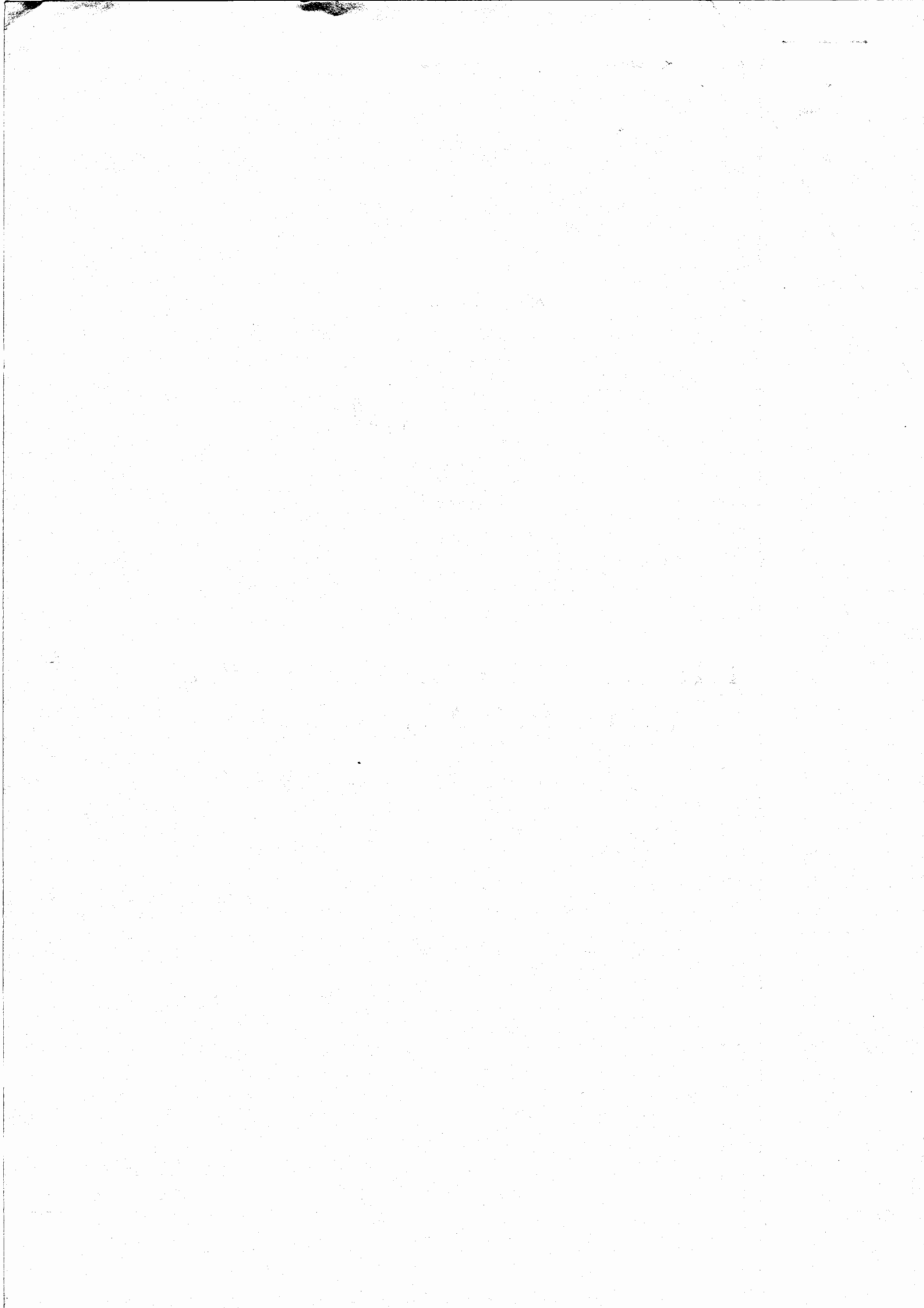




THE CORRECTIONAL SERVICES (AMENDMENT) BILL 2008





**THE CORRECTIONAL SERVICES
(AMENDMENT) BILL 2008**

**A
BILL
Entitled**

AN ACT TO AMEND the Correctional Services Act 2007

ENACTED by the National Parliament of Solomon Islands.

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THE CORRECTIONAL SERVICES (AMENDMENT) BILL 2008

Short title and commencement:

1. This Act may be cited as the Correctional Services (Amendment) Act 2008, and is deemed to have come into force on 1 April 2008.

Section 2 amended

2. Section 2 of the principal Act is amended –

(a) by repealing the definition of “Commandant” and substituting the following definition –

““Commandant” means a Commandant of a correctional centre mentioned in section 9;”

(b) by repealing the definition of “Commissioner” and substituting the following definition –

““Commissioner” means the Commissioner of Correctional Services mentioned in section 6;”

(c) by adding the following new definition –

““Correctional Service” means the Correctional Service of Solomon Islands established by section 4;”

(d) by repealing the definition of “correctional services officer” and substituting the following –

““correctional services officer” means a person appointed as such under section 123 of the Constitution;”

New section 4

3. The principal Act is amended by repealing section 4 and substituting the following new section –

“Establishment of Correctional Service. 4 The Solomon Islands Prison Service established under section 4 of the Prisons Act shall continue by virtue of this section, but shall be known as the Correctional Service of Solomon Islands when this Act commences.”

4. Section 5 of the principal Act is amended in subsection (1) by deleting "regulation" and substituting "order". Section 5 amended

5. Section 6 of the principal Act is amended by repealing subsection (1) and substituting the following subsection – Section 6 amended

"(1) There shall be a Commissioner of Correctional Service appointed in accordance with section 123(1) of the Constitution."

