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**Notification No. B 38** — The Prisons (Amendment) Bill is published for general information. It was introduced in Parliament on 1 November 2021.



# Prisons (Amendment) Bill

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**Bill No. 38/2021.**

*Read the first time on 1 November 2021.*

A BILL

*i n t i t u l e d*

An Act to amend the Prisons Act, to validate certain appointments under that Act, and to make a related amendment to the Misuse of Drugs Act.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

## Short title and commencement

1. This Act is the Prisons (Amendment) Act 2022 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

### 5 Amendment of section 2

2. Section 2 of the Prisons Act is amended —

(a) by inserting, immediately before the definition of “basic condition”, the following definition:

10 ““auxiliary police officer” means a person appointed as such under Part 9 of the Police Force Act 2004;”;

(b) by inserting, immediately after the definition of “Commissioner”, the following definition:

15 ““controlled drug” has the meaning given by section 2 of the Misuse of Drugs Act 1973;”;

(c) by deleting the word “the” in the definition of “Deputy Commissioner” and substituting the word “a”;

(d) by deleting the definition of “external placement order” and substituting the following definitions:

20 ““employment preparation”, in relation to a prisoner, means the serving by the prisoner of the prisoner’s sentence of imprisonment in the place or places, outside the limits of any prison, specified in the employment preparation order for the purposes of enhancing a prisoner’s employability and facilitating the prisoner’s reintegration into society;

25 “employment preparation order” means an order of the Commissioner under section 59K;

30 “external placement”, in relation to a prisoner, means the serving by the prisoner of the prisoner’s sentence of imprisonment in the

place or places, outside the limits of any prison, specified in the external placement order;

“external placement order” means an order of the Commissioner under section 59B; 5

“home detention”, in relation to a prisoner, means the serving by the prisoner of the prisoner’s sentence of imprisonment in the place or places, outside the limits of any prison, specified in the home detention order for the purpose of facilitating a prisoner’s rehabilitation and reintegration into society; 10

“home detention order” means an order of the Commissioner under section 52;

“infectious disease” means any of the diseases specified in the First Schedule to the Infectious Diseases Act 1976 and includes any other disease — 15

(a) that is caused or is suspected to be caused by a micro-organism or any agent of disease; 20

(b) that is capable or is suspected to be capable of transmission by any means to human beings; and

(c) that a medical officer has reason to believe, if left uninvestigated or unchecked, is likely to result in an epidemic of the disease; 25

“intoxicating substance” has the meaning given by section 2 of the Intoxicating Substances Act 1987;” 30

(e) by deleting the words “16 years” in the definition of “juvenile” and substituting the words “18 years”;

- (f) by inserting, immediately after the word “Commissioner,” in the definition of “prison officer”, the word “any”; and
- (g) by inserting, immediately after the words “external placement order” in the definition of “prisoner”, the words “, an employment preparation order”.

#### **Amendment of section 4**

##### **3. Section 4 of the Prisons Act is amended —**

- (a) by inserting, immediately after subsection (1), the following subsections:

“(1A) Where —

(a) persons are likely to be arrested for one or more offences that arise from the same series of acts, whether or not those acts form the same transaction; and

(b) the number of such arrested persons is likely to be large,

the Minister may, if the Minister considers it necessary to do so, by notification in the *Gazette*, appoint one or more places that are not police stations or court houses to be temporary lock-ups for a period not exceeding one month for the confinement of such arrested persons.

(1B) However, at the expiry of the period mentioned in subsection (1A), the Minister may, by notification in the *Gazette*, extend the period of appointment for further periods not exceeding one month at a time if the Minister is satisfied that the circumstances warrant it under that subsection.

(1C) A notification under subsection (1A) or (1B) must specify the period or the extension of the period (as the case may be) during which the place is appointed as a temporary lock-up.”;

- (b) by inserting, immediately after subsection (2), the following subsections:

“(2A) A temporary lock-up appointed under subsection (1A), or the appointment of which is extended under subsection (1B), is not to be treated as a prison for the purposes of this Act or of the Registration of Criminals Act 1949 and regulations made under section 84 do not apply to such temporary lock-ups.

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(2B) Every temporary lock-up appointed under subsection (1A) is a lock-up for the period appointed under subsection (1A) or extended under subsection (1B) for the purposes of this Act.”;

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- (c) by inserting, immediately after the words “subsection (1)” in subsection (3), the words “, and to temporary lock-ups appointed under subsection (1A)”;

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- (d) by inserting, immediately after the word “detention” in the section heading, the words “, and temporary lock-ups”.

#### **Amendment of section 20**

4. Section 20 of the Prisons Act is amended —

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- (a) by deleting the words “a Deputy Commissioner of Prisons and one or more” in subsection (1) and substituting the words “one or more Deputy Commissioners of Prisons,”;

- (b) by deleting the words “, Deputy Commissioner and of every” in subsection (2) and substituting the words “and of every Deputy Commissioner,”;

25

- (c) by deleting subsection (3) and substituting the following subsection:

“(3) Every Deputy Commissioner, Divisional Director and Cluster Commander may, subject to any direction that may be given by the Commissioner, exercise and perform all or any of the powers, duties and functions of the Commissioner under any provision of this Act or any other written law; and

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any reference in the provisions of this Act or any written law to the Commissioner includes a reference to a Deputy Commissioner, a Divisional Director or a Cluster Commander.”; and

- 5           (d) by deleting the words “, Deputy Commissioner, etc.” in the section heading and substituting the words “and other officers”.

### **Amendment of section 23**

- 10       5. Section 23(2) of the Prisons Act is amended by deleting the words “the Deputy Commissioner and any” and substituting the words “any Deputy Commissioner.”.

### **Amendment of section 34**

6. Section 34 of the Prisons Act is amended —

- 15           (a) by inserting the word “and” at the end of subsection (3)(a);
- (b) by deleting paragraphs (b) and (c) of subsection (3) and substituting the following paragraph:
- “(b) be deemed to be a prison officer for the purposes of sections 69, 72 and 73.”; and
- (c) by deleting subsection (5).

