

WESTERN AUSTRALIA

COMMUNITY CORRECTIONS CENTRES ACT 1988

(No. 37 of 1988)

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WESTERN AUSTRALIA

COMMUNITY CORRECTIONS CENTRES ACT

No. 37 of 1988

AN ACT to provide for the establishment and management of Community Corrections Centres, for conditions applicable to community corrections centre orders and for related purposes.

[Assented to 24 November 1988]

The Parliament of Western Australia enacts as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Community Corrections Centres Act 1988*.

Commencement

2. This Act shall come into operation on such day as is fixed by proclamation.

Interpretation

3. In this Act, unless the contrary intention appears—

“centre” means a community corrections centre;

“community corrections centre” means premises or a place declared to be a community corrections centre under section 4;

“community corrections officer” means a person appointed and holding office as such under section 6 and a person appointed and holding office under section 6 or 35 of the *Offenders Probation and Parole Act 1963*;

“community corrections centre order” means a work and development order issued under Part VIAA of the *Justices Act 1902* and a work release order made under Part IIIB of the *Offenders Probation and Parole Act 1963*;

“community work” includes any form of work, service or activity approved for the purposes of this definition by the chief executive officer;

“Department” means the department of the Government principally assisting the Minister with the administration of this Act;

“offender” means a person who is the subject of a community corrections centre order;

“officer” means a community corrections officer;

“supervisor” in relation to a community corrections centre, means the officer who is at the relevant time in charge of the centre;

“volunteer” means a person whose name appears in the register of volunteers kept under section 11;

“work release order” means an order for the release from prison of a prisoner made by the Parole Board under Part IIIB of the *Offenders Probation and Parole Act 1963*.

PART 2—COMMUNITY CORRECTIONS CENTRES

Proclamation of community corrections centres

4. (1) The Governor may by proclamation declare any premises or place to be a community corrections centre for the purposes of this Act.

(2) The Governor may amend or revoke a proclamation made under subsection (1).

Departmental report as to centres

5. The annual report of the Department prepared for the purposes of the *Financial Administration and Audit Act 1985* shall include a report on the operations of community corrections centres and programs and other operations of the Department under this Act.

PART 3—OFFICERS

Appointment of officers and consultants

6. (1) There may be appointed under and subject to the *Public Service Act 1978* such community corrections officers as are required for the purposes of this Act.

(2) The Minister may engage under contract for services such professional, technical or other assistance as the Minister considers necessary for the purposes of this Act.

Powers and duties of chief executive officer

7. (1) Subject to this Act and to the control of the Minister, the chief executive officer of the Department is responsible for the control and management of community corrections centres.

(2) The chief executive officer has all of the powers conferred under this Act on a supervisor and may review, vary or rescind an order or direction given by a supervisor.

Powers and duties of supervisors

8. (1) The supervisor of a community corrections centre is responsible to the chief executive officer for the management and good order of the centre and may give reasonable directions to officers and offenders for the purposes of this Act.

(2) The supervisor of a community corrections centre must advise offenders of their obligations under community corrections centre orders and this obligation shall be taken to have been performed if a written statement of those obligations is attached to the order given to the offender.

(3) A supervisor or other officer may use reasonable force to compel an offender to obey a direction given to that offender if the supervisor or officer believes on reasonable grounds that the use of force is necessary—

- (a) to prevent the offender or another person being killed or seriously injured; or
- (b) to prevent serious damage to property.

(4) A supervisor must as soon as possible report to the chief executive officer any use of force by the supervisor or another officer to compel an offender to obey a direction.

Powers and duties of officers

9. (1) An officer—

- (a) must comply with the reasonable directions of the supervisor of the centre at which the officer is working;
- (b) must maintain the good order of the centre;
- (c) must keep such records and make such returns and reports as the chief executive officer directs;
- (d) must make any records relating to an offender available upon request of the chief executive officer to the chief executive officer or the supervisor; and
- (e) must report immediately to the supervisor anything which might reasonably be thought to jeopardize the management or good order of a community corrections centre.

(2) An officer may give such reasonable directions to offenders and other persons as are necessary for the management and good order of a community corrections centre.

(3) A direction given by the supervisor of a community corrections centre to an officer—

- (a) to search any person in a community corrections centre; or
- (b) to use reasonable force to compel an offender to obey a direction given to that offender,

is not a reasonable direction for the purposes of subsection (1) (a).