6. Section 9 of the principal Act is amended by repealing subsection (1) and substituting the following subsection – Section 9 amended

"(1) There shall be a Commandant, appointed in accordance with section 123(1) of the Constitution, for each correctional centre."

7. Section 10 of the principal Act is amended by adding the following new subsection – Section 10 amended

"(6) All officers and employees of the Correctional Service shall act under the direction of the Commissioner, the Commandant and their senior officers in the discharge of their functions, powers and duties under this Act and any other written law."

8. Section 12 of the principal Act is amended – Section 12 amended

(a) in subsection (1), by deleting "Officers shall" and substituting "Subject to sections 123 and 137 of the Constitution, officers shall";

(b) in subsection (2), by deleting "The Minister may" and substituting "Subject to section 137 of the Constitution, the Minister may"; and

(c) in subsection (2)(c) by inserting "subject to section 123 of the Constitution" at the beginning of paragraph (c);

(d) by adding the following new subsection –

“(3) If no regulations are made under section 137 of the Constitution, the Police and Prisons Services Commission may rely on any regulations made under this section to regulate and facilitate its functions under sections 123 and 124 of the Constitution.”.

Section 22 amended

9. Section 22 of the principal Act is amended in subsection (5) by deleting “pursuant to section 22” and substituting “within the meaning of subsection”.

Section 24 amended

10. The principal Act is amended in section 24 -

(a) in subsection (1), by deleting “Disciplinary” and substituting “Subject to sections 124, 125 and 137 of the Constitution, disciplinary”;

(b) in subsection (2), by deleting “The disciplinary procedures” and substituting “Subject to sections 124 and 125 of the Constitution, the disciplinary procedures”;

(c) in subsection (2)(b), by deleting “the delegation of power to the Commissioner.” and substituting “subject to section 124 (3) of the Constitution, the delegation of the power of the Commissioner to”;

(d) in subsection (2)(g), by inserting “subject to sections 125 and 137 of the Constitution,” before “rights of appeal”;

(e) by adding the following new subsection –

“(5) If no regulations are made under section 137 of the Constitution, the Police and Prisons Services Commission may rely on disciplinary offences prescribed in this Act, regulations or Commissioners Orders to regulate and facilitate its disciplinary functions in respect of senior officers under section 124 of the Constitution.”.

11. Section 29 of the principal Act is amended in subsection (1) by inserting "consisting of persons of" after "visiting committee". Section 29 amended

12. Section 65 of the principal Act is amended in subsection (1)-- Section 65 amended

(a) by deleting "There is" and substituting "There shall be established";

(b) by deleting "Part 8 of the Act" and substituting "Part VIII".

13. Section 73 of the principal Act is amended by repealing subsection (1) and substituting the following subsection -- Section 73 amended

"(1) There shall be established a Parole Board consisting of the members set out under subsection (2)."

14. The principal Act is amended by adding the following new section as section 74A-- New section 74A

"Transfer of prisoners

74A. (1) If a foreigner is serving a term of imprisonment of 3 months or more, the foreigner may apply in writing to the Minister to be transferred to his country of citizenship or residence.

(2) The request made by the foreigner must include a written consent from the relevant government authority of his country of citizenship or residence accepting the transfer.

(3) If the Minister is satisfied with the request made by the foreigner, the Minister shall enter into a written agreement with the relevant government authority of the foreigner's country of citizenship or residence to effect the transfer.

(4) When the agreement under subsection (3) is signed by both parties, the Commissioner shall apply to a judge of the High Court sitting in chambers for an order for the transfer of the foreigner.

(5) An order made under subsection (4) shall state --

- (a) the offence committed;
- (b) the sentence imposed;
- (c) the balance of the sentence to be served;
- (d) the arrangement for custody of the foreigner while in transit or transfer; and
- (e) any other matter the court thinks fit to state in the order.

(6) The transfer of the foreigner shall not be effected unless proper arrangements have been made for correctional officers, prison officers or police officers of Solomon Islands or the receiving country to accompany and deliver the foreigner to his country's prison institution or to the custody of government enforcement officers.

(7) The cost of transferring (including the return cost and expenses of any accompanying correctional officer) shall be paid by the prisoner".

Section 77 amended

15. Section 77 of the principal Act is amended by adding the following new subsections –

"(4) A reference in the Constitution and in any other written law to "Superintendent of Prisons", "an Inspector of Prisons", "prison officer" or "such other ranks" mentioned in section 6(3) of the Prisons Act (Cap. 111) shall be a reference to "Commissioner", "Commandant", "Senior officer", "correctional services officer" or the equivalent rank in the Correctional Service of Solomon Islands."

"(5) A reference in the Constitution and in any other written law to "Prisons Service" shall be a reference to "the Correctional Service of Solomon Islands" or "Correctional Service"."

"(6) A reference in the Constitution and in any other written law to "prison" shall be a reference to "correctional centre"."

General amend-
ments to the
principal Act

16. The principal Act is amended –

- (a) by deleting "this or any other Act" wherever it appears in the principal Act and substituting "this Act or any other written law"; and
- (b) by deleting "the Act" wherever it appears in the principal Act and substituting "this Act".

THE CORRECTIONAL SERVICES (AMENDMENT) BILL 2008

OBJECTS AND REASONS

The object of this Bill is to amend the principal Act to ensure that it is consistent with the provisions of the Constitution, dealing with the powers of the Police and Prisons Services Commission to make appointments and to remove and discipline senior correctional officers. It is also aligned with the power of the Commission to make regulations under section 137 of the Constitution for the proper facilitation of its constitutional powers.

The Bill also makes provisions for the transfer of foreign prisoners who are serving jail terms of 3 months or more, to their country of citizenship or residence.

**MINISTER FOR POLICE, NATIONAL SECURITY
AND CORRECTIONAL SERVICES**

