

# **Court Security and Custodial Services (Consequential Provisions) Bill 1998**

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Western Australia

LEGISLATIVE ASSEMBLY

**Court Security and Custodial Services  
(Consequential Provisions) Bill 1998**

**A Bill for**

**An Act to amend various Acts as a consequence of the enactment of  
the *Court Security and Custodial Services Act 1998*.**

The Parliament of Western Australia enacts as follows:

s. 1

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## **Part 1 — Preliminary**

**1. Short title**

This Act may be cited as the *Court Security and Custodial Services (Consequential Provisions) Act 1998*.

5 **2. Commencement**

This Act comes into operation on such day as is, or such days as are respectively, fixed by proclamation.

## **Part 2 — *Anti-Corruption Commission Act 1988***

### **3. Act amended by this Part**

The amendments in this Part are to the *Anti-Corruption Commission Act 1988*\*.

5 [\* Reprinted as at 1 November 1996.]

### **4. Section 3 amended**

Section 3(1) is amended as follows:

- (a) by inserting in the appropriate alphabetical positions the following definitions —

10

“

“**contractor**” means a contractor as defined in the *Court Security and Custodial Services Act 1998*;

“**subcontractor**” means a subcontractor as defined in the *Court Security and Custodial Services Act 1998*;

15

”;

- (b) in the definition of “public authority” —

- (i) after paragraph (b) by deleting “or”; and  
(ii) after paragraph (c) by inserting —

20

“

or

- (d) a contractor or subcontractor;

”.

### **5. Section 14 amended**

25 (1) Section 14(6) is amended as follows:

- (a) after paragraph (a) by deleting “or”;

**s. 5**

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- (b) after paragraph (b) by deleting the full stop and inserting  
instead —  
“ ; or ”;
- 5 (c) after paragraph (b), the following paragraph is  
inserted —  
“
- 10 (c) in the case of a contractor and any  
subcontractor under the relevant contract, the  
holder of the office specified in the relevant  
contract to be the principal officer for the  
purposes of this Act.
- ”.
- (2) Section 14(7) is amended by deleting “to any person or body  
15 who or which has the power to take disciplinary action against  
the person to whom this section applies.” and inserting  
instead —  
“
- 
- 20 (a) to any person or body who or which has the  
power to take disciplinary action against the  
person to whom this section applies; or
- (b) in the case of a principal officer referred to in  
25 subsection (6)(c), to the CEO as defined in the  
*Court Security and Custodial Services  
Act 1998*.
- ”.



### **Part 3 — *Bail Act 1982***

**6. Act amended by this Part**

The amendments in this Part are to the *Bail Act 1982*\*.

[\* *Reprinted as at 13 March 1997.*

5        *For subsequent amendments see 1997 Index to Legislation of  
Western Australia, Table 1, p. 17, and Act No. 38 of 1998.]*

**7. Section 3 amended**

Section 3(1) is amended by inserting in the appropriate  
alphabetical position the following definition —

10

“

**“lock-up”** means a lock-up as defined in the *Court  
Security and Custodial Services Act 1998*;

”.

**8. Section 11 amended**

15

(1) Section 11(2) is amended by deleting “officer in charge of the  
lock-up or prison, and that officer” and inserting instead —

“

      person in charge of the lock-up or prison, and that  
      person

20

”.

(2) Section 11(3) is amended by deleting “the officer” and inserting  
instead —

“ the person ”.

## Part 4 — *Coroners Act 1996*

### 9. Section 3 amended

5 Section 3 of the *Coroners Act 1996*\* is amended in the  
definition of “person held in care” after paragraph (a) by  
inserting the following paragraph —

“

- 10 (aa) a person for whom the CEO as defined in the  
*Court Security and Custodial Services Act 1998*  
is responsible under section 9, 12, 14 or 15 of  
that Act, whether that person is at a custodial  
place as defined in that Act, is being moved  
between custodial places or escapes, or  
becomes absent, from a custodial place or  
15 during movement between custodial places;

”.

