

DIVISION 5.—ADMISSION OF YOUNG PERSONS.

Admission to
care of
Department.
No. 6219 s. 20.

100. Any parent guardian or person having the care or custody of a young person under the age of seventeen years may apply in the prescribed form to the Director-General that the young person be admitted to the care of the Department.

Director-
General may
require
confidential
reports.

101. (1) On receipt of the application the Director-General shall make such inquiries as he thinks proper.

(2) With the consent of the applicant the Director-General may require any person whom he believes to be in a position to do so to furnish to him a confidential report on any matter which the Director-General considers to be relevant to such application ; and every person who on being required to do so by the Director-General fails to furnish a report within a reasonable time or furnishes a report containing any statement which is wilfully untrue in a material particular shall be guilty of an offence.

Penalty : \$500 or imprisonment for six months.

(3) Where it appears to a stipendiary magistrate in chambers that an applicant is unreasonably withholding his consent to a requirement to furnish a report under sub-section (2) the stipendiary magistrate may make an order dispensing with the applicant's consent.

Determination
of application.

102. The Director-General shall consider the application and may if he is satisfied that it is in the interests of the young person so to do by direction endorsed on the application and signed by him grant the application or he may refuse the application and forthwith notify the applicant in writing of such refusal and his right of appeal.

Appeal
against
refusal.

103. (1) In the case of any such refusal the applicant may within fourteen days from the day of such refusal appeal to the Minister against such refusal and the Minister may allow or refuse the appeal as he thinks fit.

(2) The granting of an application by the Director-General or the allowing by the Minister of an appeal from a refusal of the Director-General shall for all purposes be deemed to be an order admitting the young person to the care of the Department.

Procedure in
urgent
cases.

(3) Where application is made under this Division and the Director-General is of opinion that the young person is in need of the immediate care of the Department he may arrange for the young person to be taken to a remand centre youth training centre or youth hostel and detained there until the application has been granted or refused.

(4) A young person admitted to the care of the Department under this section shall unless sooner discharged remain under the guardianship of the Director-General until he attains the age of eighteen years.

104. (1) Any

104. (1) Any person having the care and custody of a young person under the age of seventeen years whom he considers to be beyond his ability to control may apply to a Children's Court to have him deemed to be uncontrollable.

Uncontrollable young person.
No. 6219 s. 19.

(2) If the young person does not appear before the court for the hearing of the application at the time and place therein mentioned the court may issue a warrant for the apprehension of the young person and he may upon apprehension be taken to the nearest remand centre or otherwise disposed of in accordance with the *Children's Court Act 1958* and as soon as practicable thereafter shall be brought before the court.

(3) On the hearing of the application the court may grant the application if it is satisfied by the evidence before it that the young person is uncontrollable and may—

- (a) order that he be admitted to the care of the Department as a young person in need of care and protection ; or
- (b) adjourn the proceedings for a period not exceeding two years on condition that he will during that period be of good behaviour and comply with such other conditions, if any, as the court thinks proper to impose ; or
- (c) release him on probation for a period not exceeding three years.

DIVISION 6.—PLACEMENT AND SUPERVISION OF YOUNG PERSONS.

105. Subject to the regulations the Director-General may from time to time deal with any young person admitted to the care of the Department or child placed under the supervision of the Youth Welfare Division pursuant to the provisions of paragraph (c) of section 40 in one or other of the following ways :—

Powers of Director-General with respect to young persons admitted to the care of the Department.
No. 6219 s. 25.

- (a) Place him in a remand centre, youth training centre, youth hostel, or youth welfare service appointed pursuant to the provisions of section 92 ;
- (b) Place him in a children's reception centre, children's home or other establishment conducted and managed by the Department ;
- (c) Place him in an approved children's reception centre or in an approved children's home ;
- (d) Place him with his parents or with one of his parents ;
- (e) Place him with suitable foster parents ;
- (f) Place him in residential employment ;
- (g) Place him in the custody of some suitable person who is willing to take charge of him ;
- (h) Place him if his interests so require in an institution or establishment considered by the Director-General
either

either generally or in a particular case to be suitable for the care of the physically or mentally handicapped ;

(j) Place him in private board ;

(k) Place him in any other suitable situation as circumstances require.

