



Western Australia

Sentence Administration Act 2003

**Incorporating the amendments proposed
by the *Sentence Administration Amendment
Bill 2017 (Bill No. 8-1)***

Note:

Some parts of this Act have been omitted as they are not amended by Bill No. 8-1.

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Western Australia

Sentence Administration Act 2003

An Act to provide for the administration of sentences and other orders imposed on offenders.

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Sentence Administration Act 2003*¹.

2. Commencement

- (1) Subject to subsection (3) and to section 2(3) of the *Sentencing Legislation Amendment and Repeal Act 2003* this Act comes into operation on a day fixed by proclamation¹.
- (2) Different days may be fixed under subsection (1) for different provisions.
- (3) No part of this Act shall be proclaimed to come into operation within 6 months of Part 5 of the *Sentencing Legislation Amendment and Repeal Act 2003* coming into operation.

3. This Act to be read with *Sentencing Act 1995*

This Act is to be read with the *Sentencing Act 1995*.

4. Terms and abbreviations used

- (1) If not defined in this Act words and expressions in this Act have the same definitions as in the *Sentencing Act 1995* and in particular, in Part 13 of that Act.
- (2) In this Act, unless the contrary intention appears —
 - Board** means the Prisoners Review Board;
 - CEO** means the chief executive officer of the Public Sector agency principally assisting the Minister administering Part 8 in its administration;
 - community corrections activities** are activities approved as such under section 85;
 - community corrections centre** means a place declared to be a community corrections centre under section 84;
 - community corrections officer** means a person appointed as a community corrections officer under section 98 and includes an honorary CCO;
 - community order** means a community based order or an intensive supervision order imposed under the *Sentencing Act 1995*;

conditional suspended imprisonment means conditional suspended imprisonment imposed under Part 12 Division 1 of the *Sentencing Act 1995*;

departmental staff means the people appointed or engaged under section 98 and the people authorised to work as unpaid volunteers under section 99;

early release order means —

- (a) a parole order; or
- (b) a re-entry release order;

Governor's pleasure detainee means —

- (a) a person in, or regarded as being in, strict or safe custody by virtue of an order made under the repealed section 282 of *The Criminal Code*; or
- (b) a person subject to a sentence of detention imposed under section 279(5)(b) of *The Criminal Code*; or
- (c) a person subject to a direction or sentence under repealed section 661 or 662 of *The Criminal Code*;

honorary CCO means a person appointed as a community corrections officer under section 98(1)(b);

parole order means an order made under Part 3 that a prisoner be released on parole and includes a parole order made for the purposes of section 72 or 73;

parole order (unsupervised) means a parole order that specifies that it is unsupervised;

prisoner means —

- (a) a person sentenced to a fixed term, whether a parole term or not; or
- (b) a person sentenced to life imprisonment; or
- (c) a person sentenced to indefinite imprisonment; or
- (d) a Governor's pleasure detainee;

re-entry release order means a re-entry release order made under Part 4 and includes a re-entry release order made for the purposes of section 72;

release means release from custody;

release considerations relating to a prisoner, has the meaning given to that term by section 5A;

re-socialisation programme means a programme of a prescribed kind that can be provided under the *Prisons Act 1981* to address

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the following factors insofar as they are relevant to equipping a particular prisoner for re-entry into the general community —

- (a) education;
- (b) employment;
- (c) drug and alcohol use;
- (d) mental and physical health;
- (e) attitudes and social control;
- (f) institutionalisation and life skills;
- (g) housing;
- (h) financial support and debt;
- (i) family and community networks;
- (j) any other prescribed factor;

Schedule 3 prisoner means a person described in Schedule 3 column 2;

sentence includes order;

serious offence means an offence of the kind set out in Schedule 2, other than such of those offences as have been prescribed by the regulations as not to be a serious offence;

victim of an offence means —

- (a) a person who has suffered injury, loss or damage as a direct result of the offence, whether or not that injury, loss or damage was reasonably foreseeable by the offender; or
- (b) where the offence resulted in a death, any member of the immediate family of the deceased;

victim's submission has the meaning given to that term by section 5C(1);

work and development order means a work and development order made under Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

- (3) In this Act these abbreviations are used —
 - CCO** for community corrections officer;
 - CSI** for conditional suspended imprisonment;
 - RRO** for re-entry release order;

WDO for work and development order.