Delegation by chief executive officer

10. The chief executive officer may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the chief executive officer, delegate to any person—

- (a) any power or duty under this Act, other than this power of delegation;
- (b) any power or duty under Part IIIB of the *Offenders Probation and Parole Act 1963*; and
- (c) any power or duty under Part VIAA of the *Justices Act 1902*.

Volunteers

11. (1) The chief executive officer may by instrument authorize a person to work as an unpaid volunteer for the purposes of this Act.

(2) The period for which and the terms and conditions under which a person is authorized to work under subsection (1) are those stated in the person's instrument of authority.

(3) The chief executive officer must give the original of the instrument of authority to a person authorized to work under subsection (1) and must keep a register containing copies of instruments of authority given to persons under this section.

Assistance by police officers

12. Subject to the directions of the Commissioner of Police, a police officer may, upon the request of the chief executive officer or an officer, assist in the exercise or performance of any power or duty conferred or imposed by this Act and when so acting a police officer, in addition to the powers and duties conferred and imposed on him by or under any other law, shall have the powers and be subject to the responsibilities and shall receive the protection from liability which in like circumstances would be conferred or imposed on an officer.

PART 4—COMMUNITY CORRECTIONS CENTRE ORDERS

Conditions applicable to offenders

13. Every offender is subject to and must comply with the following conditions—

- (a) in the case of an offender who is in prison when the community corrections centre order is made, the offender must report to a community corrections officer within 72 hours after being released from prison;
- (b) the offender must report to the supervisor of a community corrections centre in accordance with the requirements of the community corrections centre order to which the offender is subject;
- (c) the offender must attend at the place or places on the dates and at the times required by the supervisor;
- (d) the offender must devote to the community corrections programme an aggregate of 14 hours for each period of 1 week during which the offender is subject to the order, including not less than 8 hours of community work and not more than 6 hours of personal development activities as determined in the case of that offender by the supervisor;
- (e) the offender must undertake and perform in a manner satisfactory to the responsible officer the community work and personal development activities required to be undertaken by the offender for the purposes of the order;
- (f) the offender must comply with every reasonable direction of an officer or a volunteer;
- (g) the offender must, if so directed by the supervisor, submit to testing for alcohol or drug use;
- (h) the offender must notify an officer if unable to attend when and where required to do so, and obtain an officer's approval for any failure to so attend;
- (i) the offender must not commit any offence while subject to a community corrections centre order;
- (j) in the case of an offender subject to a work release order, the offender must not leave the State;
- (k) in the case of an offender subject to a work release order, the offender must obtain the prior approval of an officer before changing his residential address or place of employment;

- (l) in the case of an offender subject to a work and development order, the offender must notify an officer within 48 hours if the offender changes his residential address or place of employment;
- (m) in the case of an offender subject to a work and development order, the offender must not leave the State without the prior approval of the supervisor;
- (n) the offender must comply with any prescribed conditions.

Suspension by chief executive officer

14. (1) The chief executive officer may, where the offender is ill or in other exceptional circumstances, suspend the operation of a work and development order for a period or periods not exceeding an aggregate of 2 months and any period of suspension of such an order shall be disregarded in calculating the period of operation of the order or, should it become necessary, the unexpired period of the sentence.

(2) The chief executive officer may, where the offender is ill or in other exceptional circumstances, suspend the condition of a work release order imposed by section 13 (d).

PART 5—MANAGEMENT OF COMMUNITY CORRECTIONS CENTRES

Approval of programmes

15. (1) The chief executive officer may by instrument approve programmes of activities as community corrections programmes in which offenders may take part.

(2) Community corrections programmes may include, but are not restricted to, any of the following—

- (a) community, voluntary or charitable work;
- (b) programmes for the treatment of alcoholics or drug dependent persons;
- (c) counselling programmes;
- (d) social and life skills courses; and
- (e) educational, occupational and personal training courses.

Chief executive officer may make rules

16. (1) The chief executive officer may, with the approval of the Minister, make rules for the management, control and security of community corrections centres generally or a specified community corrections centre and for the management, control, and security of offenders.

(2) It is the intention that rules made under subsection (1) shall complement regulations made by the Governor under section 29 and if there exists any inconsistency between a rule made by the chief executive officer and a regulation made by the Governor, the rule shall, to the extent of such inconsistency, be read and have effect subject to the regulation.