[\* *Act No. 2 of 1996.*

*For subsequent amendments see 1997 Index to Legislation of  
Western Australia, Table 1, p. 52.]*

**Part 5 — *The Criminal Code***

**10. Section 1 amended**

5 Section 1(1) of *The Criminal Code*\* is amended in the definition of “public officer” after paragraph (c) by inserting the following paragraph —

“

- 10 (ca) a person who holds a permit to do high-level security work as defined in the *Court Security and Custodial Services Act 1998*;

”.

[\* Reprinted as at 21 April 1997 as the Schedule to the *Criminal Code Act 1913* appearing in Appendix B to the *Criminal Code Compilation Act 1913*.

15 For subsequent amendments see *1997 Index to Legislation of Western Australia, Table 1, p. 58, and Acts Nos. 15, 29 and 38 of 1998.*]

**s. 11**

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**Part 6 — Freedom of Information Act 1992**

**11. Act amended by this Part**

The amendments in this Part are to the *Freedom of Information Act 1992*\*.

5 [\* Reprinted as at 8 July 1997.  
For subsequent amendments see 1997 Index to Legislation of  
Western Australia, Table 1, p. 90, and Act No. 13 of 1998.]

**12. Section 63 amended**

After section 63(3)(a) the following is inserted —

10 “  
(aa) if the person is the principal officer of a  
contractor or subcontractor — the Minister to  
whom the administration of the *Court Security  
and Custodial Services Act 1998* is committed;  
15 or  
”.

**13. Section 96 amended**

After section 96(3) the following subsection is inserted —

20 “  
(4) A subcontractor does not have to comply with  
subsection (1) if the relevant contractor has complied  
with that subsection on behalf of the subcontractor.  
”.

**14. Section 97 amended**

After section 97(2) the following subsection is inserted —

“

- 5 (3) A subcontractor does not have to comply with subsections (1) and (2) if the relevant contractor has complied with those subsections on behalf of the subcontractor.

”.

**15. Schedule 2 Glossary amended**

- 10 (1) Schedule 2 is amended by inserting in the appropriate alphabetical positions in the Glossary the following definitions —

“

15 “**contractor**” means a contractor as defined in the *Court Security and Custodial Services Act 1998*;

“**subcontractor**” means a subcontractor as defined in the *Court Security and Custodial Services Act 1998*;

”.

- 20 (2) Schedule 2 is amended in the definition of “officer” in the Glossary as follows:

- (a) after paragraph (b) by deleting “and”;  
(b) after paragraph (c) by inserting —

“

and

- 25 (d) if the agency is a contractor or subcontractor, a director of the contractor or subcontractor (in addition to the persons referred to in paragraphs (a), (b) and (c));

”.

**s. 15**

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- (3) Schedule 2 is amended in the definition of “principal officer” in the Glossary after paragraph (f) by inserting the following paragraph —

“

- 5 (fa) in relation to a contractor or to any subcontractor under the relevant contract — the holder of the office specified in the relevant contract to be the principal officer for the purposes of this Act;

”.

- 10 (4) Schedule 2 is amended in the definition of “public body or office” in the Glossary as follows:

- (a) after paragraph (f) by deleting “or”;  
(b) after paragraph (g) by inserting —

“

- 15 or

- (h) a contractor or subcontractor;

”.

**Part 7 — Justices Act 1902**

**16. Act amended by this Part**

The amendments in this Part are to the *Justices Act 1902*\*.

[\* *Reprinted as at 4 June 1997.*

5        *For subsequent amendments see 1997 Index to Legislation of  
Western Australia, Table 1, p. 122, and Act No. 29 of 1998.]*

**17. Section 41 amended**

Section 41 is amended by inserting after “police officer” —

“

10                    or a person who is authorized to exercise a power set  
out in clause 3 of Schedule 2 to the *Court Security and  
Custodial Services Act 1998,*

”.

