

Sentencing Legislation Amendment Bill 2013

Contents

Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2

Part 2 — *Sentencing Act 1995* amended

3.	Act amended	3
4.	Section 85 amended	3
5.	Section 93 amended	4
6.	Section 95A inserted	4
95A.	Eligibility for parole where certain mandatory minimum sentences imposed	4

Part 3 — *Sentence Administration* *Act 2003* amended

7.	Act amended	6
8.	Section 7 amended	6
9.	Section 23 amended	6
10.	Section 24 inserted	7
24.	Transitional provision for <i>Sentencing</i> <i>Legislation Amendment Act 2013</i>	7
11.	Schedule 2 amended	7

Western Australia

LEGISLATIVE COUNCIL

Sentencing Legislation Amendment Bill 2013

A Bill for

An Act to amend the *Sentencing Act 1995* and the *Sentence Administration Act 2003*.

The Parliament of Western Australia enacts as follows:

1

Part 1 — Preliminary

2

1. Short title

3

This is the *Sentencing Legislation Amendment Act 2013*.

4

2. Commencement

5

This Act comes into operation as follows —

6

(a) Part 1 — on the day on which this Act receives the
Royal Assent;

7

8

(b) Parts 2 and 3 — on the day after that day.

Part 2 — *Sentencing Act 1995* amended

3. Act amended

This Part amends the *Sentencing Act 1995*.

4. Section 85 amended

In section 85(1) insert in alphabetical order:

mandatory minimum sentence, in relation to a prescribed offence, means —

- (a) in the case of an offence against *The Criminal Code* section 297, the minimum term of imprisonment required by that section if the offence is committed in prescribed circumstances as defined in subsection (8) of that section;
- (b) in the case of an offence against *The Criminal Code* section 318, the minimum term of imprisonment required by subsection (4)(a) or (b) of that section, whichever of those minimum terms is applicable to the circumstances of the offence;
- (c) in the case of an offence against the *Road Traffic Act 1974* section 59, the minimum term of imprisonment required by subsection (4A)(a) of that section;
- (d) in the case of an offence against the *Road Traffic Act 1974* section 59A, the minimum term of imprisonment required by subsection (4A)(a) of that section;

s. 5

prescribed offence means any of the following offences, if the offence is committed by a person who, at the time of the commission of the offence, has reached 18 years of age —

- (a) an offence against *The Criminal Code* section 297, if the offence is committed in prescribed circumstances as defined in subsection (8) of that section;
- (b) an offence against *The Criminal Code* section 318, if the offence is committed in prescribed circumstances as defined in subsection (5) of that section;
- (c) an offence against the *Road Traffic Act 1974* section 59 or 59A, if the offence is committed in the circumstance of aggravation referred to in section 49AB(1)(c) of that Act;

5. Section 93 amended

In section 93(1) delete “section 94,” and insert:

sections 94 and 95A,

6. Section 95A inserted

After section 94 insert:

95A. Eligibility for parole where certain mandatory minimum sentences imposed

- (1) For the purposes of section 93(1), a prisoner serving a parole term for a prescribed offence is eligible to be released on parole when he or she has served the greater of —

- (a) the mandatory minimum sentence applicable to that offence; or

- 1 (b) the period that, under section 93(1), he or she
2 would be required to serve before being eligible
3 to be released on parole if the offence were not
4 a prescribed offence.
- 5 (2) Subsection (3) applies to a prisoner if —
- 6 (a) the prisoner is serving 2 or more parole terms;
7 and
- 8 (b) those parole terms are to be aggregated under
9 section 94; and
- 10 (c) 2 or more of those parole terms are for
11 prescribed offences.
- 12 (3) If this subsection applies to a prisoner then, for the
13 purposes of section 93(1), the prisoner is eligible to be
14 released on parole when he or she has served the
15 greater of —
- 16 (a) the aggregate of the mandatory minimum
17 sentences applicable to each of the prescribed
18 offences that he or she is serving; or
- 19 (b) the period that, under sections 93(1) and 94, he
20 or she would be required to serve before being
21 eligible to be released on parole if the offences
22 were not prescribed offences.
- 23 (4) If a parole term was imposed before the *Sentencing*
24 *Legislation Amendment Act 2013* Part 2 comes into
25 operation, this Division and the *Sentence*
26 *Administration Act 2003* Part 3 Division 3 apply to and
27 in relation to that parole term as if the *Sentencing*
28 *Legislation Amendment Act 2013* Part 2 had not been
29 enacted.
- 30

1 **Part 3 — *Sentence Administration Act 2003* amended**

2 **7. Act amended**

3 This Part amends the *Sentence Administration Act 2003*.

4 **8. Section 7 amended**

5 In section 7(2)(b) and (c) delete “section 94” and insert:

6

7 sections 94 and 95A

8

9 **9. Section 23 amended**

10 Delete section 23(2) and insert:

11

12 (2) A prisoner is eligible to be released on parole —

13 (a) if he or she is serving a term for a prescribed
14 offence, when he or she has served the greater
15 of —

16 (i) the mandatory minimum sentence
17 applicable to the offence; or

18 (ii) one-half of his or her term;

19 or

20 (b) if he or she is serving a term for 2 or more
21 prescribed offences, when he or she has served
22 the greater of —

23 (i) the aggregate of the mandatory
24 minimum sentences applicable to each
25 of those prescribed offences; or

26 (ii) one-half of his or her term;

27 or

28 (c) in any other case, when he or she has served
29 one-half of his or her term.

30

1 **10. Section 24 inserted**

2 At the end of Part 3 Division 4 insert:

3

4 **24. Transitional provision for *Sentencing Legislation***
5 ***Amendment Act 2013***

6 If a term was imposed before the *Sentencing*
7 *Legislation Amendment Act 2013* Part 3 comes into
8 operation, this Division applies to and in relation to
9 that term as if that Part had not been enacted.

10

11 **11. Schedule 2 amended**

12 (1) In the heading to Schedule 2 delete “**Prescribed**” and insert:

13

14 **Serious**

15

16 (2) In Schedule 2 delete “prescribed” and insert:

17

18 serious

19

20

=====