Agreement to be entered where young person to reside on employer's premises.
No. 6219 s. 26.

106. (1) A young person shall not be so placed by the Director-General in employment of a nature requiring residence on the employer's premises unless an agreement between the Director-General and the employer is entered into in the form and subject to the conditions prescribed.

Savings from weekly earnings of young person to be banked.

(2) The Director-General may require the employer of any young person so placed in employment to remit to him at regular intervals a specified portion of the weekly earnings of the young person and any amounts so received shall be placed by the Director-General to the credit of the young person in a State Savings Bank account in the name of the Department.

(3) Whilst any young person is under the guardianship of the Director-General the whole or portion of the amount so standing to his credit may be applied to his benefit as the Director-General thinks fit.

Minister to determine rates for young persons placed in youth training centres &c.
No. 6219 s. 29.

107. (1) The Minister shall from time to time determine the payments to be made in respect of young persons and children placed pursuant to the provisions of section 105.

Special rates.

(2) The Minister may also determine special rates to be paid as need arises in respect of young persons and children placed elsewhere pursuant to this Division.

DIVISION 7.—MISCELLANEOUS PROVISIONS.

Offences.
No. 6651 s. 29.

108. (1) Every person who without lawful authority or excuse—

(a) holds or attempts to hold any communication with any trainee or inmate of a remand centre, youth training centre, youth hostel or youth welfare service ;

(b) delivers or in any manner attempts to deliver to any such trainee or inmate or introduces or attempts to introduce or causes to be introduced into a remand centre, youth training centre, youth hostel or youth welfare service any article or thing not allowed by the regulations ;

(c) in any manner takes or receives from a trainee or inmate for the purpose of conveying out of or taking away from a remand centre, youth training centre, youth hostel or youth welfare service any article or thing whatsoever without the consent of the Director-General ;

(d) delivers

- (d) delivers or causes to be delivered to any other person any article or thing whatsoever for the purpose of being introduced as aforesaid or secretes or leaves about or upon any place where any such trainee or inmate is usually employed or detained any article or thing whatsoever for the purpose of being found or received by any such trainee or inmate ;
- (e) at any time or in any manner contrary to the regulations conveys to or causes to be conveyed to any such trainee or inmate any article or thing whatsoever ; or
- (f) lurks or loiters about a remand centre, youth training centre, youth hostel or youth welfare service for any of the purposes aforesaid—

shall be guilty of an offence.

Penalty : \$200 or imprisonment for three months.

(2) Every person who without lawful authority or excuse enters a remand centre, youth training centre, youth hostel or youth welfare service or any building yard or ground belonging thereto and does not depart therefrom when required to do so by any person for the time being in charge thereof shall be guilty of an offence.

Penalty : \$500 or imprisonment for six months.

(3) Any such person may be apprehended by a member of the police force or officer of the Department without warrant and may by such member or officer be detained and kept in safe custody until he can be brought before a magistrates' court which may hear and determine the offence.

Apprehension
of offenders.

109. Every person who knowing that a young person has been withdrawn or has absconded from any place in which or person under whom he is placed by the Director-General pursuant to the provisions of section 105 harbors or conceals or assists in harboring or concealing the young person or prevents the young person from returning to the place from which or the person from whom the young person has been so withdrawn or has so absconded shall be guilty of an offence.

Harboring or
concealing
young person.

Penalty : \$250 or imprisonment for three months.

110. Every person who directly or indirectly withdraws unlawfully a young person or counsels or induces a young person to abscond from any place in which or person under whom he is placed by the Director-General pursuant to the provisions of section 105 shall be guilty of an offence.

Withdrawing
young person
or inducing
him to
abscond.

Penalty : \$100 or imprisonment for one month.

PART

PART IV.—PRISONS DIVISION.

DIVISION 1.—ADMINISTRATION AND FUNCTIONS.

Prisons
Division.
No. 6651 s. 15.

111. (1) There shall be a Division of the Department to be known as the "Prisons Division".

(2) The Director-General shall, subject to the provisions hereafter in this Part contained, and to the control of the Governor in Council, have the care charge and direction of all prisons within the meaning of this Act.

Director of
Prisons.