**18. Section 81 amended**

15        Section 81 is amended by deleting “officer” and inserting  
instead —

“ person ”.

**19. Section 83 amended**

20        Section 83 is amended by deleting “officer” and inserting  
instead —

“ person ”.

**20. Section 203 amended**

Section 203(1), (2) and (4) are amended by deleting “officer”  
and inserting instead —

25        “ person ”.

**s. 21**

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**21. Schedule 4 amended**

(1) Forms 15 and 16 in Schedule 4 are amended as follows:

(a) by inserting after “said State,” —

“

5 and to all persons authorized to exercise a power set out in  
clause 2 or 3, as the case requires, of Schedule 2 to the  
*Court Security and Custodial Services Act 1998,*

”;

(b) by inserting after “said police officers” —

10 “ and authorized persons ”.

(2) Forms 52, 56, 57, 58 and 62 in Schedule 4 are amended as follows:

(a) by inserting after “Western Australia,” —

“

15 and to all persons authorized to exercise a power set out in  
clause 2 or 3, as the case requires, of Schedule 2 to the  
*Court Security and Custodial Services Act 1998,*

”;

(b) by inserting after “said police officers” —

20 “ and authorized persons ”.

(3) Form 53 in Schedule 4 is amended by inserting after “said State” where it first occurs —

“

25 and to all persons authorized to exercise a power set out in  
clause 3 of Schedule 2 to the *Court Security and Custodial  
Services Act 1998*

”.



- (4) Form 54 in Schedule 4 is amended by inserting after “Western Australia,” —

“

5

and to all persons authorized to exercise a power set out in clause 2 or 3, as the case requires, of Schedule 2 to the *Court Security and Custodial Services Act 1998*,

”.

## **Part 8 — *Parliamentary Commissioner Act 1971***

### **22. Act amended by this Part**

The amendments in this Part are to the *Parliamentary Commissioner Act 1971*\*.

- 5 [\* *Reprinted as at 20 January 1997.*  
*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 171, and Acts Nos. 41 of 1997 and 10 of 1998.*]

### **23. Section 4 amended**

- 10 (1) Section 4 is amended by inserting in the appropriate alphabetical positions the following definitions —

“

“**contractor**” means a contractor as defined in the *Court Security and Custodial Services Act 1998*;

- 15 “**subcontractor**” means a subcontractor as defined in the *Court Security and Custodial Services Act 1998*;

”.

- (2) Section 4 is amended in the definition of “principal officer” as follows:

- 20 (a) after paragraph (a) by deleting “and”;  
(b) after paragraph (a) by inserting —

“

- (aa) in relation to a contractor and to any subcontractor under the relevant contract, the holder of the office specified in the relevant contract to be the principal officer for the purposes of this Act; and

25

”.

- (3) Section 4 is amended by deleting the definition of “responsible Minister” and inserting the following definition instead —

“

**“responsible Minister”** means —

- 5 (a) in relation to action taken by any department  
or authority, the Minister charged with the  
administration of that department or the  
enactment in relation to the functions  
conferred by, or arising under, which the  
10 action was taken; and
- (b) in relation to action taken by a contractor or  
subcontractor, the Minister to whom the  
administration of the *Court Security and  
Custodial Services Act 1998* is committed;
- 15 ”.

**24. Section 4A amended**

Section 4A(1) is amended as follows:

- (a) after paragraph (e) by deleting the full stop and inserting  
a semicolon instead;
- 20 (b) after paragraph (e) the following paragraph is  
inserted —
- “ (f) a contractor or subcontractor. ”.

**s. 25**

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**25. Section 13 amended**

Section 13(3)(b) and (c) are deleted and the following is inserted instead —

“

- 5 (b) references to an officer of an authority shall be construed —
- (i) as including references to an officer appointed by, or a person employed or engaged to work in, that authority under any enactment; and
- 10 (ii) in the case of a contractor or subcontractor, as also including references to an officer of, or a person employed or engaged to work for, the contractor or subcontractor;
- 15 and
- (c) references to a member of an authority shall be construed —
- (i) as including references to the holder of any office created by an enactment who by virtue of his holding that office is a member of that authority; and
- 20 (ii) in the case of a contractor or subcontractor, as including references to each director of the contractor or subcontractor.
- 25

”.