### **Amendment of section 45**

7. Section 45(2) of the Prisons Act is amended —

- 20           (a) by deleting the words “suffering from leprosy” and substituting the words “suffering from an infectious disease”; and
- 25           (b) by deleting the words “his leprosy” and substituting the words “the infectious disease”.

### **Amendment of section 50B**

8. Section 50B of the Prisons Act is amended by deleting subsection (5).

### **Amendment of section 50I**

9. Section 50I(3) of the Prisons Act is amended by deleting the words “2 weeks” and substituting the words “3 weeks”.

### **Amendment of section 50V**

10. Section 50V of the Prisons Act is amended by inserting, immediately after subsection (4), the following subsection: 5

- “(5) The notice mentioned in subsection (4) must be served —
- (a) by delivering it personally to the person; or
  - (b) by any other means that may be prescribed.”.

### **Amendment of section 51**

11. Section 51 of the Prisons Act is amended by deleting the definitions of “home detention” and “home detention order”. 10

### **Amendment of section 54**

12. Section 54 of the Prisons Act is amended —

- (a) by inserting, immediately after paragraph (d) of subsection (1), the following paragraphs: 15

“(da) not consume any controlled drug or alcoholic beverage, or use or inhale any intoxicating substance;

- (db) not have in the prisoner’s possession any controlled drug;”; and 20

- (b) by inserting, immediately after subsection (2), the following subsection:

“(3) The order mentioned in subsection (2) must be served — 25

- (a) by delivering it personally to the prisoner; or

- (b) by any other means that may be prescribed.”.

### **Amendment of section 56**

13. Section 56(1) of the Prisons Act is amended by deleting the words “a disciplinary offence” wherever they appear and substituting in each case the words “any offence”.

### 5 **Amendment of section 57**

14. Section 57(1) of the Prisons Act is amended by deleting the words “a disciplinary offence” in paragraph (c) and substituting the words “any offence”.

### **Repeal and re-enactment of section 58**

10 15. Section 58 of the Prisons Act is repealed and the following section substituted therefor:

#### **“Suspension of home detention order**

15 58. Where a prisoner subject to a home detention order is punished with any punishment under section 70(1)(a) or (b) (or both) or 71(1)(b) or (c) (or both), the prisoner’s home detention order may, unless revoked under section 57, be suspended for any of the following periods, starting on the date on which the prisoner is punished:

- 20 (a) the period that the prisoner is confined in a punishment cell pursuant to an order under section 70(1)(a) or 71(1)(b);
- (b) the period of remission which is forfeited pursuant to an order under section 70(1)(b) or 71(1)(c);
- 25 (c) the sum of the period for which the prisoner is ordered to undergo confinement under section 70(1)(a) or 71(1)(b) and the period of remission forfeited under section 70(1)(b) or 71(1)(c).”.

### **Amendment of section 59A**

30 16. Section 59A of the Prisons Act is amended by deleting the definitions of “external placement” and “external placement order”.

### **Amendment of section 59D**

**17.** Section 59D of the Prisons Act is amended —

(a) by inserting, immediately after paragraph (b) of subsection (1), the following paragraphs:

“(ba) must not consume any controlled drug or alcoholic beverage, or use or inhale any intoxicating substance; 5

(bb) must not have in the prisoner’s possession any controlled drug;” and

(b) by inserting, immediately after subsection (3), the following subsection: 10

“(4) The notice mentioned in subsection (3) must be served —

(a) by delivering it personally to the prisoner; or 15

(b) by any other means that may be prescribed.”.

### **Amendment of section 59E**

**18.** Section 59E(1) of the Prisons Act is amended by deleting the words “a disciplinary offence” wherever they appear and substituting in each case the words “any offence”. 20

### **Amendment of section 59F**

**19.** Section 59F(1) of the Prisons Act is amended by deleting the words “a disciplinary offence” in paragraph (c) and substituting the words “any offence”. 25

### **Amendment of section 59G**

**20.** Section 59G of the Prisons Act is amended —

(a) by deleting the words “section 70(1)(a) or (b) or section 71(1)(b) or (c) or both” and substituting the words “section 70(1)(a) or (b) (or both) or section 71(1)(b) or (c) (or both)”; 30

(b) by deleting the word “shall” and substituting the word “may”; and

(c) by deleting the words “the following period, starting from” and substituting the words “any of the following periods, starting on”.

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**New Part 6B**

21. The Prisons Act is amended by inserting, immediately after section 59I, the following Part:

“PART 6B

EMPLOYMENT PREPARATION SCHEME

10

**Interpretation of this Part**

59J. In this Part, “Superintendent”, in relation to a prisoner, means the Superintendent of the prison from which the prisoner is released for employment preparation.

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**Employment preparation order**

59K.—(1) Subject to section 59L, the Commissioner may, for the purposes of enhancing a prisoner’s employability and facilitating the prisoner’s reintegration into society, by order release a prisoner who is eligible for employment preparation for any one or both of the following purposes:

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(a) to be employed, in any place outside the limits of the prison in which the prisoner is detained, by any employer that may be specified in the order;

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(b) to participate, in any place outside the limits of the prison in which the prisoner is detained, in any educational or occupational training programme, or any other activity for the purpose of facilitating the prisoner to be gainfully employed, that may be specified in the order.

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(2) An employment preparation order is valid for such period specified in the order, unless earlier revoked under section 59P(1) or suspended under section 59Q.

(3) The Commissioner may grant a prisoner mentioned in subsection (1) leave to return to the prisoner's place of residence, or any other place that the Commissioner may specify, after the prisoner has completed the prisoner's work, programme or activity for the day, at such times as the Commissioner may specify. 5

(4) The Commissioner may at any time revoke any leave granted to a prisoner under subsection (3).