(3) Subject to the *Public Service Act* 1958 there shall be appointed an officer to be called the "Director of Prisons".

(4) The person holding office immediately prior to the commencement of this Act as Director of Prisons under the *Social Welfare Act* 1960 shall be Director of Prisons for the purposes of this Act.

(5) The Director of Prisons shall administer the Prisons Division subject to the control and direction of the Director-General.

Functions of
Prisons
Division.
No. 6651 s. 16.

112. The functions of the Prisons Division shall be—

- (a) to control and supervise all persons imprisoned or detained in prisons ;
- (b) to assist in the rehabilitation of all prisoners and all persons released from a prison or police gaol;
- (c) to provide welfare services to prisoners and their families ; and
- (d) to assist and promote co-operation between private organizations and Government departments concerned with the welfare and after-care of prisoners.

DIVISION 2.—CONSTITUTION AND OFFICERS.

Prisons to be
notified in
Government
Gazette.
No. 6259 s. 4.

113. All buildings erections houses enclosed places and premises heretofore maintained by the public as and for gaols and police gaols within Victoria which have been proclaimed by the Governor in Council by notice published in the *Government Gazette* to be gaols or police gaols and all buildings erections houses enclosed places and premises which are from time to time proclaimed under this Act by notice published in the *Government Gazette* to be prisons or police gaols shall from and after the publication of such notice be severally deemed and taken to be prisons and police gaols respectively (hereafter in this Part called "prisons") and shall be subject to the several provisions made for the regulation discipline management and care of prisons and of prisoners confined therein.

114. The

114. The Governor in Council may from time to time by notice published in the *Government Gazette* revoke any proclamation heretofore made or which hereafter may be made under section 114 or any corresponding previous enactment or under any other authority in that behalf which has notified any building erection house enclosure place or premises to be a prison or police gaol and thereupon the building erection house enclosed place or premises referred to in the notice shall cease to be a prison or police gaol accordingly.

Revocation of notices.
No. 6259 s. 5.

115. (1) Whenever it appears to the Director-General after consultation with the Chief Commissioner of Police to be necessary so to do the Director-General may recommend to the Minister that a lock-up is fit for the reception of prisoners sentenced to imprisonment for a term not exceeding the term the Director-General thinks fit and specifies in his recommendation.

Use of lock-ups for detention of short-term prisoners.
No. 6259 s. 7.

(2) Upon receiving any such recommendation the Minister may by notice published in the *Government Gazette* proclaim any police lock-up so recommended to be a "police gaol" for the reception of prisoners for any term not exceeding the term specified in the notice but not in any case exceeding thirty days.

(3) Upon the publication of any such notice the provisions of this Act then in force relating to prisons and the rules and regulations made thereunder shall so far as those provisions are applicable apply to police gaols.

(4) A prisoner sentenced to imprisonment for a longer term than is specified under this section in relation to a lock-up shall not be detained in that lock-up except for the period which elapses before he can conveniently be conveyed to a prison.

(5) The Minister may from time to time by notice published in the *Government Gazette* revoke or vary any proclamation made under this section.

116. Nothing in this Part contained shall deprive the sheriff of any right or power or relieve him of any duty or liability vested in or imposed upon him by or under any Act or law or usage in respect of any person committed to or confined in any prison, not being a prisoner under sentence for some indictable offence or an adjudication of imprisonment for some offence punishable on summary conviction.

Saving of rights &c. of sheriff.
No. 6259 s. 11.

117. The Governor in Council may from time to time make regulations for enabling the sheriff to exercise his powers and fulfil his duties within or with respect to prisons or the confinement therein or the release therefrom of prisoners.

Regulations as to sheriff's powers and duties as to prisons.
No. 6259 s. 12.

118. Every

Prisoner deemed to be in custody of Director-General.

No. 6259 s. 14.

Governor to be appointed for each prison.

No. 6259 s. 15.

Acting Governor.

118. Every prisoner who is in custody whether under a sentence of imprisonment or on remand awaiting trial shall be deemed to be in the legal custody of the Director-General.

119. (1) Subject to the provisions of the *Public Service Act* 1958 the Governor in Council may appoint a governor of each prison.

(2) During the absence of the governor the Director-General may direct any suitable prison officer to act as governor and such officer shall have all the powers and perform all the duties pertaining to the office of governor.