**26. Section 17A amended**

(1) Section 17A(4) is amended by inserting after “that Act,” —

“

the CEO as defined in the *Court Security and Custodial Services Act 1998*,

”.

(2) After section 17A(5) the following subsection is inserted —

“

(5a) A reference in subsection (1) to an officer in whose custody a person is detained includes a reference to a person authorized to exercise a power set out in Division 1, 2 or 3 of Schedule 2, or in Schedule 3, to the *Court Security and Custodial Services Act 1998* in relation to the detained person.

”.

**27. Section 19 amended**

Section 19(7)(b) is amended by inserting after “constituted” —

“

or, in the case of a contractor or subcontractor, to the Minister to whom the administration of the *Court Security and Custodial Services Act 1998* is committed

”.

**Part 9 — *Police Act 1892***

**28. Act amended by this Part**

The amendments in this Part are to the *Police Act 1892*\*.

[\* *Reprinted as at 31 January 1997.*

5                      *For subsequent amendments see 1997 Index to Legislation of  
   Western Australia, Table 1, p. 184, and Act No. 10 of 1998.]*

**29. Section 2 amended**

Section 2 is amended by inserting in the appropriate  
alphabetical position the following definition —

10

“

**“lock-up”** means a lock-up as defined in the *Court  
   Security and Custodial Services Act 1998*;

”.

**30. Section 22 amended**

15

Section 22 is amended by deleting “in attendance upon” and  
inserting instead —

“ available to ”.

**31. Section 53 amended**

20

Section 53 is amended in the definition of “police officer” as  
follows:

- (a) after paragraph (c) by deleting the semicolon and  
inserting a comma instead;

(b) by inserting after paragraph (c) the following —

“

and includes a person who is authorized to  
exercise a power set out in clause 16 of Schedule 2  
to the *Court Security and Custodial Services  
Act 1998* but the references to a police officer in  
section 53A and 53I (a), (b), (c) and (d)(ii) (except  
Item (A)) are not to be regarded as including the  
authorized person;

”.

5

10

**s. 32**

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**Part 10 — Prisons Act 1981**

**32. Act amended by this Part**

The amendments in this Part are to the *Prisons Act 1981*\*.

[\* *Reprinted as at 21 November 1996.*

5        *For subsequent amendments see 1997 Index to Legislation of  
Western Australia, Table 1, p. 188.]*

**33. Section 3 amended**

- (1) Section 3 is amended by inserting in the appropriate  
alphabetical position the following definition —

10

“

**“lock-up”** means a lock-up as defined in the *Court  
Security and Custodial Services Act 1998*;

”.

- 15        (2) Section 3 is amended in the definition of “superintendent” by  
deleting “police officer who is in charge of a police lock up”  
and inserting instead —

      “ person who is in charge of a lock-up ”.

- (3) Section 3 is amended by inserting before the first word the  
subsection designation “(1)”.

- 20        (4) Section 3 is amended by inserting the following subsection —

“

- 25        (2) A reference in a provision of this Act set out in the  
Table to this subsection to a prison officer or to an  
officer includes a reference to a person who is  
authorized to exercise a power set out in clause 2 of  
Schedule 2 to the *Court Security and Custodial  
Services Act 1998*.



Table

s. 18	s. 27(3)
s. 24	s. 83(4) and (6)
s. 25	s. 84
s. 26(1)	s. 85(2)(a)

”.