[Section 4 amended by No. 27 of 2004 s. 10; No. 41 of 2006 s. 4; No. 65 of 2006 s. 37; No. 29 of 2008 s. 39(2); No. 45 of 2016 s. 4.]

[Section 4. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

Part 2 — General matters

[Heading amended by No. 41 of 2006 s. 5.]

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5. Terms used and calculations

In this Part words and expressions have the same definitions, and calculations are to be made in the same way, as in Part 13 of the *Sentencing Act 1995*.

5A. Release considerations about people in custody

In this Act a reference to the ***release considerations*** relating to a prisoner is a reference to these considerations —

- (a) the degree of risk (having regard to any likelihood of the prisoner committing an offence when subject to an early release order and the likely nature and seriousness of any such offence) that the release of the prisoner would appear to present to the personal safety of people in the community or of any individual in the community;
- (b) the circumstances of the commission of, and the seriousness of, an offence for which the prisoner is in custody;
- (c) any remarks by a court that has sentenced the prisoner to imprisonment that are relevant to any of the matters mentioned in paragraph (a) or (b);
- (d) issues for any victim of an offence for which the prisoner is in custody if the prisoner is released, including any matter raised in a victim's submission;
- (e) the behaviour of the prisoner when in custody insofar as it may be relevant to determining how the prisoner is likely to behave if released;
- (f) whether the prisoner has participated in programmes available to the prisoner when in custody, and if not the reasons for not doing so;
- (g) the prisoner's performance when participating in a programme mentioned in paragraph (f);
- (h) the behaviour of the prisoner when subject to any release order made previously;
- (i) the likelihood of the prisoner committing an offence when subject to an early release order;

- (j) the likelihood of the prisoner complying with the standard obligations and any additional requirements of any early release order;
- (k) any other consideration that is or may be relevant to whether the prisoner should be released.

[Section 5A inserted by No. 41 of 2006 s. 6.]

5B. Community safety paramount

The Board or any other person performing functions under this Act must regard the safety of the community as the paramount consideration.

[Section 5B inserted by No. 41 of 2006 s. 6.]

5C. Victim's submission to Board

- (1) A **victim's submission** is a written submission by a victim of an offence for which a prisoner is in custody that does either or both of the following —
 - (a) states the victim's opinion of the effect the release of the prisoner would have on the victim;
 - (b) makes suggestions about the conditions that should apply to the prisoner if released.
- (2) If a victim is personally incapable of making a victim's submission due to age, disability or infirmity, a person may make a victim's submission on the victim's behalf.
- (3) The Board and the CEO are to establish procedures for the making of victims' submissions and their receipt by or transmission to the Board.
- (4) In performing its functions, the Board is to have regard to any victim's submission received by or transmitted to it in accordance with the procedures and is to give the submission such weight as it sees fit.
- (5) The Board must not —
 - (a) give a victim's submission, or a copy of a victim's submission, to the prisoner or to any person acting for or on behalf of, or representing, the prisoner; or
 - (b) allow the prisoner or any person acting for or on behalf of, or representing, the prisoner to view a victim's submission.

[Section 5C inserted by No. 41 of 2006 s. 6.]

Division 2 — Matters affecting the service of terms

6. When a term begins

- (1) Unless this section provides otherwise or an order is made under section 87(d) or 88(3) of the *Sentencing Act 1995*, a term, other than indefinite imprisonment, begins on the day it is imposed, or if the prisoner is not then in custody, on the day he or she is arrested under a warrant issued in respect of the sentence.
- (2) If a term is cumulative on one or more other terms then that term begins on the earliest date on which the prisoner could be released in relation to the last to be served of those other terms, whether or not the release would otherwise be under —
 - (a) a parole order; or
 - (b) a recognizance release order, or a parole order, made under the *Crimes Act 1914* of the Commonwealth.