Visiting justices.

No. 6259 s. 16.

Duties of visiting justice.

120. (1) The Governor in Council may appoint any number of fit and proper persons being justices to be visiting justices of a prison and may remove any visiting justice.

(2) Every visiting justice shall unless prevented by illness or other sufficient cause—

- (a) visit the prison, in rotation with other visiting justices, not more than once in every week ;
- (b) make such reports as are from time to time required by Order of the Governor in Council ; and
- (c) shall have and may exercise all the powers and authority of a visiting justice appointed under this Act.

Stipendiary magistrates to be visiting justices *ex officio*.

(3) Every stipendiary magistrate shall by virtue of his office and without further appointment or authority than this Act be a visiting justice of every prison and shall have and may exercise at or in relation to a prison all the powers and authority of a visiting justice.

Power of judges and justices to visit at will not affected.

No. 6259 s. 17.

121. Nothing in this Act shall be taken to abridge or affect the power of any judge of the Supreme Court or of any justice to visit and examine any prison as he thinks fit.

DIVISION 3.—TREATMENT OF PRISONERS.

Commencement of sentences.

No. 6259 s. 18.

122. (1) Subject to the provisions of this section and section 124 sentences of imprisonment or of imprisonment with hard labour shall commence upon and be reckoned from the days following, namely—

- (a) where the sentence is imposed at a sitting of the Supreme Court or the County Court and the court does not otherwise order—the first day of the sitting at which the offender is convicted or pleads guilty ; and
- (b) in any other case—
 - (i) where the offender is detained in custody at the time the sentence is imposed—the day the sentence is imposed ; or

(ii) where

- (ii) where the offender is at large at the time the sentence is imposed—the day the offender is apprehended in pursuance of a warrant of commitment issued in respect of that sentence.

(2) Whenever an offender sentenced to a term of imprisonment either with or without hard labour or any other punishment by a court judge or justice or other person having jurisdiction to award the sentence is allowed to be or to go at large either on bail or otherwise pending an appeal or the consideration of any question of law reserved or a case stated under the provisions of any law in force in Victoria, the period intervening between the day on which the offender was allowed to go or be at large and the day when he renders himself or is taken into custody to undergo the sentence by reason of his having abandoned or failed to prosecute or proceed with such appeal question of law reserved or case stated or of it being dismissed or decided adversely to the offender shall not count in calculating the term to be served by him under the sentence and the service of the sentence shall during the said period be suspended.

(3) Notwithstanding anything in this Act or any rule of law or practice to the contrary every sentence referred to in sub-section (2) shall be calculated exclusive of the time during which the service of the sentence was suspended by reason of the appeal question of law reserved or case stated.

(4) If an offender is imprisoned under process in respect of an offence or offences other than the offence to which the appeal question of law reserved or case stated relates at the time when it is finally determined the sentence shall (unless otherwise directed by the court judge or justice awarding the sentence or the court or judge determining the appeal question of law reserved or case stated) take effect at the expiration of any sentence or sentences he is then undergoing.

(5) If a person lawfully imprisoned under a sentence escapes from a prison or from the custody of a member of the police force governor prison officer or person in whose custody he is the period intervening between the day on which he so escapes and the day when he surrenders himself or is apprehended shall not be reckoned as part of the term to be served by him under the sentence and the service of the sentence shall during the said period be suspended.

Time escapes
is at large
not to be
reckoned as
part of term.

(6) Notwithstanding anything in any Act or any rule of law or practice to the contrary every such sentence shall be calculated exclusive of the time during which the service of the sentence is so suspended.

(7) If

Suspended sentence to be cumulative on any sentence being served.

(7) If a person is imprisoned during any period referred to in this section under process in respect of an offence or offences other than that for which he received a sentence as aforesaid he shall commence to serve the uncompleted portion of the sentence at the expiration of any sentence or sentences he is then undergoing under such process.

(8) If the period during which an offender's sentence is suspended either under sub-section (2) or sub-section (5) includes any time when the offender ought to be whipped or kept in solitary confinement the whipping or solitary confinement shall not lapse but shall be inflicted or imposed at a time to be determined by the Governor in Council.

