



New South Wales

Inspector of Custodial Services Amendment Bill 2024

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are—

- (a) to amend the *Inspector of Custodial Services Act 2012* (the *ICS Act*) to address the recommendations of a statutory review, including—
 - (i) to set out the objects of the ICS Act, and
 - (ii) to further provide for the functions of the Inspector of Custodial Services (the *Inspector*), and
 - (iii) to provide for the appointment and functions of Official Visitors to correctional centres and juvenile justice centres, and
- (b) to amend the *Crimes (Administration of Sentences) Act 1999* to enable the Commissioner of Corrective Services to review decisions by the governor of a correctional centre in relation to correctional centre offences committed by inmates.

The Bill also makes a consequential amendment to the *Children (Detention Centres) Act 1987*.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Inspector of Custodial Services Act 2012 No 55

Objects of Act

Schedule 1[1] sets out the objects of the ICS Act as follows—

- (a) to improve the prospects of rehabilitating offenders by improving—
 - (i) standards in custodial centres, and
 - (ii) the provision of custodial services,
- (b) to promote the improved treatment of, and improved outcomes for, persons in custody on remand.

Inspector of Custodial Services

Schedule 1[9] enables the Inspector to require custodial centre staff members to give the Inspector information or documents relating to custodial services as well as custodial centre operations.

Schedule 1[10] requires the Inspector to have regard to the legislation regulating custodial centres and custodial services in exercising the Inspector's functions.

Schedule 1[11] enables the Inspector to carry out private interviews with custodial centre staff members and persons in custody, detained or residing at a custodial centre in certain circumstances.

Schedule 1[13] updates provisions relating to arrangements between the Inspector and certain government officials and bodies. The amendment enables the Inspector to enter into arrangements with the Health Care Complaints Commission, the Law Enforcement Conduct Commission and the Children's Guardian in relation to the exercise of the Inspector's functions and certain functions of those officials and bodies. Currently, the Inspector may enter into these arrangements with Corrective Services NSW, Juvenile Justice, the Justice Health and Forensic Mental Health Network, the Ombudsman and the Independent Commission Against Corruption. The amendment also requires the Inspector to report officer misconduct or serious maladministration to the Law Enforcement Conduct Commission. **Schedule 1[14]–[16]** make consequential amendments.

Schedule 1[20] requires the Inspector to consult with government sector agencies in relation to whether there are public interest considerations against the disclosure of information in a report by the Inspector to Parliament.

Schedule 1[21] and [22] enable all reports to Parliament by the Inspector, not only annual reports, to be given to a House of Parliament even if the House is not sitting.

Schedule 1[23] specifies that the Inspector may require a government sector agency or the management company of a managed correctional centre to give the Inspector an update about a recommendation relating to the agency or company contained in a report by the Inspector to Parliament. **Schedule 1[17]** makes a consequential amendment.

Schedule 1[24] extends an existing protection against retribution for a person who gives information to the Inspector or the Inspector's staff so the protection applies to a person who gives information to an Official Visitor.

Schedule 1[25] provides that the Inspector is not compellable in certain court and tribunal proceedings to give evidence or produce documents in certain circumstances.

Official Visitors

Schedule 1[12] and [28] consolidate, with some changes, existing provisions relating to Official Visitors from the *Crimes (Administration of Sentences) Act 1999*, the *Crimes (Administration of Sentences) Regulation 2014* and the *Children (Detention Centres) Act 1987*. The provisions relate to the following—

- (a) the appointment of Official Visitors, including eligibility requirements,
- (b) the assignment of Official Visitors to custodial centres,

- (c) the functions of Official Visitors, including—
 - (i) visiting custodial centres, and
 - (ii) dealing with complaints and inquiries from persons in custody, detained or residing at custodial centres.

Schedule 1[26] inserts a regulation-making power about Official Visitors.

Schedule 1[27] provides for existing Official Visitors to continue as Official Visitors under the proposed amendments.

Schedule 1[2]–[5] make consequential amendments to definitions used in the ICS Act.

Schedule 1[6]–[8], [18] and [19] make other consequential amendments.

Schedule 2 Amendment of Crimes (Administration of Sentences) Act 1999 No 93

Schedule 2[3] enables the Commissioner of Corrective Services to review the following decisions by the governor of a correctional centre in relation to correctional centre discipline—

- (a) a decision that the governor is satisfied beyond reasonable doubt that the inmate is guilty of a correctional centre offence,
- (b) a decision to impose a penalty on the inmate in relation to the correctional centre offence.