### **Eligibility for employment preparation**

**59L.**—(1) A prisoner is eligible to be released for employment preparation under section 59K if — 10

(a) the prisoner has served not less than 14 days, or any other period that the Minister may prescribe by notification in the *Gazette*, of the prisoner's sentence of imprisonment; and 15

(b) the Commissioner considers that the prisoner is suitable for employment preparation, having regard to the circumstances of the case, including the following factors:

(i) the prisoner's progress and response to rehabilitation in prison; 20

(ii) the prisoner's family support;

(iii) the risk of recidivism by the prisoner.

(2) For the purposes of subsection (1)(a), the total consecutive periods of imprisonment of whatever nature are to be treated as one sentence. 25

### **Conditions for employment preparation**

**59M.**—(1) A prisoner subject to an employment preparation order who has not been granted leave under section 59K(3) to return to the prisoner's place of residence or any other place specified by the Commissioner must — 30

- 5
- (a) not leave the prison in which the prisoner is detained without the approval of the prison officer on duty or any other person authorised by the Commissioner for the purposes of this section (called in this section an authorised person);
- (b) not be absent, without good cause, from the prisoner's work with the employer, or from the prisoner's programme or activity, as specified in the employment preparation order;
- 10
- (c) return to the prison and report to the prison officer on duty or an authorised person immediately after completing the prisoner's work, programme or activity for the day;
- (d) provide a specimen of the prisoner's urine or hair for testing at such times as the prison officer on duty or an authorised person may require;
- 15
- (e) not consume any controlled drug or alcoholic beverage, or use or inhale any intoxicating substance;
- (f) not have in the prisoner's possession any controlled drug, alcoholic beverage or intoxicating substance;
- 20
- (g) not bring, or attempt by any means to introduce, into the prison any unauthorised article;
- (h) if required by the Commissioner, do all of the following to enable the electronic monitoring of the prisoner's whereabouts:
- 25
- (i) wear any electronic transmitting device issued by the Commissioner on such part of the prisoner's body as the Commissioner may specify;
- 30
- (ii) comply with all requirements to ensure the proper functioning of any electronic monitoring device issued to the prisoner;
- (iii) not tamper with any electronic monitoring device issued to the prisoner, or otherwise

prevent or obstruct the electronic monitoring of the prisoner's whereabouts; and

- (i) comply with any other conditions that the Commissioner may specify in the order.

(2) Where the prisoner has been granted leave under section 59K(3) to return to the prisoner's place of residence or any other place specified by the Commissioner, the prisoner subject to an employment preparation order must — 5

- (a) not be absent, without good cause, from the prisoner's work with the employer, or from the prisoner's programme or activity, as specified in the employment preparation order; 10
- (b) return to the prisoner's place of residence or any other place specified by the Commissioner immediately after completing the prisoner's work, programme or activity for the day; 15
- (c) not consume any controlled drug or alcoholic beverage, or use or inhale any intoxicating substance;
- (d) not have in the prisoner's possession any controlled drug; 20
- (e) present himself or herself to provide a specimen of the prisoner's urine or hair for testing at such times and at such places as the Commissioner may specify;
- (f) remain indoors at the prisoner's place of residence, or at any other place specified by the Commissioner, at the times specified by the Commissioner; 25
- (g) allow the Superintendent and any person authorised by the Superintendent to enter the prisoner's place of residence, or any other place the prisoner is required to remain at, to determine the prisoner's compliance with any condition of the employment preparation order or for any purpose relating to facilitating the prisoner's reintegration into society; 30

(h) do all of the following to enable the electronic monitoring of the prisoner's whereabouts:

5 (i) wear any electronic transmitting device issued by the Commissioner on such part of the prisoner's body as the Commissioner may specify;

10 (ii) allow the Superintendent and any person authorised by the Superintendent to enter the prisoner's place of residence, or any other place the prisoner is required to remain at, to install, maintain, repair or retrieve any electronic monitoring device;

15 (iii) comply with all requirements to ensure the proper functioning of any electronic monitoring device issued to the prisoner, or installed at the prisoner's place of residence or any other place the prisoner is required to remain at;

20 (iv) comply with all reporting requirements imposed on the prisoner;

25 (v) not tamper with any electronic monitoring device issued to the prisoner or installed at the prisoner's place of residence, or any other place the prisoner is required to remain at, or otherwise prevent or obstruct the electronic monitoring of the prisoner's whereabouts; and

(i) comply with any other conditions that the Commissioner may specify in the order.

30 (3) The Commissioner may at any time by order in writing served on a prisoner subject to an employment preparation order —

(a) vary, cancel or add to any of the conditions specified in subsection (1) or (2); or

(b) exempt the prisoner from any of the conditions specified in subsection (1) or (2).

- (4) The order mentioned in subsection (3) must be served —
- (a) by delivering it personally to the prisoner; or
  - (b) by any other means that may be prescribed.

### **Effect of employment preparation order**

**59N.** Where an employment preparation order is in force in respect of a prisoner, the prisoner — 5

- (a) is taken to be —
  - (i) serving the prisoner's sentence of imprisonment; and
  - (ii) in the lawful custody of the Superintendent; and 10
- (b) is entitled to earn remission in respect of the period of imprisonment which is served under the order.

### **Recall to prison**

**59O.**—(1) If a Superintendent has reason to suspect that a prisoner has failed to comply with any of the conditions of an employment preparation order, or has committed any offence while being subject to an employment preparation order, the Superintendent may — 15

- (a) make any inquiry that is necessary to ascertain whether the prisoner has failed to comply with any of the conditions of the employment preparation order, or has committed any offence while being subject to the employment preparation order; and 20
- (b) recall the prisoner to prison pending the completion of the inquiry. 25

(2) The employment preparation order for a prisoner who is recalled to prison under subsection (1)(b) continues to be in force despite the fact that the prisoner is recalled to prison.