Sentences to be cumulative unless otherwise directed.
No. 6259 s. 19.

123. (1) Every sentence of imprisonment with or without hard labour or any other punishment imposed on an offender by a court judge or justice shall, notwithstanding anything to the contrary in any Act, unless otherwise directed by the court judge or justice at the time of pronouncing the sentence be cumulative upon any uncompleted sentence previously imposed upon such offender by a court judge or justice.

Imprisonment in default of payment of a fine &c.

(2) Every term of imprisonment imposed upon an offender in default of payment of a fine or sum of money shall, notwithstanding anything to the contrary in any Act, be cumulative upon any uncompleted sentence of imprisonment or term of imprisonment in default of payment of a fine or sum of money previously imposed upon the offender by a court judge or justice.

(3) Where an offender is serving a sentence or sentences of imprisonment and there is delivered to the keeper of the prison in which he is imprisoned a warrant for the committal of the offender to prison in default of payment of a fine or sum of money the offender shall not commence to serve the term of imprisonment specified in the warrant until the completion of any sentence or sentences of imprisonment he is then serving or becomes liable to serve before being entitled to be discharged or otherwise released.

(4) Where two or more warrants of commitment for the imprisonment of an offender in default of payment of fines or sums of money are delivered to the keeper of a prison whilst the offender is imprisoned therein the terms of imprisonment specified in the warrants shall, subject to sub-section (3), be served as far as practicable in the sequence in which the fines were imposed or the sums of money became due and payable.

Governor of Victoria may order discharge of persons imprisoned for non-payment of money &c.
No. 6259 s. 20.

124. (1) The Governor of Victoria may order the discharge from prison of any person who is imprisoned—

(a) in default of finding sureties to keep the peace or to be of good behaviour; or

(b) for

- (b) for non-payment of any sum of money within the meaning of this section payment of which or so much thereof as remains unpaid has been remitted by the Governor or in respect of which or so much thereof as remains unpaid such person has entered into a recognizance as hereafter in this section provided.

(2) For the purposes of this section "sum of money" means any sum of money that is imposed as a penalty or forfeiture under any Act or law or is expressly recoverable under any Act as if it were a fine imposed by a court upon a conviction in the exercise of its ordinary criminal jurisdiction. Inter-pretation.

(3) The provisions of paragraph (b) of sub-section (1) shall apply whether the payment of the amount concerned may be remitted by the Governor or not but where the Governor has not power to remit payment of an amount for the non-payment of which a person is imprisoned the liability of that person to pay the moneys shall not be discharged or reduced by virtue of any imprisonment suffered by him with respect to that amount and the amount shall until paid be recoverable as a civil debt. Liability where Governor has not power to remit payment of sum.

- (4) Every recognizance for the purposes of this section— Recognizance.
- (a) shall be entered into before a justice ;
 - (b) shall be in such amount and with such sureties (if any) as the Governor directs ; and
 - (c) shall be conditioned that the person to be discharged shall pay the moneys in respect of which he is imprisoned or is liable to be imprisoned or so much thereof as is then due and unpaid in such manner, by instalments or otherwise, to such person or persons, and within such time or times as the Governor directs having regard to the circumstances of the case.

(5) Where a recognizance is entered into the person imprisoned shall be released from custody but shall be liable to be committed to prison again if he fails in any of the conditions thereof. Prisoner liable to be re-committed.

(6) Where it appears to a justice by information on oath that a person released on recognizance under this section has failed to observe any of the conditions of his recognizance the justice may issue a summons under his hand requiring the person to attend before a magistrates' court to be dealt with according to law or may issue a warrant under his hand to apprehend the person and bring him before a magistrates' court to be dealt with according to law. Summons or warrant may be issued on breach of recognizance.

(7) The provisions of section 23 of the *Justices Act* 1958 shall apply to every summons under sub-section (6).

(8) The

Procedure in respect of breach.

(8) The magistrates' court before which the said person is so summoned or brought may upon being satisfied by evidence that he has failed to observe any of the conditions of his recognizance adjudge him to be guilty of a breach thereof for which the recognizance shall be forfeited and may direct that he be committed to prison for the unexpired portion of the term for which he was originally committed to prison unless he pays the whole of the sum then remaining due and unpaid.