Schedule 2[5] inserts a savings and transitional provision.

Schedule 2[2] and [4] make consequential amendments in relation to Official Visitors.

Schedule 2[1] removes a redundant definition of *Corrective Services NSW*, consequent on Corrective Services NSW becoming a Public Service executive agency under the *Government Sector Employment Act 2013*.

Schedule 3 Amendment of Children (Detention Centres) Act 1987 No 57

Schedule 3 makes a consequential amendment to the *Children (Detention Centres) Act 1987* in relation to Official Visitors.



New South Wales

Inspector of Custodial Services Amendment Bill 2024

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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Inspector of Custodial Services Amendment Bill 2024

No. _____, 2024

A Bill for

An Act to amend the *Inspector of Custodial Services Act 2012*, including in response to a statutory review of the Act; to amend the *Crimes (Administration of Sentences) Act 1999* in relation to correctional centre discipline; and for related purposes.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

Tabling copy

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Inspector of Custodial Services Amendment Act 2024*.

3

2 Commencement

4

This Act commences on a day or days to be appointed by proclamation.

5

Schedule 1 Amendment of Inspector of Custodial Services 1
Act 2012 No 55 2

[1] Section 2A 3

Insert after section 2— 4

2A Objects of Act 5

(1) The objects of this Act are as follows— 6

(a) to improve the prospects for the rehabilitation of offenders by improving— 7

(i) standards in custodial centres, and 9

(ii) the provision of custodial services, 10

(b) to promote the improved treatment of, and improved outcomes for, persons in custody on remand. 11

(2) This Act seeks to achieve the objects by establishing the independent office of Inspector of Custodial Services to inspect, monitor and report to Parliament on— 13

(a) custodial centres, and 14

(b) the provision of custodial services. 15

(a) custodial centres, and 16

(b) the provision of custodial services. 17

(3) A person exercising a function under this Act must have regard to— 18

(a) the objects of the Act, and 19

(b) the particular needs of the following— 20

(i) Aboriginal and Torres Strait Islander people, 21

(ii) people from culturally and linguistically diverse backgrounds, 22

(iii) children and young people. 23

[2] Section 3 Definitions 24

Omit section 3(1), definitions of *Corrective Services NSW*, *Department*, *Juvenile Justice* and *Official Visitor*. 25

Insert in alphabetical order— 27

adult custodial centre means a custodial centre other than a juvenile justice centre. 28

CDC Minister means the Minister administering the *Children (Detention Centres) Act 1987*. 30

custodial centre manager means the following— 32

(a) for a correctional centre—the governor, 33

(b) for a residential facility or transitional centre—the manager, 34

(c) for a juvenile justice centre—the centre manager within the meaning of the *Children (Detention Centres) Act 1987*. 35

Department means the department in which this Act is administered. 37

government sector agency has the same meaning as in the *Government Sector Employment Act 2013*. 38

head, of a government sector agency, has the same meaning as in the *Government Sector Employment Act 2013*. 40

interest, in relation to the management company under a management agreement, includes the following— 42

(a)	a shareholding in—	1
(i)	the management company, or	2
(ii)	a related body corporate, within the meaning of the <i>Corporations Act 2001</i> of the Commonwealth, of the management company,	3
		4
(b)	an interest in business dealings that are taking place or have taken place with—	5
		6
(i)	the management company, or	7
(ii)	a director or officer of the management company.	8
	Juvenile Justice means the part of the Department comprising the group of staff principally involved in the administration of the following Acts—	9
		10
(a)	the <i>Children (Community Service Orders) Act 1987</i> ,	11
(b)	the <i>Children (Detention Centres) Act 1987</i> ,	12
(c)	the <i>Children (Interstate Transfer of Offenders) Act 1988</i> .	13
	Official Visitor means an Official Visitor (Adults) or Official Visitor (Children).	14
		15
	Official Visitor (Adults) means a person appointed under section 8B.	16
	Official Visitor (Children) means a person appointed under section 8C.	17
[3]	Section 3(1), definition of “custodial centre”, paragraph (a)	18
	Omit “, a managed correctional centre and a periodic detention centre”.	19
	Insert instead “and a managed correctional centre”.	20
[4]	Section 3(1), definition of “custodial service”	21
	Omit “the Serious Offenders Review Council, the Serious Young Offenders Review Panel or the State Parole Authority”.	22
		23
	Insert instead “the Serious Young Offenders Review Panel constituted under the <i>Children (Detention Centres) Act 1987</i> or the Serious Offenders Review Council or State Parole Authority constituted under the <i>Crimes (Administration of Sentences) Act 1999</i> ”.	24
		25
		26
[5]	Section 3(2)	27
	Omit section 3(2) and (3). Insert instead—	28
(2)	The following terms used in this Act have the same meaning as in the <i>Crimes (Administration of Sentences) Act 1999</i> , except as otherwise provided—	29
		30
(a)	Commissioner,	31
(b)	correctional centre,	32
(c)	juvenile correctional centre,	33
(d)	managed correctional centre,	34
(e)	management agreement,	35
(f)	management company,	36
(g)	residential facility,	37
(h)	transitional centre.	38
[6]	Section 6 Principal functions of Inspector	39
	Omit section 6(1)(h). Insert instead—	40
(h)	to oversee the Official Visitor program,	41

