (Unlawfully entering or remaining on particular land)

Section 13(4), after ‘entering’—

insert—

, or remaining in or on,

60E Amendment of sch 2 (Dictionary)

Schedule 2, definition *authorised industrial officer*—

insert—

(c) a WHS entry permit holder under the *Work Health and Safety Act 2011*.

Part 5 Amendment of Weapons Act 1990

61 Act amended

This part amends the *Weapons Act 1990*.

62 Amendment of s 67 (Possessing and acquiring restricted items)

(1) Section 67(3), ‘For subsection (1), a person has a reasonable excuse’—

omit, insert—

It is a reasonable excuse for a person

(2) Section 67—

insert—

(3A) It is a reasonable excuse for a person to possess or

acquire a restricted item that is a replica of a firearm if—

- (a) both of the following apply—
 - (i) the person is a member of an association, whether or not incorporated, that provides recreational activities involving replicas of firearms and the activities are conducted other than in, and in a way not reasonably able to be seen from, a public place;
 - (ii) the person's reason for possession or acquisition of the replica of a firearm is to participate in the recreational activities; or
- (b) both of the following apply—
 - (i) the person is the holder of a collector's licence;
 - (ii) the person's reason for possession or acquisition of the replica of the firearm is for it to be part of the holder's collection of weapons.

(3B) It is a reasonable excuse for a person to possess or acquire a weapon that is permanently inoperable and would be, if it were not permanently inoperable, a category A, B or C weapon if—

- (a) the person is the holder of a collector's licence; and
- (b) the person's reason for possession or acquisition of the weapon is for it to be part of the holder's collection of weapons.

(3C) Subsections (3) to (5) do not limit what may be a reasonable excuse for subsection (1).

(3) Section 67(4), 'subsection (5)'—

omit, insert—

[s 63]

subsection (8)

(4) Section 67(5)—

insert—

association see the *Associations Incorporation Act 1981*.

(5) Section 67(3A) to (5)—

renumber as section 67(4) to (8).

63 Replacement of s 168B (Amnesty declaration)

Section 168B—

omit, insert—

168B Amnesty for firearms and prescribed things in particular circumstances

- (1) A person who unlawfully possesses a firearm or a prescribed thing can not be prosecuted for an offence against this Act for possession of the firearm or prescribed thing if—
 - (a) the person is taking the firearm or prescribed thing directly to, or has the firearm or prescribed thing at—
 - (i) an approved licensed dealer for the purpose of the dealer disposing of or otherwise dealing with it; or
 - (ii) a police station for the purpose of surrendering it to a police officer; and
 - (b) the person complies with any conditions prescribed by regulation for the taking of the firearm or prescribed thing to the approved licensed dealer or police station.
- (2) Subsections (3) and (4) apply if the person—

- (a) takes the firearm or prescribed thing to an approved licensed dealer under subsection (1)(a)(i); and
 - (b) does not provide the approved licensed dealer with the particulars as required under section 73(a).
- (3) Section 73 does not apply to the approved licensed dealer.
- (4) The approved licensed dealer must surrender the firearm or prescribed thing to a police officer.
- Maximum penalty—10 penalty units.
- (5) The commissioner may approve a licensed dealer for this section.
- (6) The commissioner must publish the names of the approved licensed dealers on the QPS website.
- (7) In this section—
- approved licensed dealer*** means a licensed dealer approved by the commissioner under subsection (5).
- prescribed thing*** means—
- (a) a magazine for a weapon; or
 - (b) a category R weapon that is not a firearm; or
 - (c) another thing prescribed by regulation.

64 Amendment of s 168C (Dealing with surrendered firearm)

- (1) Section 168C, heading, after ‘firearm’—

insert—

or prescribed thing

- (2) Section 168C(1), from ‘firearm’—

omit, insert—

firearm or prescribed thing under section

[s 65]

168B(1)(a)(ii) or (4).

(3) Section 168C(2), ‘firearm, the firearm’—

omit, insert—

firearm or prescribed thing, the firearm or
prescribed thing

65 Amendment of sch 1 (Subject matter for regulations)

Schedule 1—

insert—

18 Amnesty for firearms and prescribed things

Providing for things for which, and the conditions
under which, an amnesty under section 168B may
be given.

66 Amendment of sch 2 (Dictionary)

Schedule 2, definition *restricted item*, ‘section 67(5)’—

omit, insert—

section 67(8)

**Part 6 Amendment of Weapons
Regulation 2016**

67 Regulation amended

This part amends the *Weapons Regulation 2016*.

68 Insertion of new s 160A

After section 160—

insert—

160A Condition for amnesty for firearms and prescribed things

For section 168B(1)(b) of the Act, it is a condition for a person who is surrendering a firearm or prescribed thing by taking it to an approved licensed dealer or police station that, unless the person has a reasonable excuse, the person must notify the approved licensed dealer or a police officer at the police station before taking it to the approved licensed dealer or police station.

Part 7 Minor and consequential amendments

69 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Minor and consequential amendments

section 69

Part 1 Amendments commencing on assent

Corrective Services Act 2006

1 Section 28F(4)(c), ‘release’—

omit, insert—

release from custody

2 Section 41(1)(b)(i), ‘conditional release order,’—

omit.

3 Section 108(5), definition *release day*, from ‘be—’—

omit, insert—

be discharged or released on parole.

4 Section 113(3) and (5), ‘section 114(2)(b)’—

omit, insert—

section 114(5)

5 Section 209(2), note, ‘section 211’—

omit, insert—

sections 211 and 215

6 Section 233(3), 235, 247 and 351(4), ‘prescribed by regulation’—

omit.

7 Section 273(3), ‘66(6)’—

omit, insert—

66(5)

8 Section 319E(1)(b), ‘probation and parole office’—

omit, insert—

community corrections office

9 Section 344B, definition *dangerous drug*—

omit.

Criminal Code

1 Section 227C(3), definition *supervision order*, paragraph (c), ‘or a conditional release order’—

omit.

Criminal Law Amendment Act 1945

1 Section 22B(2)(e)(i), ‘division 10 or 11’—

omit, insert—

division 11

Penalties and Sentences Act 1992

- 1 **Section 151A, heading, ‘Conditional release and parole’—**
omit, insert—
Parole

- 2 **Section 151A, ‘, and conditional release within the meaning of the *Corrective Services Act 2006*,’—**
omit.

Racing Integrity Regulation 2016

- 1 **Section 3A, heading, ‘s 98A’—**
omit, insert—
s 53A

- 2 **Section 3A, ‘section 98A(5)’—**
omit, insert—
section 53A(5)