7. Order of service of fixed terms

- (1) In this section —

fixed term includes —

 - (a) a period of imprisonment ordered under section 58, 59 or 119A of the *Sentencing Act 1995*; and
 - (b) a period of imprisonment specified in a warrant of commitment issued under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*;

non-parole period, in relation to a parole term, means the period that under section 93(1) of the *Sentencing Act 1995* the prisoner has to serve before he or she is eligible to be released on parole.
- (2) A prisoner who has to serve 2 or more fixed terms is to serve those terms in this order —
 - (a) firstly, those that are not parole terms are to be served according to whether they are concurrent, partly concurrent or cumulative with one another;
 - (b) secondly, subject to sections 94 and 95A of the *Sentencing Act 1995* and subsection (3), the non-parole periods of those that are parole terms are to be served according to whether those parole terms are concurrent, partly concurrent or cumulative with one another;

- (c) thirdly, subject to sections 94 and 95A of the *Sentencing Act 1995* and subsection (3), unless and until released on parole, the balance of any parole terms after the end of any non-parole periods are to be served —
 - (i) cumulatively if the terms are cumulative;
 - (ii) concurrently if the terms are concurrent or partly concurrent.
- (3) If after the commencement of Part 2 Division 4 of the *Sentencing Legislation Amendment and Repeal Act 2003*² a prisoner who is serving, or has yet to serve, a parole term imposed before the commencement of that Division is sentenced to serve another parole term, then —
 - (a) the non-parole periods of the terms are to be served according to whether the parole terms are concurrent, partly concurrent or cumulative with one another; and
 - (b) the balance of the parole terms after the end of any non-parole periods are to be served concurrently irrespective of whether the parole terms are concurrent, partly concurrent or cumulative with one another.
- (4) If while serving a fixed term a prisoner is sentenced to serve another fixed term, other than a fixed term ordered to be served partly concurrently with another term, service of the former is suspended if necessary so that the terms can then be served in the order required by subsection (2).

[Section 7 amended by No. 41 of 2006 s. 7; No. 3 of 2008 s. 22; No. 6 of 2014 s. 8.]

8. Effect of not being in custody

- (1) A term does not elapse while a prisoner is at large, having escaped lawful custody while serving it.
- (2) A prisoner who is returned to lawful custody after having escaped from it while serving a fixed term, must serve —
 - (a) the part of the term he or she had yet to serve at the time of escaping; plus
 - (b) one-third of the lesser of —
 - (i) the period during which he or she was absent from lawful custody; or

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- (ii) the period beginning on the date of escape and ending on the date when, but for the escape, the fixed term would have ended,

in addition to any term imposed for escaping lawful custody.

- (3) A term does not elapse while a prisoner is not in lawful custody unless this Act or another written law provides otherwise.

9. Effect of time before an appeal

- (1) Any period that a prisoner spends on bail while he or she is appealing against a conviction or a sentence does not count as time served in respect of any term that the prisoner is liable to serve.
- (2) Any period that a prisoner spends in custody while he or she is appealing against a conviction or a sentence counts as time served in respect of any term that he or she is then serving, but not in respect of any other term that he or she is liable to serve.

10. No release if prisoner in custody for another matter

Despite this Act and the *Sentencing Act 1995*, a prisoner must not be released (whether under an early release order or otherwise) in respect of a term if at the time the release could be ordered he or she is by law required to be kept in custody in respect of another matter.

Division 3 — Reports about prisoners

[Heading amended by No. 41 of 2006 s. 8.]

11. Report to Minister about the place of custody for a person in custody during Governor's pleasure

- (1) At any time the Minister, in writing, may request the CEO to provide a report of the kind mentioned in subsection (2).
- (2) Whenever the CEO gets a written request to do so from the Minister, or whenever the CEO thinks there are special circumstances which justify doing so, the CEO must give the Minister a written report on the place or places where a Governor's pleasure detainee is or should be detained in safe custody.

[(3) deleted]

[Section 11 amended by No. 41 of 2006 s. 9; No. 29 of 2008 s. 39(3) and (4); No. 45 of 2016 s. 5.]