### **Revocation of employment preparation order**

**59P.**—(1) If the Commissioner is satisfied after due inquiry that — 30

(a) a prisoner has failed to return to prison after the prisoner has been recalled to prison under section 59O(1)(b);

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(b) a prisoner has failed to comply with any of the conditions of the employment preparation order;

(c) a prisoner has committed any offence while being subject to an employment preparation order;

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(d) the whereabouts of a prisoner can no longer be electronically monitored at the prisoner's place of residence, or any other place the prisoner is required to remain at, under the conditions of the prisoner's employment preparation order;

(e) a prisoner has for any reason ceased to be —

(i) employed under section 59K(1)(a); or

15

(ii) a participant in any educational or occupational training programme, or any such activity, as specified in the employment preparation order under section 59K(1)(b); or

(f) it is necessary in the public interest to do so,

20

the Commissioner may revoke the employment preparation order in respect of that prisoner and recall the prisoner to prison, and the prisoner, if at large, is taken to be unlawfully at large.

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(2) Upon the revocation of the employment preparation order under subsection (1), the prisoner must serve the unexpired part of the prisoner's sentence of imprisonment in prison.

### **Suspension of employment preparation order**

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**59Q.** Where a prisoner subject to an employment preparation order is punished with any punishment under section 70(1)(a) or (b) (or both) or section 71(1)(b) or (c) (or both), the prisoner's employment preparation order may, unless revoked under section 59P(1), be suspended for any of the following periods, starting on the date on which the prisoner is punished:

- (a) the period that the prisoner is confined in a punishment cell pursuant to an order under section 70(1)(a) or 71(1)(b);
- (b) the period of remission that is forfeited pursuant to an order under section 70(1)(b) or 71(1)(c);
- (c) the sum of the period for which the prisoner is ordered to undergo confinement under section 70(1)(a) or 71(1)(b) and the period of remission forfeited under section 70(1)(b) or 71(1)(c).

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### **Power to enter and search**

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**59R.** A police officer of or above the rank of Assistant Superintendent of Police, or a police officer authorised by the firstmentioned police officer, may —

- (a) enter and search a place without a warrant to effect the arrest of any prisoner who has failed to return to prison after —
  - (i) the prisoner has been recalled by the Superintendent under section 59O(1)(b); or
  - (ii) the Commissioner revokes the employment preparation order under section 59P(1); and
- (b) in order to effect an entrance into that place, break open any outer or inner door or window of that place if the police officer cannot otherwise obtain entry into that place.”.

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### **Amendment of section 60**

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**22.** Section 60(2) of the Prisons Act is amended by inserting, immediately after the word “Commissioner,”, the word “any”.

### **Amendment of section 66**

**23.** Section 66(4) of the Prisons Act is amended by deleting the word “drug” in paragraph (c) and substituting the words “controlled drug”.

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## Repeal and re-enactment of sections 72 and 73

24. Sections 72 and 73 of the Prisons Act are repealed and the following sections substituted therefor:

### “Minor prison offences

5           72.—(1) The following are minor prison offences:

| <i>Item</i> | <i>Minor prison offence</i>  |
|-------------|--|
| 1.          | Talking during working hours, or talking loudly, laughing or singing at any time after having been ordered by a prison officer to desist.  |
| 10   2.     | Quarrelling with any other prisoner.   |
| 3.          | Secreting or possessing any unauthorised article, or possessing a greater quantity of any article than the prisoner is authorised to possess.  |
| 15   4.     | Showing disrespect to any prison officer, official visitor or any person working, or providing rehabilitative and other related services, in the prison.   |
| 5.          | Common assault or taking part in any attack on any other prisoner.   |
| 20   6.     | Providing information (whether or not in response to any question) to any prison officer, official visitor, or any person working, or providing rehabilitative and other related services, in the prison that the prisoner knows or ought reasonably to know to be — |
| 25          | (a) false in a material particular; or   |
|             | (b) misleading by reason of the omission of a material particular.   |
| 30   7.     | Holding any communication (in writing, by word of mouth, or otherwise) with any person in disobedience of the regulations of the prison.   |

8. Abetting the commission of any minor prison offence.
9. Omitting to assist in the maintenance of discipline by reporting any prison offence, or to give assistance to a prison officer when called on to do so. 5
10. Doing any act or using any language calculated to offend or insult any other prisoner, prison officer, official visitor or any person working, or providing rehabilitative and other related services, in the prison. 10
11. Doing any act calculated to create any unnecessary alarm in the minds of the prisoners, prison officers or any other persons working, or providing rehabilitative and other related services, in the prison. 15
12. Leaving the group to which the prisoner is attached, or the part of the prison in which the prisoner is confined, without the permission of a prison officer. 20
13. Leaving the ward, the yard, the place in file, the seat or berth assigned to the prisoner, without the permission of a prison officer.
14. Loitering about the yards or lingering in the wards when these are open. 25
15. Omitting or refusing to march in file when moving about the prison or proceeding to or returning from work.
16. Visiting the toilets without the permission of a prison officer or remaining there longer than is necessary. 30
17. Refusing to eat the meals provided.

18. Eating or appropriating any food not assigned to the prisoner or taking from or adding to the portions assigned to other prisoners.
- 5 19. Removing without the permission of a prison officer food or drink from any place in a prison where meals are cooked, distributed or served, or disobeying any order as to the issue and distribution of food and drink.
- 10 20. Wilfully destroying food or drink or throwing it away without orders.
21. Introducing into food or drink anything likely to render it unpalatable or unwholesome.
- 15 22. Omitting or refusing to wear the attire given to the prisoner, or exchanging any portion of it for the attire of other prisoners, or losing, discarding, damaging or altering any part of it.
23. Removing, defacing or altering any distinctive number, mark or badge attached to, or worn on, the attire or person.
- 20 24. Omitting or refusing to keep the person clean, or disobeying any order regulating the cutting of hair.
- 25 25. Omitting or refusing to keep clothing, blankets, bedding, fetters or utensils clean, or disobeying any order as to the arrangement or disposition of such articles.
26. Tampering in any way with prison locks, lamps or lights or other property without orders.
27. Stealing the prison attire or any part of the prison kit of any other prisoner.
- 30 28. Committing a nuisance in any part of the prison.
29. Spitting on or otherwise soiling any floor, door, wall or other part of the prison building or any article in the prison.