(3) Rules made under this section may confer a discretionary authority on any person or class of persons.

(4) The chief executive officer must publish rules made under this section in such manner as he considers necessary to bring relevant rules to the attention of officers, offenders and persons visiting community corrections centres.

(5) The chief executive officer must take reasonable steps to have rules made under this section made known—

- (a) to every offender who is illiterate; and
- (b) in a language that he understands, to every offender who does not understand English.

Search

17. (1) A supervisor may at any time order an officer to—

- (a) search any part of a community corrections centre;
- (b) search and examine anything in a community corrections centre; or
- (c) require a person wishing to enter a community corrections centre to submit to search and examination of the person and anything in the person's possession or under the person's control,

if the supervisor believes that the search is necessary for the security or good order of the community corrections centre or the offenders in it.

(2) A supervisor or other officer may search and examine an offender, a visitor or any other person in a community corrections centre if the supervisor or officer believes that the search is necessary for the security or good order of the community corrections centre or the offenders in it.

(3) If a person other than an officer or an offender refuses to submit to a search under this section the supervisor may order the person to leave the community corrections centre immediately.

(4) A person who disobeys a supervisor's order under subsection (2) commits an offence.

Penalty: \$500.

(5) An officer may, if necessary, use reasonable force to compel a person to obey an order to leave a community corrections centre.

(6) An officer is not liable for injury or damage caused in carrying out searches or using force in accordance with this section.

(7) A supervisor may at any time order a search under this section to be terminated.

Seizure

18. (1) In carrying out searches under section 17 an officer may seize anything found in a community corrections centre, whether in a person's possession or not, which the officer believes on reasonable grounds jeopardizes or is likely to jeopardize the security or good order of the community corrections centre or the safety of persons in it.

(2) An officer who seizes anything under subsection (1) must immediately inform the supervisor.

(3) The supervisor must deal in accordance with the regulations with anything, which is not a drug available only on prescription, seized under this section.

Access to community corrections centres

19. (1) The supervisor of a centre may authorize any person to enter the centre.

(2) An authority under subsection (1) is subject to the conditions determined by the supervisor.

(3) A person who is authorized to enter a centre and who, while at the centre—

- (a) contravenes this Act, or the regulations; or
- (b) contravenes a direction given by the supervisor; or
- (c) contravenes a condition to which the authority to enter is subject; or
- (d) does anything which, in the supervisor's opinion threatens the good order or management of the centre,

must, if ordered by the supervisor, leave the centre immediately.

(4) A person commits an offence who disobeys an order to leave a centre given to that person by the supervisor under subsection (3).

Penalty: \$1 000.

PART 6—DISCIPLINE OF OFFENDERS

Disciplinary offences

20. An offender who—

- (a) disturbs or interferes with any other person working or doing anything under a community corrections centre order or a community service order;
- (b) assaults, threatens, insults or uses abusive language to a supervisor, officer or other employee of the Department;
- (c) fails to comply with a reasonable direction of an officer or a volunteer;
- (d) uses or is under the influence of, alcohol, drugs, glue, petrol or any other intoxicating substance when participating in a community corrections programme;
- (e) is in possession of alcohol, drugs, glue, petrol or any other intoxicating substance not lawfully issued to him when participating in a community corrections programme;
- (f) contravenes a rule made by the chief executive officer under section 16; or
- (g) commits any act or omission of insubordination or misconduct that is subversive of the good order or management of a centre,

commits a disciplinary offence.

Institution of disciplinary offences

21. (1) A charge of a disciplinary offence alleged to have been committed by an offender may be made by any officer and shall be brought forthwith to the attention of the supervisor who must, as he thinks appropriate and having regard to the nature of the alleged disciplinary offence and to the alleged circumstances—

- (a) if the offender so agrees, suspend further action with respect to the charge on condition of the good behaviour of the offender for a stated period not exceeding 2 months and order the withdrawal of the charge at the end of that period if the condition has been observed; or
- (b) direct that the charge be withdrawn or that a further or different charge be laid; or
- (c) determine the charge.

(2) Where the supervisor proposes to determine a charge, the supervisor must call upon the offender to admit or deny the charge and must endorse the charge with a note of whether the offender admits or denies that charge.

Hearing of charges

22. (1) Subject to this Act, every charge of a disciplinary offence shall be heard and determined in the presence of the offender charged in the centre or some other suitable place as notified to the offender.