**34. Section 14 amended**

- 5 (1) Section 14 is amended by inserting before the first word the subsection designation “(1)”.
- (2) Section 14 is amended by inserting the following subsection —
- “
- 10 (2) A person who is authorized to exercise a power set out in clauses 2 and 11(3) of Schedule 2 to the *Court Security and Custodial Services Act 1998* may issue to a prisoner such orders as are necessary for the purposes of the provisions of this Act set out in the Table to section 3(2).

”.

15 **35. Section 16 amended**

- (1) Section 16(5) and (7) are amended as follows:
- (a) by deleting in each case “Commissioner of Police” and inserting instead —
- “
- 20 CEO as defined in the *Court Security and Custodial Services Act 1998*

”;

**s. 36**

---

(b) by deleting in each case “police lock up” and inserting instead —  
“ lock-up ”.

5 (2) Section 16(8) is amended by deleting “police officer in charge of the lock up” and inserting instead —  
“ person in charge of the lock-up ”.

(3) Section 16(9) and (10) are amended by deleting “police lock up” and inserting instead —  
“ lock-up ”.

10 **36. Section 69 amended**

Section 69(a) is amended by inserting after “him” —  
“ or a person referred to in section 14(2) ”.

**37. Section 71 amended**

15 Section 71(1) is amended by inserting after “prison officer” —  
“  
or person who is authorized to exercise a power set out in clause 14 of Schedule 2 to the *Court Security and Custodial Services Act 1998*  
”.

**Part 11 — Spent Convictions Act 1988**

**38. Schedule 3 amended**

The *Spent Convictions Act 1988*\* is amended in Schedule 3 by inserting after item 11 in the Table to clause 1 the following item —

5

“

12. A person —
- (a) who is authorized, or who is being considered for authorization, to exercise a Schedule power as defined in the *Court Security and Custodial Services Act 1998*; or
  - (b) who holds, or who is applying to be issued with, a permit to do high-level security work as defined in that Act.

Section 18,  
19, 20, 22  
and  
Division 4

”.

[\* *Reprinted as at 19 November 1996.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 217, and Act No. 10 of 1998 and Gazette 27 February 1998 and 9 October 1998.]*

10

## **Part 12 — *Young Offenders Act 1994***

### **39. Act amended by this Part**

The amendments in this Part are to the *Young Offenders Act 1994*\*.

5 [\* *Reprinted as at 26 November 1996.*  
*For subsequent amendments see 1997 Index to Legislation of*  
*Western Australia, Table 1, p. 259, and Act No. 29 of 1998.]*

### **40. Section 3 amended**

10 Section 3 is amended by inserting in the appropriate  
alphabetical position the following definition —

“

“**lock-up**” means a lock-up as defined in the *Court Security and Custodial Services Act 1998*;

”.

### **15 41. Section 15 amended**

Section 15(1) is amended by inserting after “Act” —

“

20 or under the *Court Security and Custodial Services Act 1998* in relation to the young person, and to any  
person who is authorized to exercise a Schedule power  
as defined in that Act in relation to the young person or  
who does any high-level security work as defined in  
that Act in relation to the young person

”.

**42. Section 16 amended**

Section 16(1) is amended by inserting after “Crown,” —

“

or by a contractor as defined in the *Court Security and  
Custodial Services Act 1998*,

”.

**43. Section 118A amended**

Section 118A(3) is amended by deleting “police”.

**44. Section 171 amended**

Section 171(1) is amended by inserting after “officer” —

“

or a person who is authorized to exercise a power set  
out in clause 15 of Schedule 2 to the *Court Security  
and Custodial Services Act 1998*

”.

**45. Section 179 amended**

Section 179(5) is amended by inserting after “control” —

“

or a person who is authorized to exercise a power set  
out in clause 2 of Schedule 2 to the *Court Security and  
Custodial Services Act 1998*

”.

**s. 46**

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**46.        Section 188 amended**

Section 188(2) is amended by inserting after “Department” —

“

5

or if a person who is authorized to exercise a power set  
out in clause 2 of Schedule 2 to the *Court Security and  
Custodial Services Act 1998* has charge for the time  
being of a detainee

”.

=====