(9) Any justice sitting in the court or the clerk thereof may sign any warrant necessary for such committal and the period of imprisonment of the said person after such new committal shall begin to run as from the day of such new committal if he is then before the court, and if not, then from the date of his subsequent arrest.

Removal of prisoners.
No. 6259 s. 22.

125. (1) The Director-General may by warrant under his hand cause the removal of a prisoner from a prison or police gaol to any other prison or police gaol in Victoria.

(2) Upon a removal the prisoner shall, subject to the provisions of section 115 as to police gaols, be subject to be kept at such prison or police gaol for the unexpired portion of his sentence or until removed by lawful authority.

(3) Whilst being removed from or to a prison or police gaol a prisoner shall be deemed to be in the legal custody of the member of the police force or prison officer having the custody of the prisoner and acting under the warrant.

(4) The Director-General may order the removal of a prisoner from a prison to a hospital or institution for the purpose of his receiving medical treatment and the prisoner whilst in the hospital institution or place and in going thereto and returning therefrom shall be deemed to be in the legal custody of the Director-General and the hospital institution or place shall be deemed to be a prison.

(5) When the Director-General so directs the prisoner shall after treatment be taken in custody to the prison whence he was removed or such other prison as the Director-General directs.

Director-General may order prisoner to be set to labour.
No. 6259 s. 23.

126. The Director-General may order any persons sentenced to imprisonment or committed to prison in default of payment of a fine or sum of money to be set to some labour.

Safe keeping of all prisoners.
No. 6259 s. 25.

127. In all cases in which a person is under sentence of imprisonment on summary conviction or under section 135 or section 136 it shall be lawful for the governor or other officer or person having the custody or charge of the offender to do for the safe keeping of the offender and preventing his escape all such acts as it would be lawful for the governor officer or person to do for the like purpose if the offender were then under sentence of imprisonment or detention for an indictable offence.

128. The

128. The Director-General may order the release from custody of a prisoner at any time within the seven days immediately before the date upon which the prisoner would have been entitled to be released under the regulations applicable to the detention of the prisoner or on parole pursuant to the provisions of Division 2 of Part IV. of the *Crimes Act* 1958.

Director-General may release prisoner up to seven days early.
No. 6259 s. 26.

129. When a prisoner is detained in a prison or lock-up under or awaiting sentence or awaiting trial or on remand or for any other lawful cause and the prisoner is charged with an offence he may upon an order in the form or to the effect of the form in Schedule Three made by a judge of the court or by the justices or by one of the justices before whom the charge may be tried or heard be brought up to answer the charge without a writ of *habeas corpus* and every prisoner brought up under any such order shall be deemed to be in the legal custody of the member of the police force governor or prison officer having the temporary custody of the prisoner and acting under such order and he shall in due course return the prisoner into the custody from which he was brought.

Prisoner may be brought before court on fresh charge under court order.
No. 6259 s. 27.

130. The Director-General may make inquiry and take evidence on oath or otherwise as to the conduct of any prison officer and as to the treatment and conduct of the prisoners and as to any alleged abuse within the prison or in connexion therewith.

DIVISION 4.—OFFENCES.

131. (1) The governor of a prison may hear and determine all charges against a prisoner for any minor breach of the rules or regulations as by the rules or regulations made by the Governor in Council under this Act are directed to be submitted to the decision of the governor of the prison, and may punish such prisoner by solitary confinement for a term of not more than two days or by close confinement in a cell on half rations for a term of not more than four days, such punishment to be concurrent with any sentence the prisoner is then undergoing or by stopping any gratuity which would otherwise be accruing to the prisoner for any period not exceeding one month or by postponing the discharge of the prisoner under the regulations or the release of the prisoner on parole for any period not exceeding seven days.

Powers of governor to punish offenders.
No. 6259 s. 34.

(2) A record of all such punishments shall be kept by the governor and forwarded every month by him to the Director-General and no prisoner shall be punishable upon a second charge for the same offence before a visiting justice.

132. Every person lawfully imprisoned for an offence by the sentence of a court of competent jurisdiction who escapes, attempts to escape, or without lawful authority is absent from a prison

Escape &c. an offence.
No. 6259 s. 35.

OR