[7] Section 6(1)(i)	1
Omit “those Acts”. Insert instead “this Act”.	2
[8] Section 6(3)	3
Insert after section 6(2)—	4
(3) A reference to the Minister in subsection (1)(f) or (2) is taken to be a reference to the CDC Minister if the reference relates to a juvenile justice centre.	5 6
[9] Section 7 Powers of Inspector	7
Insert “or a custodial service” after “operations” wherever occurring in section 7(c) and (d).	8
[10] Section 7(2)	9
Insert at the end of the section—	10
(2) In exercising the Inspector’s functions, the Inspector must have regard to the legislation regulating custodial centres and custodial services.	11 12
[11] Section 8A	13
Insert after section 8—	14
8A Inspector may carry out interviews in private	15
(1) This section applies to an interview carried out at a custodial centre by the Inspector with—	16 17
(a) a custodial centre staff member, as referred to in section 7(1)(d), or	18
(b) a person in custody, detained or residing at the custodial centre, as referred to in section 7(1)(f).	19 20
(2) An interview may be carried out in private if the Inspector is satisfied, having considered advice received from the custodial centre manager, that carrying out the interview in private will not compromise—	21 22 23
(a) the security of the custodial centre, or	24
(b) the safety of a person at the custodial centre.	25
(3) An interview referred to in subsection (1)(b) may be carried out in private only if the person in custody, detained or residing at the custodial centre consents to the interview being carried out in private.	26 27 28
[12] Part 2, Division 2A	29
Insert after Division 2—	30
Division 2A Official Visitors	31
8B Appointment of Official Visitors (Adults)	32
(1) The Minister may appoint a person as an Official Visitor (Adults).	33
(2) A person is eligible for appointment if, in the Minister’s opinion, the person—	34
(a) has experience relevant to the functions of an Official Visitor (Adults), and	35 36
Example— experience relating to complaints management, custodial services, law, health, psychology, education, Aboriginal and Torres Strait Islander people or people from culturally and linguistically diverse backgrounds	37 38 39
(b) demonstrates concern for persons in the correctional system.	40

(3)	Notice of the appointment of an Official Visitor (Adults) must be published in the Gazette.	1 2
(4)	Schedule 3 sets out additional provisions relating to Official Visitors (Adults).	3
8C	Appointment of Official Visitors (Children)	4
(1)	The CDC Minister may appoint a person as an Official Visitor (Children).	5
(2)	A person is eligible for appointment if, in the CDC Minister's opinion, the person—	6 7
(a)	has expertise in a branch of juvenile justice, and	8
(b)	demonstrates concern for persons in the juvenile justice system.	9
(3)	Notice of the appointment of an Official Visitor (Children) must be published in the Gazette.	10 11
(4)	Schedule 3 sets out additional provisions relating to Official Visitors (Children).	12 13
(5)	A reference to the Minister in section 8E(3) and Schedule 3 is taken to be, in relation to an Official Visitor (Children), a reference to the CDC Minister.	14 15
8D	Persons who must not be Official Visitors	16
	The following persons must not be appointed as an Official Visitor—	17
(a)	a person employed in Corrective Services NSW,	18
(b)	a juvenile justice officer within the meaning of the <i>Children (Detention Centres) Act 1987</i> ,	19 20
(c)	a custodial centre staff member or another person who is, to any extent, responsible for the management of, or who is employed at or in connection with, a custodial centre.	21 22 23
8E	Declaration of interest	24
(1)	A person who wishes to be appointed as an Official Visitor or as an acting Official Visitor must make a written declaration stating whether the person has an interest in—	25 26 27
(a)	a management agreement, or	28
(b)	the management company under a management agreement.	29
(2)	A person who has not made a declaration under this section must not be appointed as an Official Visitor.	30 31
(3)	The Minister must not appoint a person as an Official Visitor if—	32
(a)	the person has an interest in—	33
(i)	a management agreement, or	34
(ii)	the management company under a management agreement, and	35
(b)	the Minister considers the person should not be appointed because of the interest.	36 37
8F	Assignment of Official Visitors	38
(1)	An Official Visitor (Adults) must be assigned to one or more adult custodial centres—	39 40
(a)	by the Minister, or	41
(b)	in accordance with arrangements approved by the Minister.	42

