

BILL NO. 2 OF 2024

A BILL

FOR AN ACT TO AMEND THE CORRECTIONS SERVICE ACT 2006

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Corrections Service (Amendment) Act 2024.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

(3) In this Act, the Corrections Service Act 2006 is referred to as the “Principal Act”.

Section 2 amended

2. Section 2 of the Principal Act is amended by—

(a) deleting the definition of “arms” and substituting the following—

““arms” has the meaning given in section 2 of the Arms and Ammunition Act 2003;” and

(b) inserting the following new definitions—

““ammunition” has the meaning given in section 2 of the Arms and Ammunition Act 2003;”

““Board” means the Central Allocation and Classification Board established under section 36A;”; and

““registered nurse” has the meaning given in section 2 of the Nursing Act 2011;”.

Section 3 amended

3. Section 3 of the Principal Act is amended by deleting paragraph (a) and substituting the following—

“(a) ensure that full regard is had to the recognised international standards and obligations relating to the treatment of prisoners, and in particular, to those stated in the international Conventions recognised under section 7(1) of the Constitution of the Republic of Fiji and in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), and that these standards are applied to the fullest extent possible;”.

Section 5 amended

4. Section 5(1) of the Principal Act is amended by—

(a) in paragraph (d) after “;”, deleting “and”;

(b) in paragraph (e)—

(i) after “any”, inserting “senior”; and

(ii) deleting “.” and substituting “; and”; and

(c) after paragraph (e), inserting the following new paragraph—

“(f) for the purposes of an investigation, direct any officer to—

(i) attend in person before the Commissioner or his or her delegates to answer questions under oath or affirmation; and

(ii) produce to the Commissioner a record or an item in the officer’s possession or control.”.

Section 8 amended

5. Section 8(b) of the Principal Act is amended by deleting “war or a period of”.

Section 10 amended

6. Section 10 of the Principal Act is amended after subsection (2) by inserting the following new subsection—

“(3) Any officer who is absent from duty without leave and does not notify his or her senior officer within 7 days thereafter is deemed to have resigned from the Corrections Service, forfeiting all rights and entitlements as an employee of the Corrections Service.”.

Section 15 amended

7. Section 15 of the Principal Act is amended by deleting “permanent secretary responsible for health” wherever it appears and substituting “Commissioner”.

Section 18 amended

8. Section 18(1) of the Principal Act is amended by—

- (a) in paragraph (a), deleting “or”;
- (b) in paragraph (b), deleting “.” and substituting “; or”; and
- (c) after paragraph (b), inserting the following new paragraph—
“(c) any Judge.”.

Section 26 amended

9. The Principal Act is amended by deleting section 26 and substituting the following—

“Medical examination

26.—(1) Upon admission and immediately before discharge, each prisoner must be examined by a medical officer.

(2) Until a prisoner has been medically examined upon admission, he or she must, so far as is possible, be held separately from other prisoners.

(3) If a prisoner has not been medically examined within 7 days of admission, the prisoner may be classified and transferred to another prison and arrangements must be made for a medical examination as soon as possible.

(4) If the medical officer becomes aware of any sign of torture or other cruel, inhumane or degrading treatment or punishment when conducting a medical examination of a prisoner, the medical officer must—

- (a) document the findings in the prisoner’s file; and
- (b) report the matter to the officer in charge.

(5) There must be no programme or policy of compulsory testing of prisoners to determine their HIV/AIDS status.”.

Section 31 amended

10. Section 31(4) of the Principal Act is amended by deleting “and”.

Section 33 amended

11. Section 33(3) of the Principal Act is amended after “officer in charge” by inserting “who must inform the Assistant Commissioner of Operations and the Commissioner”.

Section 36A inserted

12. The Principal Act is amended after section 36 by inserting the following new section—

“Central Allocation and Classification Board

36A.—(1) This section establishes the Central Allocation and Classification Board.

(2) The Board comprises the following members—

- (a) Deputy Commissioner of Corrections as the chairperson;
- (b) Assistant Commissioner Operations;
- (c) Director Rehabilitation;
- (d) Supervisor Central Eastern Division;
- (e) Supervisor Southern Division; and
- (f) a senior operations officer.

(3) The senior operations officer in subsection (2)(f) is also the secretary of the Board.

(4) The Board may make recommendations to the Commissioner in relation to—

- (a) the classification and allocation of prisoners to suitable corrections centres; and
- (b) prisoners' requests for early release or short term release.”.

Section 41 amended

13. Section 41(1) of the Principal Act is amended by deleting “or a Divisional Supervisor, senior officer or officer in charge,”.