(2) Subject to this Act, written notice shall be given to the offender of every charge and the time and place when and where the charge is to be heard and determined.

(3) A notice under subsection (1) may be given personally or posted to the last known residential address of the offender and, in the absence of evidence to the contrary, a notice so posted shall be deemed to have been duly given.

(4) Where the offender does not admit the charge or having been given the notice required by subsection (2) does not appear, the charge shall be heard and determined by the supervisor in accordance with the procedure prescribed by regulations.

(5) The supervisor shall not be bound by the rules of evidence but may admit any evidence which in the supervisor's opinion is relevant to the charge and may decline to admit repetitious material.

Offender not to be legally represented

23. (1) An offender shall not be represented by a legal practitioner in proceedings under this Part before a supervisor.

(2) Subject to subsection (1), if the supervisor is satisfied after making appropriate inquiries that an offender who is charged with a disciplinary offence does not for any reason comprehend sufficiently the nature or circumstances of the alleged offence or the nature of the proceedings, the supervisor may appoint a person nominated or agreed to by the offender, or in the absence of such nomination or agreement, some other person to assist and represent the offender in the proceedings.

Penalties for disciplinary offences

24. Where either the offender admits the charge or the supervisor finds the charge proved, the supervisor may impose one or more of the following penalties—

- (a) a reprimand;
- (b) in the case of an offender subject to a work and development order, extension of the order by not more than 2 weeks;
- (c) in the case of an offender subject to a work release order, forfeiture of not more than 3 days' remission of sentence to which the offender is or may become entitled under section 29 of the *Prisons Act 1981* or not more than 3 days' reduction from a minimum term of sentence or a non-parole period or extended service period, being a reduction granted or able to be granted to the offender under the *Offenders Probation and Parole Regulations 1964*.

Record of charges and penalties

25. (1) Upon imposing a penalty for a disciplinary offence, a supervisor must enter in the records of the centre a statement of the nature of the offence for which the supervisor has imposed a penalty, the date of the offence, the name of the offender and the penalty imposed, and the supervisor shall sign and date the entry.

(2) The supervisor of a centre must send to the chief executive officer forthwith particulars of every entry made under subsection (1).

Review

26. (1) The Minister shall carry out a review of the operation and effectiveness of this Act after the Act has been in operation for 2 years and shall prepare a report based on that review.

(2) The Minister shall, within 6 months of the expiry of the period of 2 years referred to in subsection (1), cause the Minister's report to be laid before each House of Parliament.

PART 7—MISCELLANEOUS

Immunity from liability

27. No action or claim for damages shall lie against the Crown, the chief executive officer or an officer for or on account of anything done, or ordered or authorized to be done, or omitted to be done, by the chief executive officer or an officer which purports to be done for the purpose of carrying out the provisions of this Act, unless it is proved that the act was done, or ordered or authorized to be done, or omitted to be done, maliciously and without reasonable cause.

Compensation for injury

28. A person who is—

- (a) an offender subject to a community corrections centre order; or
- (b) a volunteer who is working for the purposes of this Act,

is to be regarded for the purposes of the *Workers' Compensation and Assistance Act 1981* as a worker employed by the Crown and for the purposes of that Act the person's weekly earnings shall be taken to be the amount that the Minister considers reasonable in the circumstances.

Exclusion of the rules of natural justice

29. The rules known as the rules of natural justice (including any duty of procedural fairness) do not apply to or in relation to the doing or omission of any act, matter or thing under this Act by the chief executive officer.

Regulations

30. The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act and, in particular—

- (a) prescribing conditions applicable to work release orders or work and development orders;
 - (b) regulating the procedure for notifying offenders of disciplinary charges and the hearing and determination of disciplinary offences;
 - (c) making provision for the authorization of absences from attendance at a programme;
 - (d) regulating the conduct of offenders;
 - (e) making provision for the duty of an offender to attend a particular centre to be altered so as to refer to another centre;
 - (f) authorizing and regulating the taking of blood and urine from an offender for the purposes of proceedings under Part 6 where there is reasonable suspicion that the offender may have committed a disciplinary offence;
 - (g) regulating the procedure for searches and seizures carried out under this Act;
 - (h) providing for the transport of offenders participating in community corrections programmes;
 - (i) regulating the consequences of injury and sickness with respect to community corrections orders;
 - (j) prescribing the grant of remission to certain offenders; and
 - (k) prescribing forms.
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