(2)	An Official Visitor (Children) must be assigned to one or more juvenile justice centres—	1
	(a) by the CDC Minister, or	2
	(b) in accordance with arrangements approved by the CDC Minister.	3
(3)	There must be, at all times, at least—	4
	(a) 1 Official Visitor (Adults) for each adult custodial centre, and	5
	(b) 1 Official Visitor (Children) for each juvenile justice centre.	6
8G	Visits by Official Visitors to custodial centres	7
(1)	An Official Visitor must visit the custodial centre to which the Official Visitor is assigned at least once each month, unless prevented by illness or another unavoidable cause.	8
(2)	An Official Visitor (Adults) may also visit an adult custodial centre at other reasonable times unless the Commissioner considers a visit would be inappropriate because of security concerns.	9
(3)	An Official Visitor (Children) may also visit a juvenile justice centre at other reasonable times unless the Secretary of the Department considers a visit would be inappropriate because of security concerns.	10
(4)	During a visit to a custodial centre, an Official Visitor may—	11
	(a) carry out interviews with custodial centre staff members at the centre, and	12
	(b) carry out interviews with persons in custody, detained or residing at the centre, and	13
	(c) inspect the centre.	14
(5)	An Official Visitor's power to carry out interviews—	15
	(a) may only be exercised with the consent of the interviewee, and	16
	(b) includes the power to carry out interviews in private, and	17
	(c) does not include the power to carry out an investigation or audit.	18
8H	Official Visitors to deal with complaints and inquiries	19
(1)	The main function of an Official Visitor is to deal with complaints and inquiries from persons in custody, detained or residing at custodial centres (a <i>complainant</i>).	20
(2)	The Official Visitor must deal with a complaint or inquiry received from a complainant in accordance with this section.	21
(3)	The Official Visitor may clarify details of the complaint or inquiry with the complainant or a relevant officer.	22
(4)	The Official Visitor must—	23
	(a) record details of the complaint or inquiry in the Official Visitor's official diary, and	24
	(b) determine, from a relevant officer or the complainant, what action has been taken or information given in response to the complaint or inquiry.	25
(5)	The Official Visitor must do one or more of the following in relation to the complaint or inquiry—	26
	(a) with the consent of the complainant—	27

- (i) notify the custodial centre manager of the complaint or inquiry, and 1
 - (ii) try to resolve the complaint or inquiry with the custodial centre manager, 2
 - (b) advise the complainant of other action the Official Visitor considers could be taken in relation to the complaint or inquiry, 3
 - (c) with the consent of the complainant, refer the complaint or inquiry to a person the Official Visitor considers appropriate, including the Inspector. 4
- (6) The Official Visitor must give information about action taken in relation to complaints and inquiries to the following for statistical purposes— 5
- (a) for an adult custodial centre—the Commissioner, 6
 - (b) for a juvenile justice centre—the Secretary of the Department. 7
- (7) The Official Visitor must give the information under subsection (6)— 8
- (a) in the form approved by the Inspector, and 9
 - (b) at the times determined by the Inspector. 10
- (8) In dealing with a complaint or inquiry, an Official Visitor must not— 11
- (a) interfere with the management or discipline of a custodial centre, or 12
 - (b) give instructions to— 13
 - (i) a relevant officer, or 14
 - (ii) a person in custody, detained or residing at a custodial centre. 15
- (9) An Official Visitor (the *first Official Visitor*) may inform another Official Visitor about— 16
- (a) a person interviewed by the first Official Visitor at a custodial centre, and 17
 - (b) the nature and substance of a complaint or inquiry received by the first Official Visitor. 18
- (10) In this section— 19
- relevant officer** means— 20
- (a) in relation to an adult custodial centre—the following— 21
 - (i) a person employed in Corrective Services NSW, 22
 - (ii) a medical officer within the meaning of the *Crimes (Administration of Sentences) Act 1999*, 23
 - (iii) a registered nurse employed by the Justice Health and Forensic Mental Health Network, 24
 - (iv) a person employed by a management company and who holds an authority under the *Crimes (Administration of Sentences) Act 1999*, section 240 to perform duties at a correctional centre managed by the management company, or 25
 - (b) in relation to a juvenile justice centre—the following— 26
 - (i) a person employed in Juvenile Justice, 27
 - (ii) a person employed in the Department of Education, 28
 - (iii) a medical officer appointed under the *Children (Detention Centres) Act 1987*, section 37G, 29
 - (iv) a registered nurse employed by the Justice Health and Forensic Mental Health Network, 30