30. Wilfully soiling or befouling the toilets, washing or bathing places.
31. Damaging the trees within the enclosure of the prison.
32. Omitting or refusing to take due care of all prison property entrusted to the prisoner. 5
33. Omitting or refusing to take due care of, or damaging, or misappropriating, the materials and implements entrusted to the prisoner for work.
34. Omitting to report at once any loss, breakage or damage which the prisoner may have caused to prison property or implements. 10
35. Manufacturing any article without the knowledge or permission of a prison officer.
36. Performing any portion of the task allotted to another prisoner, or obtaining the assistance of another prisoner in the performance of the prisoner's own task. 15
37. Appropriating any portion of the task performed by another prisoner. 20
38. Mixing or adding any foreign substance to the materials issued for work.
39. Cursing or swearing, or using indecent, violent, threatening or insulting language.
40. Causing or omitting to assist in suppressing violence or insubordination of any kind. 25
41. Immoral, disorderly or indecent behaviour.
42. Omitting or refusing to help any prison officer in case of an attempted escape or of an attack upon such officer or upon any other person. 30
43. Disobeying any lawful order of a prison officer.

44. Defacing or damaging the walls, furniture or other property of the prison.
45. Malingering.
46. Any breach by a prisoner subject to a home detention order under section 52 of the conditions of the order other than conduct constituting an aggravated prison offence specified in section 73.
47. Any breach by a prisoner subject to an external placement order under section 59B of the conditions of the order other than conduct constituting an aggravated prison offence specified in section 73.
48. Any breach by a prisoner subject to an employment preparation order under section 59K of the conditions of the order other than conduct constituting an aggravated prison offence specified in section 73.
49. Any other act, conduct, disorder or neglect to the prejudice of good order or discipline in the prison.

(2) The minor prison offences mentioned in subsection (1) (other than items 4, 6, 8, 10, 11, 43, 45, 46, 47 and 48 of the table) do not apply in relation to a prisoner who is serving his or her sentence of imprisonment in such place or places outside the limits of any prison.

### **Aggravated prison offences**

**73.—(1)** The following are aggravated prison offences:

| <i>Item</i> | <i>Aggravated prison offence</i>   |
|-------------|--|
| 1.          | Mutiny.  |
| 2.          | Escape or attempt to escape.   |
| 3.          | Taking part in any assault or attack on any prison officer, official visitor or any person working, or |

- providing rehabilitative and other related services, in the prison.
4. Aggravated or repeated assault on any other prisoner.
  5. Wilful destruction of prison property. 5
  6. Wilfully causing to himself or herself any illness, injury or disability.
  7. Wilfully making a false or groundless accusation or complaint against any prisoner, prison officer, official visitor or any person working, or providing rehabilitative and other related services, in the prison. 10
  8. Any act constituting a minor prison offence under section 72, committed by one or more members or associates of a secret society in connection with the activities of the secret society, whether or not all the other members of the secret society are present. 15
  9. Repetition of any minor prison offence after having been twice punished for the same minor offence. 20
  10. Where a prisoner subject to a home detention order under section 52, an external placement order under section 59B or an employment preparation order under section 59K (called in this subsection the relevant order) is required under the conditions of the relevant order to allow the Superintendent or any person authorised by the Superintendent to enter the prisoner's place of residence, or any other place or places designated under the relevant order, the refusal by the prisoner to allow the entry, or obstructing or hindering the entry, of such person. 25  
30

11. Any other act of gross misconduct or insubordination.
12. Abetting the commission of any aggravated prison offence.

5 (2) The aggravated prison offences mentioned in items 1, 4, 5 and 6 of the table in subsection (1) do not apply in relation to a prisoner who is serving his or her sentence of imprisonment in such place or places outside the limits of any prison.”.

### **Repeal of section 81 and new Part 8**

10 **25.** Section 81 of the Prisons Act is repealed and the following Part substituted therefor:

#### “PART 8

#### GENERAL

##### **Protection from personal liability**

15 **81.** No liability shall lie personally against a prison officer or an auxiliary police officer who, acting in good faith and with reasonable care, does or omits to do anything in the execution or purported execution of this Act.

##### **Power to obtain information**

20 **81A.**—(1) A prison officer of or above the rank of sergeant may, for the purpose of assisting the Commissioner or Superintendent in making any inquiry under section 50X, 56, 57, 59E, 59F, 59O, 59P, 70 or 71 (as the case may be), by written notice require any person to provide, within a reasonable period  
25 specified in the notice, and in such form and manner as may be specified in the notice, all documents and information which —

(a) relate to any matter specified by the prison officer;  
and

(b) are —

30 (i) within the knowledge of that person; or

(ii) in the custody or under the control of that person.

(2) The power to require a person to provide any document or information under subsection (1) includes the power —

- (a) to require that person to provide an explanation of the document or information; 5
- (b) if the document or information is not provided, to require that person to state, to the best of the knowledge and belief of that person, where it is; and
- (c) if the information is recorded otherwise than in legible form, to require the information to be authenticated and made available to the prison officer concerned in legible form. 10

(3) The prison officer is entitled without payment to keep for the purposes of the inquiry mentioned in subsection (1) any document or information, or any copy or extract thereof, provided to him or her under that subsection. 15

(4) A person who, without reasonable excuse, fails to do anything required of the person by a notice under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,500. 20

(5) To avoid doubt, for the purposes of subsection (4), it is a reasonable excuse for a person to refuse or fail to provide any information, produce any document or answer any question if doing so might tend to incriminate that person. 25

(6) In this section, “document” means anything in which information of any description is recorded.”.