11A. Reports by CEO to Board about certain prisoners

- (1) In this section —
prisoner does not include a prisoner sentenced to a fixed term of less than the length prescribed for the purposes of this section.
- (2) At any time the Board may request the CEO to give the Board a written report about a prisoner (a *prisoner management report*).
- (3) A request —
 - (a) must be in writing; and
 - (b) must specify the prisoner concerned; and
 - (c) must specify the matters to be dealt with in a prisoner management report; and
 - (d) may request the CEO to give a prisoner management report on more than one occasion, as specified in the request; and
 - (e) may request the CEO to give a prisoner management report —
 - (i) at a time specified or referred to in the request; or
 - (ii) at more than one time specified or referred to in the request.
- (4) Without limiting subsection (3)(e), the time at which a prisoner management report is to be given may be fixed by reference to a time when the Board will review the prisoner's circumstances.
- (5) The Board may give the CEO written directions in general terms about giving the Board prisoner management reports.
- (6) Matters about which the Board can give the CEO directions include —
 - (a) which prisoners the CEO is to give prisoner management reports about; and
 - (b) what prisoner management reports are to deal with; and
 - (c) when prisoner management reports are to be given.
- (7) The Board may at any time give the CEO a written notice amending or cancelling a request or direction given under this section.
- (8) On receiving a request or direction given under this section the CEO must comply with it so far as is reasonably practicable.

[Section 11A inserted by No. 41 of 2006 s. 10.]

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12. Reports by Board to Minister about prisoners generally

- (1) At any time the Minister, in writing, may request the Board to report about a prisoner.
- (2) The Board must give the Minister a written report about a prisoner —
 - (a) whenever it gets a written request to do so from the Minister; and
 - (b) whenever it considers it necessary to do so.
 - [(c) deleted]*
- (3) A report given under subsection (2) must deal with the release considerations relating to the prisoner.
- (4) Subject to section 66B(1), a report ~~A report~~
 - (a) must, if given under subsection (2)(a); and
 - (b) may, if given under subsection (2)(b),
recommend whether or not the Governor should be advised to exercise any power vested in the Governor to release the prisoner and, if release is recommended, the requirements or conditions (if any) that should apply to the prisoner's release.
- (5) If a report given under subsection (2) about a prisoner recommends that the prisoner be released, the report must, in addition to addressing the matters required by subsections (3) and (4), report —
 - (a) on the nature and circumstances of the offence, or offences, that gave rise to the prisoner being in custody; and
 - (b) if parole is recommended —
 - (i) on the period for which the prisoner should be on parole; and
 - (ii) on the additional requirements (if any) to which the prisoner should be subject while on parole,and may address any other matters the Board thinks fit.

[(6) deleted]

[Section 12 inserted by No. 41 of 2006 s. 11; amended by No. 29 of 2008 s. 39(5); No. 45 of 2016 s. 6; [Sentence Administration Amendment Bill 2017 cl. 4.](#)]

12A. Reports by Board to Minister about Schedule 3 prisoners

- (1) A report must be given under this section about a Schedule 3 prisoner regardless of whether or not a report has been given about the prisoner under section 12 (although reports may be combined under section 12B).
- (2) The Board must give the Minister a written report about a Schedule 3 prisoner —
 - (a) described in Division 1 column 2 of that Schedule — at the times provided in columns 3 and 4 of that Division for a prisoner of that description; and
 - (b) described in Division 2 column 2 of that Schedule — at the times provided in column 4 of that Division for a prisoner of that description.
- (3) A report given under subsection (2) must deal with the release considerations relating to the prisoner.
- (4) If a report given under subsection (2) recommends that the prisoner be released, the report must, in addition to any other matters the Board thinks fit, report on —
 - (a) whether the prisoner should be released on parole; and
 - (b) if release on parole is recommended —
 - (i) the period for which the prisoner should be on parole; and
 - (ii) the additional requirements (if any) to which the prisoner should be subject while on parole.
- (5) Subject to section 66B(1), a report ~~A report~~ given under subsection (2) may recommend whether or not the Governor should be advised to exercise any power vested in the Governor to release the prisoner, and, if release is recommended, the requirements or conditions (if any) that should apply to the prisoner's release.
- (6) For the purposes of determining under subsection (2)(b) when a subsequent report is due for a prisoner described in Schedule 3 Division 2 column 2 —
 - (a) it is immaterial whether the first report was given under a provision of this Act, the *Sentence Administration Act 1995* or the *Offenders Community Corrections Act 1963* that applied (or was taken to have applied) to or in respect of the prisoner, as long as the report dealt with release considerations (however described) relating to the prisoner; and

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- (b) if a first report was not given, or was not given when it was due, then the first report is to be taken to have been given at the time provided in column 3 of that Division for a prisoner of that description.