(v)	a chaplain accredited under regulations made under the <i>Children (Detention Centres) Act 1987</i> .	1 2
8I	Official Visitors may report complaints and inquiries to Minister	3
	If an Official Visitor considers a complaint or inquiry received by the Official Visitor requires the immediate attention of the Minister or the CDC Minister, the Official Visitor may report the complaint or inquiry to the Minister or the CDC Minister.	4 5 6 7
8J	Written reports by Official Visitors	8
	At least once every 6 months, an Official Visitor must give a written report to the following persons—	9 10
	(a) the Inspector,	11
	(b) for an adult custodial centre—the Minister,	12
	(c) for a juvenile justice centre—	13
	(i) the CDC Minister, and	14
	(ii) if the report relates to a part of an educational establishment under the control or direction of the Minister administering the <i>Education Act 1990</i> —that Minister.	15 16 17
8K	Official Visitors must not deal with restricted persons	18
(1)	An Official Visitor (Adults) is not permitted to receive or deal with a complaint or inquiry from a restricted person.	19 20
(2)	In this section—	21
	restricted person means a person in custody, detained or residing at a custodial centre who—	22 23
	(a) is prescribed by the regulations, or	24
	(b) belongs to a class of persons prescribed by the regulations.	25
[13]	Sections 9 and 10	26
	Omit the sections. Insert instead—	27
9	Inspector may enter into arrangements with government officials and agencies	28
(1)	The Inspector may enter into arrangements with the Commissioner in relation to the exercise of the functions of the Inspector and the Commissioner in relation to Corrective Services NSW.	29 30 31
(2)	The Inspector may enter into arrangements with the Secretary of the Department in relation to the exercise of the functions of the Inspector and the Secretary in relation to Juvenile Justice.	32 33 34
(3)	The Inspector may enter into arrangements with the Chief Executive of the Justice Health and Forensic Mental Health Network in relation to the exercise of the functions of the Inspector and the Chief Executive in relation to the Network.	35 36 37 38
(4)	The Inspector may enter into arrangements with the following in relation to the exercise of the functions of the Inspector and the relevant functions—	39 40
	(a) the Ombudsman,	41
	(b) the Independent Commission Against Corruption constituted by the <i>Independent Commission Against Corruption Act 1988</i> ,	42 43

(c)	the Health Care Complaints Commission constituted by the <i>Health Care Complaints Act 1993</i> ,	1 2
(d)	the Law Enforcement Conduct Commission constituted by the <i>Law Enforcement Conduct Commission Act 2016</i> ,	3 4
(e)	the Children’s Guardian appointed under the <i>Children’s Guardian Act 2019</i> ,	5 6
(f)	a person or body prescribed by the regulations.	7
(5)	In this section—	8
	relevant enabling legislation means the following—	9
(a)	for the Ombudsman—the <i>Ombudsman Act 1974</i> ,	10
(b)	for the Independent Commission Against Corruption—the <i>Independent Commission Against Corruption Act 1988</i> ,	11 12
(c)	for the Health Care Complaints Commission—the <i>Health Care Complaints Act 1993</i> ,	13 14
(d)	for the Law Enforcement Conduct Commission—the <i>Law Enforcement Conduct Commission Act 2016</i> ,	15 16
(e)	for the Children’s Guardian—the <i>Children’s Guardian Act 2019</i> ,	17
(f)	for a person or body prescribed by the regulations for subsection (4)(f)—the legislation prescribed by the regulations.	18 19
	relevant function , of a person or body specified in subsection (4), means a function that relates to complaints, inquiries, investigations or other action under the relevant enabling legislation.	20 21 22
10	Duty to report to LECC	23
(1)	The Inspector has the same duty to report to the Law Enforcement Conduct Commission a matter the Inspector suspects on reasonable grounds concerns or may concern officer misconduct or serious maladministration as the principal officer of a public authority has under the <i>Law Enforcement Conduct Commission Act 2016</i> , section 33.	24 25 26 27 28
(2)	The Inspector must not exercise functions in relation to a matter referred to in subsection (1) unless authorised to do so by an arrangement entered into under section 9(4)(d).	29 30 31
[14]	Section 11, heading	32
	Omit the heading. Insert instead—	33
11	Duty to report to ICAC	34
[15]	Section 11(2)	35
	Omit “this section”. Insert instead “section 9(4)(b)”.	36
[16]	Section 11(3) and (4)	37
	Omit the subsections.	38
[17]	Section 12 Annual reports to Parliament	39
	Omit “relevant authorities” from section 12(2)(b).	40
	Insert instead “government sector agencies or management companies”.	41