#### **Amendment of section 84**

**26.** Section 84(2) of the Prisons Act is amended —

- (a) by inserting, immediately after paragraph (e), the following paragraphs: 30

5 “(ea) the imposition of a condition that before a prescribed person (or prescribed class of persons) visits or otherwise communicates with a prisoner, the person must give an undertaking not to publish or disseminate, or cause to be published or disseminated, any information contained in any communication between the person and prisoner that may affect the security or good order of the prison or incite the commission of any offence;

10 (eb) the restriction of any correspondence between a prisoner and any prescribed person (or prescribed class of persons) by withholding the correspondence, or redacting any material contained in the correspondence, that may affect the security or good order of the prison or incite the commission of any offence;” and

15 (b) by inserting, immediately after paragraph (l), the following paragraphs:

20 “(la) without affecting paragraph (ka), the establishment of an advisory committee for the purpose of advising the Commissioner on the suitability of a prisoner to be released for employment preparation under Part 6B and its constitution, functions and procedures;

25 (lb) the release of prisoners on employment preparation orders and the due administration of such orders, including the requirement for such prisoners to retain a proportion of the wages earned by the prisoners as compulsory savings;

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(lc) in relation to the release of prisoners on external placement orders, home detention orders and employment preparation orders, the requirement for such prisoners to bear the costs of any prescribed expenses incurred by them when released on such orders;”.

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### **Related amendment to Misuse of Drugs Act**

27. The Misuse of Drugs Act is amended by inserting, immediately after section 38, the following section:

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#### **“Power to obtain information**

38A.—(1) Where an inmate of an approved institution or a community rehabilitation centre has been granted leave for the purposes of the inmate’s employment, treatment or rehabilitation or to return to the inmate’s residence or other designated places, a prison officer of or above the rank of sergeant may, for any of the purposes in subsection (2), by written notice require any person to provide, within a reasonable period specified in the notice, and in such form and manner as may be specified in the notice, all documents and information which —

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(a) relate to any matter specified by the prison officer; and

(b) are —

(i) within the knowledge of that person; or

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(ii) in the custody or under the control of that person.

(2) The purposes mentioned in subsection (1) are as follows:

(a) in respect of an approved institution mentioned in section 36(1)(a) — to assist the Commissioner of Prisons, or the person appointed under section 36(2) to be the superintendent of the approved institution, to ascertain if there has been any contravention or failure to comply with any condition imposed on an inmate

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who is granted leave from that approved institution for the purpose of the inmate's employment, treatment or rehabilitation outside that approved institution or to return to the inmate's residence or other designated places;

(b) in respect of a community rehabilitation centre — to assist the Commissioner of Prisons, or the person appointed under section 36A(2) to be the manager of the community rehabilitation centre, to ascertain if there has been any contravention or failure to comply with any condition imposed on an inmate who is granted leave from that community rehabilitation centre for the purpose of the inmate's employment, treatment or rehabilitation outside that community rehabilitation centre or to return to the inmate's residence or other designated places.

(3) The power to require a person to provide any document or information under subsection (1) includes the power —

(a) to require that person to provide an explanation of the document or information;

(b) if the document or information is not provided, to require that person to state, to the best of the knowledge and belief of that person, where it is; and

(c) if the information is recorded otherwise than in legible form, to require the information to be authenticated and made available to the prison officer concerned in legible form.

(4) The prison officer is entitled without payment to keep for the purposes in subsection (2) any document or information, or any copy or extract thereof, provided to him or her under that subsection.

(5) A person who, without reasonable excuse, fails to do anything required of the person by a notice under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,500.

(6) To avoid doubt, for the purposes of subsection (5), it is a reasonable excuse for a person to refuse or fail to provide any information, produce any document or answer any question if doing so might tend to incriminate that person.

(7) In this section, “document” means anything in which information of any description is recorded.”

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#### **Validation relating to section 4**

**28.—**(1) Any person purportedly appointed as a Deputy Commissioner of Prisons before the date of commencement of section 4 of the Prisons (Amendment) Act 2022 is taken to have been validly appointed as a Deputy Commissioner of Prisons under section 20(1) of the Prisons Act as in force on that date.

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(2) Any act or thing done under the Prisons Act by any person mentioned in subsection (1) is as valid, and is taken always to have been as valid, as it would have been if the act or thing had been done by a Deputy Commissioner of Prisons appointed or taken to have been appointed under section 20(1) of that Act as in force on the date of commencement of section 4 of the Prisons (Amendment) Act 2022.

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### **EXPLANATORY STATEMENT**

This Bill seeks to amend the Prisons Act (the Act) for the following purposes:

- (a) to empower the Minister to appoint any place as a temporary lock-up for the confinement of a large number of persons arrested for similar or related offences;
- (b) to expand the means by which the Commissioner of Prisons (the Commissioner) may notify persons on the mandatory aftercare scheme, home detention scheme or external placement scheme of changes made to the respective conditions that they are subject to;
- (c) to introduce the employment preparation scheme to allow prisoners to be released for employment or to participate in educational or occupational training programmes, for the purposes of enhancing their employability and facilitating their reintegration into society;

- (d) to empower certain prison officers to require any person to provide all documents and information necessary for the investigation of any suspected breach of conditions by persons on the mandatory aftercare scheme, and by prisoners on the home detention scheme, external placement scheme or employment preparation scheme, and any suspected commission of any prison offence by prisoners;
- (e) to allow the Minister to make regulations to restrict any correspondence between prisoners and any prescribed person where the content of such correspondence may affect the security or good order of a prison or incite the commission of any offence;
- (f) to make other changes relating to the administration of prisons.

The Bill also makes a related amendment to the Misuse of Drugs Act.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 (Interpretation) to introduce new definitions and amend existing definitions to support amendments elsewhere in the Bill.

The definitions of “employment preparation” and “employment preparation order” are introduced in support of the new Part 6B relating to the new employment preparation scheme.

The definitions of “external placement”, “external placement order”, “home detention” and “home detention order” have been moved to section 2 and amended to make them clearer.

The definitions of “auxiliary police officer”, “controlled drug”, “infectious disease” and “intoxicating substance” are introduced as those terms are now used in the amendments elsewhere in the Bill.

The definition of “juvenile” has been updated to raise the maximum age of a “juvenile” from below 16 years to below 18 years.

Clause 3 amends section 4 (Appointment of lock-ups at police stations and court houses as places of detention) to empower the Minister to appoint places that are not police stations or court houses to be temporary lock-ups for the confinement of arrested persons where —

- (a) persons are likely to be arrested for one or more offences that arise from the same series of acts, whether or not those acts form the same transaction; and
- (b) the number of such arrested persons is likely to be large.