[Section 12A inserted by No. 41 of 2006 s. 11; amended by No. 29 of 2008 s. 39(6); No. 45 of 2016 s. 7; [Sentence Administration Amendment Bill 2017 cl. 5.](#)]

12B. Combined reports may be given under sections 12 and 12A

- (1) The Board may combine the following reports to form one report (a *combined report*) —
- (a) a report that is to be given about a prisoner under section 12 (the *first report*) and a report that is due to be given about the same prisoner under section 12A within 3 months of the first report; or
- (b) a report that is due to be given about a prisoner under section 12A at a time provided in one item of Schedule 3 (the *first report*) and another report, or reports, due to be given about the same prisoner under section 12A at a time, or times, provided in another item, or items, of Schedule 3 that is, or are, within 3 years of the first report.
- (2) A combined report given in the circumstances described in —
- (a) subsection (1)(a) is to be taken to have been given under section 12 and under section 12A;
- (b) subsection (1)(b), and that specifies each item of Schedule 3 in respect of which a report about the prisoner is being combined, is to be taken to satisfy the requirements of section 12A for a report about that prisoner at the time provided under each of those items.
- (3) A report under section 12A referred to in subsection (1)(a) may be a combined report given in the circumstances described in subsection (1)(b).

[Section 12B inserted by No. 45 of 2016 s. 8.]

Division 4 — Programmes for certain prisoners

[Heading inserted by No. 41 of 2006 s. 12.]

13. Re-socialisation programmes for Schedule 3 prisoners

- (1) In this section —
prisoner means a Schedule 3 prisoner.
- (2) At a prescribed time in the sentence of a prisoner the CEO must assess —
- (a) the suitability of the prisoner for inclusion in a re-socialisation programme; and
 - (b) whether the prisoner’s participation in a re-socialisation programme can be facilitated by the CEO.
- (3) The CEO is to give the Board a written report on the outcome of an assessment made under subsection (2).
- (4) If the Board —
- (a) has received a report under subsection (3) advising that the CEO can facilitate the prisoner’s participation in a re-socialisation programme; and
 - (b) considers that the prisoner may be suitable for inclusion in a re-socialisation programme,

the Board may request the CEO to give it a detailed description of a re-socialisation programme in which the prisoner should participate before being released, and the CEO must comply with that request.

- (5) If after —
- (a) receiving a re-socialisation programme from the CEO under subsection (4); and
 - (b) considering the release considerations relating to the prisoner,

the Board endorses the programme, with or without variations, the Board may, in a report given under section 12A(2) or at any other time, recommend to the Minister that the Governor should be advised to approve of the programme as so endorsed and of the prisoner’s participation in it.

- (6) If the Governor approves of the re-socialisation programme and of the prisoner’s participation in it, the Board is to provide it to the CEO as so approved.

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- (7) The CEO must give a copy of the approved re-socialisation programme to the prisoner and implement it as far as is reasonably practicable unless it is suspended or cancelled in accordance with the regulations.
- (8) A prisoner is not to participate in a re-socialisation programme other than one approved by the Governor and provided to the CEO under subsection (6).
- (9) Nothing in this section limits the power of —
 - (a) the Board to recommend to the CEO any other programme in which the prisoner should participate before being released; or
 - (b) the CEO to implement any other programme before the prisoner is released.

[Section 13 inserted by No. 41 of 2006 s. 12; amended by No. 45 of 2016 s. 9.]

14. Re-socialisation programmes for certain other prisoners

- (1) In this section —
prisoner does not include —
 - (a) a prisoner sentenced to a fixed term of less than the length prescribed for the purposes of section 11A; or
 - (b) a Schedule 3 prisoner.
- (2) Without limiting section 11A, the Board may at any time request the CEO to assess, at a prescribed time in the sentence of a prisoner —
 - (a) the suitability of the prisoner for inclusion in a re-socialisation programme; and
 - (b) whether the prisoner's participation in a re-socialisation programme can be facilitated by the CEO.
- (3) The CEO is to give the Board a written report on the outcome of an assessment made under subsection (2).
- (4) If the Board —
 - (a) has received a report under subsection (3) advising that the CEO can facilitate the prisoner's participation in a re-socialisation programme; and
 - (b) considers that the prisoner may be suitable for inclusion in a re-socialisation programme,

the Board may request the CEO to give it a detailed description of a re-socialisation programme in which the prisoner should

participate before being released, and the CEO must comply with that request.