[18]	Section 14 Furnishing of draft reports to Minister and others	1
	Omit “Public Service” wherever occurring in section 14(2).	2
	Insert instead “government sector”.	3
[19]	Section 14(4)	4
	Insert after section 14(3)—	5
	(4) A reference to the Minister in this section is taken to be a reference to the CDC Minister if the reference relates to a juvenile justice centre.	6 7
[20]	Section 15A	8
	Insert after section 15—	9
15A	Consultation on public interest considerations	10
	(1) This section applies if—	11
	(a) there are public interest considerations against disclosure of information (<i>relevant information</i>), as referred to in section 15(3), in a report by the Inspector to Parliament, and	12 13 14
	(b) the Inspector considers a government sector agency may be able to give the Inspector information relevant to determining whether there is an overriding public interest against disclosure of the relevant information for the purposes of section 15.	15 16 17 18
	(2) The Inspector must—	19
	(a) give the government sector agency the draft report or part of the draft report, and	20 21
	(b) give the head of the government sector agency a reasonable opportunity to make submissions in relation to the draft report.	22 23
	(3) In determining whether there is an overriding public interest against disclosure of the relevant information for the purposes of section 15, the Inspector must consider submissions made under subsection (2)(b).	24 25 26
[21]	Section 16 Provisions relating to reports to Parliament	27
	Omit “the report is an annual report under section 12 and” from section 16(6).	28
[22]	Section 16(8)	29
	Insert after section 16(7)—	30
	(8) If a report presented under subsection (6) includes a recommendation by the Inspector that the report be made public immediately, the Clerk of the House—	31 32 33
	(a) may make it public, and	34
	(b) is not required to inquire whether the conditions precedent have been satisfied in relation to a report purporting to have been made in accordance with this Act.	35 36 37
[23]	Section 16A	38
	Insert after section 16—	39

16A	Response to Inspector's recommendations	1
(1)	This section applies if the Inspector includes in a report to Parliament a recommendation relating to a government sector agency or management company.	2 3 4
(2)	The Inspector may, by written notice, require the head of the government sector agency, or the management company, to give the Inspector, within the reasonable time specified in the notice, information about the government sector agency's, or the management company's, response to the recommendation.	5 6 7 8 9
(3)	Without limiting subsection (2), the Inspector may require the following information to be given to the Inspector—	10 11
(a)	the steps taken or proposed to be taken in response to the recommendation,	12 13
(b)	if no steps have been taken or are proposed to be taken in response to the recommendation—the reasons why no steps have been taken or are proposed to be taken.	14 15 16
[24]	Section 20 Protection of complainant against retribution	17
	Omit “or a member of staff of the Inspector in the exercise of functions under this Act” from section 20(1).	18 19
	Insert instead “, a member of staff of the Inspector or an Official Visitor, in relation to the exercise of the functions of the Inspector, a member of staff of the Inspector or an Official Visitor under this Act”.	20 21 22
[25]	Section 25A	23
	Insert after section 25—	24
25A	Compellability of Inspector	25
(1)	The Inspector is not compellable, in proceedings before a court, tribunal, authority or other body or person—	26 27
(a)	to give evidence about information obtained in exercising a function under this Act, or	28 29
(b)	to produce documents containing information obtained in exercising a function under this Act.	30 31
(2)	Subsection (1) does not apply to the following—	32
(a)	proceedings under section 19 or 20,	33
(b)	proceedings under the <i>Royal Commissions Act 1923</i> , Part 3,	34
(c)	proceedings under the <i>Special Commissions of Inquiry Act 1983</i> , Part 4,	35
(d)	proceedings under the <i>Government Information (Public Access) Act 2009</i> , Part 5 arising as a consequence of a decision made by the Inspector in relation to an access application under that Act,	36 37 38
(e)	proceedings under the <i>Police Act 1990</i> , section 167A,	39
(f)	proceedings under the <i>Public Interest Disclosures Act 2022</i> , section 33 or 37.	40 41
(3)	Subsection (1) applies to the following persons in the same way as it applies to the Inspector—	42 43
(a)	a member of staff of the Inspector,	44
(b)	a person referred to in section 5(2) or (3).	45