The period of appointment of a temporary lock-up must not exceed one month, and may be extended by the Minister for further periods not exceeding one month at a time.

Clause 3 also amends section 4(3) to allow the Minister to make regulations in respect of such places appointed as temporary lock-ups.

Clause 4 amends section 20 (Appointment of Commissioner, Deputy Commissioner, etc.) to empower the Minister to appoint more than one Deputy Commissioner of Prisons. Currently, only one Deputy Commissioner of Prisons may be appointed. Section 20(3) is also amended to allow every Deputy Commissioner of Prisons, Divisional Director of Prisons or Cluster Commander of Prisons to exercise and perform all or any of the powers, duties and functions of the Commissioner not only under the Act but any written law.

Clause 5 makes an amendment to section 23(2) (Commissioner, etc., may exercise powers of Superintendent) that is consequential to the appointment of more than one Deputy Commissioner of Prisons.

Clause 6 makes a consequential amendment to section 34 (Employment of auxiliary police officers as escorts and guards) arising from clause 24 that replaces the references to “officer” in sections 72 and 73 with “prison officer”.

Clause 7 amends section 45(2) (Illness of prisoner) to replace the references to “leprosy” to “an infectious disease” to allow the Minister to direct the removal of a prisoner suffering from any infectious disease (and not just leprosy) to any hospital or specified place to be cured.

Clause 8 amends section 50B (Employment of auxiliary police officers as escorts and guards) to delete the definition of “auxiliary police officer” as that definition has been shifted to section 2 as amended by clause 2.

Clause 9 amends section 50I(3) (When must remission order be made) to extend the period by which the Commissioner may defer making a remission order from 2 weeks to 3 weeks to provide more time for the execution of any punishment ordered by the court.

Clause 10 amends section 50V (Mandatory aftercare conditions and variations, etc.) to expand the modes by which the Commissioner may serve the notice informing a person subject to mandatory aftercare conditions of any variation or waiver of such conditions, or any extension or reduction of the period for which the person is subject to such conditions. Such notice must now be served either by delivering it personally to that person or by any other prescribed means, which may include electronic means.

Clause 11 amends section 51 (Interpretation of this Part) to delete the definitions of “home detention” and “home detention order” as those definitions have been shifted to section 2 as amended by clause 2.

Clause 12 amends section 54 (Conditions for home detention). First, it introduces 2 new conditions of a home detention order, namely that a prisoner must not —

- (a) consume any controlled drug or alcoholic beverage, or use or inhale any intoxicating substance; and
- (b) have in the prisoner's possession any controlled drug.

Second, the new section 54(3) is inserted to expand the modes by which the Commissioner may serve the notice informing a prisoner subject to a home detention order of any variation or exemption of the conditions of the order. Such notice must now be served either by delivering it personally to that prisoner or by any other prescribed means, which may include electronic means.

Clause 13 amends section 56(1) (Recall to prison) to allow the Superintendent to inquire if a prisoner who is subject to a home detention order has committed any offence, and recall the prisoner to prison pending the completion of the inquiry. Currently, the Superintendent may do so if the prisoner is suspected of committing a disciplinary offence, and not any offence.

Clause 14 amends section 57(1) (Revocation of home detention order) to allow the Commissioner to revoke the home detention order of a prisoner and recall the prisoner to prison if the Commissioner is satisfied that the prisoner has committed an offence while being subject to the order. Currently, the Commissioner may do so after due inquiry that the prisoner has committed a disciplinary offence, and not any offence.

Clause 15 repeals and re-enacts section 58 (Suspension of home detention order) —

- (a) to provide that it is discretionary (and not mandatory as currently provided) to suspend a prisoner's home detention order when the prisoner is punished with any punishment under section 70(1)(a) or (b) (or both) or section 71(1)(b) or (c) (or both); and
- (b) to clarify that a prisoner's home detention order may be suspended for any of the following periods specified in section 58.

Clause 16 amends section 59A (Interpretation of this Part) by deleting the definitions of "external placement" and "external placement order" as those definitions have been shifted to section 2 as amended by clause 2.

Clause 17 amends section 59D (Conditions for external placement). First, it introduces 2 new conditions of an external placement order, namely that a prisoner must not —

- (a) consume any controlled drug or alcoholic beverage, or use or inhale any intoxicating substance; and
- (b) have in the prisoner's possession any controlled drug.

Second, the new section 59D(4) is inserted to expand the modes by which the Commissioner may serve the notice informing a prisoner subject to an external

placement order of any variation or exemption of the conditions of the order. Such notice must now be served either by delivering it personally to that prisoner or by any other prescribed means, which may include electronic means.

Clause 18 amends section 59E(1) (Recall to prison) to allow the Superintendent to inquire if a prisoner who is subject to an external placement order has committed any offence, and recall the prisoner to prison pending the completion of the inquiry. Currently, the Superintendent may only do so if the prisoner is suspected of committing a disciplinary offence, and not any offence.

Clause 19 amends section 59F(1) (Revocation of external placement order) to allow the Commissioner to revoke the external placement order of a prisoner and recall the prisoner to prison if the Commissioner is satisfied that the prisoner has committed an offence while being subject to the order. Currently, the Commissioner may do so after due inquiry that the prisoner has committed a disciplinary offence, and not any offence.

Clause 20 amends section 59G (Suspension of external placement order) —

- (a) to provide that it is discretionary (and not mandatory as currently provided) to suspend a prisoner’s external placement order when the prisoner is punished with any punishment under section 70(1)(a) or (b) (or both) or section 71(1)(b) or (c) (or both); and
- (b) to clarify that a prisoner’s external placement order may be suspended for any of the following periods specified in section 59G.

Clause 21 inserts a new Part 6B (Employment Preparation Scheme) consisting of 9 new sections to create the new employment preparation scheme. In general, the employment preparation scheme will allow eligible prisoners to serve their sentence of imprisonment in specified places outside the limits of any prison for the purposes of preparing them for employment, including allowing eligible prisoners to participate in relevant educational or occupational training programmes. The employment preparation scheme will replace the existing work release scheme introduced under the existing section 81, which only allows prisoners to take up gainful employment while serving their sentence.