Section 43 amended

14. Section 43(3)(b) of the Principal Act is amended by deleting “fair wages” and substituting “income”.

Section 46 amended

15. Section 46(2) of the Principal Act is amended by—

(a) in paragraph (a)—

- (i) in subparagraph (i), deleting “and”; and
- (ii) after subparagraph (ii), inserting the following new subparagraphs—
 - “(iii) the prisoner must be medically fit and healthy; and
 - (iv) a psychological report must determine the suitability of the prisoner to be released for community work or paid employment; or”; and

(b) in paragraph (b)—

- (i) in subparagraph (ii), deleting “and”;
- (ii) in subparagraph (iii), deleting “.” and substituting “;”;
- (iii) after subparagraph (iii), inserting the following new subparagraphs—
 - “(iv) the prisoner must be medically fit and healthy; and

- (v) a psychological report must determine the suitability of the prisoner to undertake an appropriate course of education or instruction.”.

Section 51 amended

16. Section 51(3) of the Principal Act is amended by deleting “firearm” and substituting “arms”.

Section 53 amended

17. Section 53(1) of the Principal Act is amended by deleting “unauthorised person” and substituting “other officer authorised by the Commissioner”.

Consequential amendments

18. All State documents of any nature whatsoever and all written laws are amended by deleting “prison” or “prisons” wherever they appear and substituting “corrections centre” or “corrections centres” respectively, unless the context otherwise requires.

May 2024

CORRECTIONS SERVICE (AMENDMENT) BILL 2024

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Corrections Service Act 2006 (**‘Act’**) provides for the establishment of the Fiji Corrections Service (**‘Corrections Service’**), the administration of prisons in Fiji, the treatment of the prisoners including the remission of their sentences, early release schemes and the discharge of prisoners.
- 1.2 The Act was enacted in 2006 and commenced on 27 June 2008. The Corrections Service has identified areas in the Act which necessitates the need for the amendments to the Act.
- 1.3 Therefore, the Corrections Service (Amendment) Bill 2024 (**‘Bill’**) seeks to amend the Act to—
- (a) extend the list of international standards and instruments that the Corrections Service may be guided by regarding the treatment of prisoners;
 - (b) allow the Commissioner of the Corrections Service (**‘Commissioner’**) to appoint medical officers to the Corrections Service for the care of the prisoners;
 - (c) provide for the mandatory medical examination of prisoners upon their admission and discharge;
 - (d) introduce provisions to establish the Central Allocation and Classification Board within the Corrections Service; and
 - (e) correct inconsistent terminology throughout the Act.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.

- 2.2 Clause 2 of the Bill amends section 2 of the Act to provide for the definitions of terms used in the Bill.
- 2.3 Clause 3 of the Bill amends section 3 of the Act to extend the list of international standards that the Corrections Service must be guided by.
- 2.4 Clause 4 of the Bill amends section 5 of the Act to allow the Commissioner, for the purpose of an investigation, to direct any officer of the Corrections Service to answer questions under oath or affirmation and produce a record or item in the officer's possession. The amendment also limits the delegation of the Commissioner's powers to a senior officer only.
- 2.5 Clause 5 of the Bill amends section 8 of the Act by deleting the reference to certain terms for clarification purposes.
- 2.6 Clause 6 of the Bill amends section 10 of the Act to provide that any member of the Corrections Service who is absent without leave for more than 7 days will be deemed to have resigned from the Corrections Service.
- 2.7 Clause 7 of the Bill amends section 15 of the Act to allow the Commissioner to appoint medical officers to the Corrections Service.
- 2.8 Clause 8 of the Bill amends section 18 of the Act to include a Judge as a visiting justice.
- 2.9 Clause 9 of the Bill amends section 26 of the Act by mandating that upon admission and immediately before discharge, a prisoner must medically examined.
- 2.10 Clause 10 of the Bill amends section 31(4) of the Act by deleting a typographical error.
- 2.11 Clause 11 of the Bill amends section 33(3) of the Act so that information about the medical condition of any prisoner is to be brought to the attention of the officer in charge who must inform the Assistant Commissioner of Operations and the Commissioner.
- 2.12 Clause 12 of the Bill amends the Act by inserting a new section 36A which establishes the Central Allocation and Classification Board.
- 2.13 Clause 13 of the Bill amends section 41(1) of the Act so that arms may only be issued to corrections officers upon the order of the Commissioner.
- 2.14 Clause 14 of the Bill amends section 43(3) of the Act by deleting the reference to "fair wages" and substituting "income" for consistency purposes.
- 2.15 Clause 15 of the Bill amends section 46 of the Act by inserting additional eligibility requirements that would allow for prisoners to be released under the early release programmes.

- 2.16 Clause 16 of the Bill amends section 51(3) of the Act by substituting “firearm” with “arms” for consistency purposes.
- 2.17 Clause 17 of the Bill amends section 53(1) of the Act by deleting “unauthorised person” and substituting “other officer authorised by the Commissioner”.
- 2.18 Clause 18 of the Bill provides for the consequential amendments to the Act by amending “prison” and “prisons” to “corrections centre” and “corrections centres” respectively. This will apply to all written laws and State documents unless the context otherwise requires.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act comes under the responsibility of the Minister responsible for justice.

S. D. TURAGA
Attorney-General