- (5) If after —
- (a) receiving a re-socialisation programme from the CEO under subsection (4); and
 - (b) considering the release considerations relating to the prisoner,
- the Board approves of the programme, with or without variations, and of the prisoner's participation in it, the Board is to provide it to the CEO as so approved.
- (6) The CEO must give a copy of the approved re-socialisation programme to the prisoner and implement it as far as is reasonably practicable unless it is suspended or cancelled in accordance with the regulations.
- (7) Nothing in this section limits the power of —
- (a) the Board to recommend to the CEO any other programme in which the prisoner should participate before being released; or
 - (b) the CEO to implement any other programme before the prisoner is released.

[Section 14 inserted by No. 41 of 2006 s. 12; amended by No. 45 of 2016 s. 10.]

14A. Regulations as to re-socialisation programmes

Regulations may deal with —

- (a) the procedures set out in sections 13 and 14; and
- (b) the nature and content of re-socialisation programmes and their implementation, suspension, cancellation and reinstatement.

[Section 14A inserted by No. 41 of 2006 s. 12.]

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15. Terms used and calculations

In this Part, unless the contrary intention appears, words and expressions have the same definitions, and calculations are to be made in the same way, as in Part 13 of the *Sentencing Act 1995*.

[Section 15 inserted by No. 41 of 2006 s. 13.]

[16. Deleted by No. 41 of 2006 s. 14.]

Division 2 — Reports about certain people eligible for parole

17. Parole term, CEO to give Board report about prisoner on

- (1) In the case of a prisoner serving a parole term the CEO must give the Board a written report that deals with the release considerations relating to the prisoner.
- (2) The report must be given to the Board a reasonable period of time before the date when the prisoner concerned is eligible to be released on parole under section 93(1) of the *Sentencing Act 1995*.
- (3) The CEO's duty under this section in respect of a prisoner is in addition to any duty under section 11A in respect of the prisoner unless the Board, having received a prisoner management report under section 11A in respect of the prisoner, directs the CEO not to comply with this section.

[Section 17 amended by No. 41 of 2006 s. 15.]

[18. Deleted by No. 41 of 2006 s. 16.]

Division 3 — Parole in case of parole term

19. Term used: prisoner

In this Division —

prisoner means a prisoner serving a parole term.

20. Board may parole prisoner

- (1) Before the day when, under section 93(1) of the *Sentencing Act 1995*, a prisoner is eligible to be released on parole, the Board must consider whether the prisoner should be released on parole.

- (2) If the Board, having regard to —
- (aa) the requirements of section 66B(1); and
 - (a) the release considerations relating to a prisoner; and
 - (b) any report made by the CEO under section 17; and
 - (c) any other information about the prisoner brought to its attention,

decides that it is appropriate to release the prisoner on parole, it must make a parole order in respect of the prisoner.

- (3) The release date in the order is that set by the Board, but it must not be earlier than the day when, under section 93(1) of the *Sentencing Act 1995*, the prisoner is eligible to be released on parole.
- (4) The parole period in the order is the period that begins on the day when the prisoner is released and ends when the parole term ends.
- (5) If the Board decides it is not appropriate to release a prisoner on parole, it is not precluded from subsequently reconsidering whether the prisoner should be released on parole.

[Section 20 amended by No. 41 of 2006 s. 17; [Sentence Administration Amendment Bill 2017 cl. 6.](#)]

[21. Deleted by No. 41 of 2006 s. 18.]

Division 4 — Parole in case of short term

22. Application of Division

- (1) This Division applies to a prisoner if and only if —
- (a) the prisoner is serving one term and that term is less than 12 months and is not a prescribed term or a term in respect of which a parole eligibility order has been made; or
 - (b) the aggregate of terms the prisoner is serving or is yet to serve is less than 12 months and neither or none of them is a prescribed term or a term in respect of which a parole eligibility order has been made.
- (2) If subsection (1)(b) applies, a reference in this Part or Part 5, or in section 85 of the *Sentencing Act 1995*, to the term of the prisoner is taken as being a reference to the aggregate of terms.