The new section 59J (Interpretation of this Part) defines “Superintendent”, in relation to a prisoner, to mean the Superintendent of the prison from which the prisoner is released for employment preparation.

The new section 59K (Employment preparation order) confers a power on the Commissioner, by way of an employment preparation order, to release a prisoner eligible for employment preparation for any one or both of the following purposes:

- (a) to be employed, in any place outside the limits of the prison in which the prisoner is detained, by any employer specified in the order;

- (b) to participate, in any place outside the limits of the prison in which the prisoner is detained, in any educational or occupational training programme, or any other activity for the purpose of facilitating the prisoner to be gainfully employed, specified in the order.

An employment preparation order is valid for such period specified in the order, unless earlier revoked under the new section 59P(1) or suspended under the new section 59Q.

In addition to releasing a prisoner from prison for employment preparation, the Commissioner may also grant the prisoner leave to return to the prisoner's place of residence, or any other specified place, after the prisoner has completed the prisoner's work, programme or activity for the day. Such leave may be revoked at any time by the Commissioner under the new section 59K(4).

The new section 59L (Eligibility for employment preparation) provides for the eligibility of a prisoner to be released from prison for employment preparation.

The new section 59M (Conditions for employment preparation) sets out the conditions to be complied with by a prisoner subject to an employment preparation order, and provides for the power of the Commissioner to vary, cancel, add to or exempt a prisoner from such conditions.

The new section 59N (Effect of employment preparation order) provides that a prisoner subject to an employment preparation order is taken to be serving the prisoner's sentence of imprisonment and in the lawful custody of the Superintendent. Such a prisoner is also entitled to earn remission in respect of the period of imprisonment which is served under an employment preparation order.

The new section 59O (Recall to prison) provides for certain powers of the Superintendent to recall a prisoner subject to an employment preparation order to prison if the Superintendent has reason to suspect that the prisoner has failed to comply with any of the conditions of the order or has committed any offence while being subject to the order.

The new section 59P (Revocation of employment preparation order) provides for the power of the Commissioner to revoke an employment preparation order in certain circumstances, and the effect of such revocation.

The new section 59Q (Suspension of employment preparation order) provides for the discretionary suspension of an employment preparation order where the prisoner subject to the order is punished with any punishment under section 70(1)(a) or (b) (or both) or section 71(1)(b) or (c) (or both).

The new section 59R (Power to enter and search) provides for certain powers of the police, including the power to enter and search a place without warrant to arrest any prisoner who has failed to return to prison after being recalled by the

Superintendent or whose employment preparation order has been revoked by the Commissioner.

Clause 22 makes an amendment to section 60(2) (Offences governing prison supplies) that is consequential to the appointment of more than one Deputy Commissioner of Prisons.

Clause 23 amends section 66(4) (Unauthorised articles, communications and recordings) to include, as an unauthorised article for the purposes of section 66, any controlled drug as defined in the Misuse of Drugs Act.

Clause 24 repeals and re-enacts sections 72 (Minor prison offences) and 73 (Aggravated prison offences) —

- (a) to update the list of minor and aggravated prison offences; and
- (b) to make it clear that certain minor and aggravated prison offences do not apply in relation to a prisoner who is serving his or her sentence of imprisonment in any place outside the limits of any prison.

Notably, under the re-enacted section 72, it is no longer a minor prison offence if a prisoner —

- (a) idles or refuses to work or shows negligence in the performance of the prisoner's allotted task; or
- (b) refuses to undergo medical treatment.

Under the re-enacted section 73, it is now an aggravated prison offence if a prisoner subject to a home detention order, an external placement order or an employment preparation order (as the case may be) refuses to allow the entry, or obstructs or hinders the entry, of the Superintendent or any authorised person into the prisoner's place of residence, or any designated place under the order, if the prisoner is required to do so as a condition of the order.

Clause 25 repeals section 81 (Scheme for prisoners to engage in employment) and inserts a new Part 8 relating to general matters, including 2 new sections.

Section 81 is repealed as a result of the introduction of the new employment preparation scheme under the new Part 6B.

The new Part 8 includes 2 new sections. The new section 81 (Protection from personal liability) provides that if a prison officer and any auxiliary police officer acts in good faith and with reasonable care, then he or she is not personally liable for any act or omission in the execution or purported execution of the Act.

The new section 81A (Power to obtain information) empowers a prison officer, for the purposes of assisting the Commissioner or Superintendent of Prisons in making any specified inquiry under the Act, to require any person to provide all documents and information relating to any specified matter. Such documents or information may include CCTV footage, phone records from telecommunication

service providers, medical records showing treatment provided and hospitalisation records, that are necessary to ascertain if a prisoner has breached a condition that the prisoner is subject to under the Act, or has committed a minor or aggravated prison offence.

Clause 26 amends section 84 (Regulations) to provide new matters for which the Minister may make regulations. In particular, the Minister may make regulations relating to the management of communications between a prisoner and any prescribed person (or prescribed class of persons) that may affect the security or good order of the prison, or incite the commission of any offence. This includes withholding any correspondence, or redacting any material contained in any correspondence, that may affect the security or good order of the prison or incite the commission of any offence.

Other new matters for which the Minister may make regulations relate to the introduction of the new employment preparation scheme under the new Part 6B.

Clause 27 inserts a new section 38A (Power to obtain information) to the Misuse of Drugs Act to similarly empower prison officers to require any person to provide the necessary documents and information for the purposes of assisting the Commissioner or other persons to ascertain certain matters under the Misuse of Drugs Act (similar to the new section 81A of the Act as inserted by clause 25).

Clause 28 validates any purported appointment of a Deputy Commissioner of Prisons, and any act or thing done under the Act by such Deputy Commissioner of Prisons, before the commencement of clause 4 that amends section 20(1) to allow the appointment of more than one Deputy Commissioner of Prisons.

## EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

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