[26] Section 27 Regulations	1
Insert after section 27(1)—	2
(1A) Without limiting subsection (1), regulations may be made about Official Visitors, including to prescribe functions of Official Visitors.	3 4
[27] Schedule 2 Savings, transitional and other provisions	5
Insert at the end of the schedule, with appropriate part and clause numbering—	6
Part Provisions consequent on enactment of Inspector of Custodial Services Amendment Act 2024	7 8
Existing Official Visitors	9
(1) A person who, immediately before the commencement date, was an Official Visitor appointed under the <i>Crimes (Administration of Sentences) Act 1999</i> , section 228 is taken to be—	10 11 12
(a) an Official Visitor (Adults) appointed under this Act, section 8B, and	13
(b) assigned to the adult custodial centre to which the person was, immediately before the commencement date, assigned, and	14 15
(c) if the person was, immediately before the commencement date, assigned to a correctional complex—assigned to each correctional centre in the correctional complex.	16 17 18
(2) A person who, immediately before the commencement date, was an Official Visitor appointed under the <i>Children (Detention Centres) Act 1987</i> , section 8A is taken to be—	19 20 21
(a) an Official Visitor (Children) appointed under this Act, section 8C, and	22
(b) assigned to the juvenile justice centre for which the person was, immediately before the commencement date, appointed as an Official Visitor.	23 24 25
(3) In this clause—	26
commencement date means the date on which sections 8B and 8C, as inserted by the <i>Inspector of Custodial Services Amendment Act 2024</i> , commence.	27 28
[28] Schedule 3	29
Insert after Schedule 2—	30
Schedule 3 Official Visitors	31
sections 8B and 8C	32
Note— A reference to the Minister in this schedule is taken to be, in relation to an Official Visitor (Children), a reference to the CDC Minister—see this Act, section 8C(5).	33 34
1 Term of office	35
Subject to this schedule, an Official Visitor—	36
(a) holds office for the period, not greater than 4 years, specified in the Official Visitor’s instrument of appointment, and	37 38
(b) is eligible, if otherwise qualified, for reappointment.	39

2 Remuneration	1
An Official Visitor, including an acting Official Visitor, is entitled to be paid the remuneration, including travelling and subsistence allowances, determined by the Minister.	2 3 4
Note— Under the <i>Interpretation Act 1987</i> , section 47, the power to appoint a person to an office includes the power to appoint a person to act in that office in certain circumstances.	5 6 7
3 Vacancy in office	8
(1) The office of an Official Visitor becomes vacant if the Official Visitor—	9
(a) dies, or	10
(b) completes a term of office and is not reappointed, or	11
(c) resigns the office by written instrument addressed to the Minister, or	12
(d) is removed from office by the Minister under this clause, or	13
(e) becomes personally insolvent, or	14
(f) becomes a mentally incapacitated person, or	15
(g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more, or	16 17
(h) is convicted outside of New South Wales of an offence that, if committed in New South Wales, would be punishable by imprisonment for 12 months or more.	18 19 20
(2) The Minister may remove an Official Visitor from office at any time.	21
(3) Without limiting subclause (2), the Minister may—	22
(a) remove an Official Visitor from office if—	23
(i) the Official Visitor is found to have an interest in a management agreement or the management company under a management agreement, and	24 25 26
(ii) the Minister considers the person should not be an Official Visitor because of the interest, and	27 28
(b) remove an Official Visitor from office if the Official Visitor is found to have made a declaration under section 8E that was false or misleading in a material particular.	29 30 31

Schedule 2	Amendment of Crimes (Administration of Sentences) Act 1999 No 93	1
		2
[1] Section 3 Interpretation		3
	Omit section 3(1), definition of <i>Corrective Services NSW</i> .	4
[2] Section 3(1), definition of “Official Visitor”		5
	Omit “Official Visitor appointed under section 228”.	6
	Insert instead “Official Visitor (Adults) appointed under the <i>Inspector of Custodial Services Act 2012</i> , section 8B”.	7
		8
[3] Part 2, Division 6A		9
	Insert after section 65A—	10
Division 6A	Reviews of correctional centre discipline by Commissioner	11
		12
65B Definitions		13
	In this division—	14
	<i>penalty</i> , imposed on an inmate, includes an order to pay an amount to the Crown under section 59.	15
		16
	<i>reviewable decision</i> means the following decisions by the governor of a correctional centre—	17
		18
	(a) a decision that the governor is satisfied beyond reasonable doubt that the inmate is guilty of a correctional centre offence,	19
		20
	(b) a decision to impose a penalty on the inmate in relation to the correctional centre offence.	21
		22
65C Commissioner may review decisions by governor		23
	(1) An inmate who is aggrieved by a reviewable decision may, at any time, apply to the Commissioner for a review of the decision.	24
		25
	(2) The Commissioner may, at any time, carry out a review of a reviewable decision on the Commissioner’s own initiative.	26
		27
	(3) A review may be carried out even if the inmate has served, paid or otherwise completed the penalty imposed by the governor in relation to the reviewable decision.	28
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		30
65D Determination of reviews by Commissioner		31
	(1) Section 52(2) applies to a review carried out by the Commissioner under this division in the same way as it applies to the initial inquiry conducted by the governor under that subsection, subject to the regulations.	32
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		34
	(2) The Commissioner may determine a review by—	35
	(a) confirming the reviewable decision, or	36
	(b) varying the reviewable decision, or	37
	(c) setting aside the reviewable decision and substituting a new decision.	38
	(3) The Commissioner may, under subsection (2), vary or set aside a penalty imposed on an inmate, or substitute a new penalty, even if the inmate has	39
		40

served, paid or otherwise completed the penalty imposed by the governor in relation to the reviewable decision.	1 2
(4) Following a review, the Commissioner may also direct that remedial action the Commissioner considers appropriate be taken in relation to the inmate to give effect to the Commissioner's decision on the review.	3 4 5
(5) The remedial action under subsection (4) includes, but is not limited to, the following—	6 7
(a) in relation to a penalty imposed by the governor under section 53(1)(d)—paying money to the inmate that would have been paid to the inmate under section 7 if the penalty had not been imposed by the governor,	8 9 10 11
(b) in relation to a penalty imposed by the governor under section 59—repaying the inmate the amount of compensation paid by the inmate under that section,	12 13 14
(c) other action prescribed by the regulations.	15
(6) Despite subsection (3) and section 65C(3), an inmate is not required to serve or complete a penalty imposed by the Commissioner following a review under this division if the inmate has served, paid or otherwise completed the penalty imposed by the governor in relation to the reviewable decision.	16 17 18 19
65E Other provisions about reviews by Commissioner	20
(1) A penalty imposed on an inmate by the Commissioner following a review under this division may be revoked by the Commissioner.	21 22
(2) If, under section 232(3), the Commissioner delegates the Commissioner's functions under this section to a person, the person must be a person who was not substantially involved in making the reviewable decision.	23 24 25
(3) A review does not operate to stay the reviewable decision unless the Commissioner otherwise directs.	26 27
(4) The regulations may make further provision about reviews under this division, including about the following—	28 29
(a) making applications for a review,	30
(b) carrying out reviews,	31
(c) notifying inmates of reviews and review decisions,	32
(d) the taking of remedial action under section 65D.	33
[4] Section 228 and Schedule 4	34
Omit the provisions.	35
[5] Schedule 5 Savings, transitional and other provisions	36
Insert at the end of the schedule, with appropriate part and clause numbering—	37
Part Provision consequent on enactment of Inspector of Custodial Services Amendment Act 2024	38 39
Reviews of correctional centre discipline by Commissioner	40
Part 2, Division 6A, as inserted by the <i>Inspector of Custodial Services Amendment Act 2024</i> , extends to a reviewable decision made before the commencement of that division.	41 42 43

Schedule 3	Amendment of Children (Detention Centres) Act	1
	1987 No 57	2
Section 8A Official Visitors		3
Omit the section.		4