[Section 22 amended by No. 41 of 2006 s. 19.]

23. Board may parole prisoner

(1) In this section —

prescribed prisoner means a prisoner who —

- (a) is serving a term for a serious offence; or
- (b) was released, whether on parole or otherwise, from serving a term for a serious offence on a date in the 5 years preceding the commencement of the term that the prisoner is serving; or
- (c) was subject to an early release order that was made under this Act or the *Sentence Administration Act 1995*³ and that was cancelled under this Act or that Act on a date in the 2 years preceding the commencement of the term that the prisoner is serving.

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

- (a) if he or she is serving a term for a prescribed offence, when he or she has served the greater of —
 - (i) the mandatory minimum sentence applicable to the offence; or
 - (ii) one-half of his or her term;or
- (b) if he or she is serving a term for 2 or more prescribed offences, when he or she has served the greater of —
 - (i) the aggregate of the mandatory minimum sentences applicable to each of those prescribed offences; or
 - (ii) one-half of his or her term;or
- (c) in any other case, when he or she has served one-half of his or her term.

(2a) In making a decision under this section in respect of a prisoner, the Board must have regard to —

(aa) the requirements of section 66B(1); and

- (a) the release considerations relating to the prisoner; and
- (b) any report made by the CEO under section 17; and
- (c) any other information about the prisoner brought to its attention.

(3) Subject to sections 10 and 66B(1), ~~section 10~~, the Board —

- (a) may, in the case of a prescribed prisoner; and

- (b) must, in any other case,
make a parole order in respect of the prisoner.
- (4) In the case of a parole order made under subsection (3)(a), the release date in the order is that set by the Board, but it must not be earlier than the day when, under subsection (2), the prisoner is eligible to be released on parole.
- (5) In the case of a parole order made under subsection (3)(b), the release date is to be the day when, under subsection (2), the prisoner is eligible to be released on parole.
- (5a) Despite subsection (5), the Board may defer the release date of a parole order by up to 7 days if transport arrangements cannot be made for the prisoner on the day when the prisoner is eligible for release.
- (5b) Despite subsection (5), the Board does not have to make a parole order under subsection (3)(b) while the prisoner is required to be kept in custody in respect of another matter.
- (6) The parole period in a parole order made under subsection (3) is the period that begins on the day when the prisoner is released and ends when the term ends.
- (7) A parole order made under subsection (3) must specify whether it is supervised or unsupervised.
- [(8) deleted]*
- (9) The following provisions do not apply to a parole order (unsupervised) —
- (a) section 28(1)(b);
 - (b) section 29;
 - (c) section 30;
 - (d) section 31;
 - (e) section 37;
 - (f) Division 9.
- (10) If the Board decides it is not appropriate to release a prisoner under subsection (3)(a), the Board is not precluded from subsequently reconsidering whether the prisoner should be released on parole.

[Section 23 amended by No. 41 of 2006 s. 20; No. 6 of 2014 s. 9; [Sentence Administration Amendment Bill 2017 cl. 7.](#)]

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24. Transitional provision for *Sentencing Legislation Amendment Act 2014*

If a term was imposed before the *Sentencing Legislation Amendment Act 2014* Part 3 comes into operation, this Division applies to and in relation to that term as if that Part had not been enacted.

[Section 24 inserted by No. 6 of 2014 s. 10.]

Part 4 — Re-entry release orders

50. Certain prisoners may apply to Board for RRO

A prisoner may apply to the Board to be released under a re-entry release order if —

- (a) he or she is not serving a parole term; and
- (b) he or she is not serving life imprisonment or indefinite imprisonment; and
- (ca) he or she is not subject to an order made under the *Dangerous Sexual Offenders Act 2006* section 17(1)(a); and
- (c) he or she is not a person referred to in section 27B(1); and
- (d) at the release date that would be specified in the RRO if it were made, he or she will have been in custody under sentence for a continuous period of at least 12 months; and
- (e) within 6 months after the release date that would be specified in the RRO if it were made, he or she would in any event be eligible for release.

[Section 50 amended by No. 41 of 2006 s. 41; No. 29 of 2008 s. 39(11); No. 17 of 2016 s. 52.]

51. CEO to report to Board about RRO applicants

- (1) The CEO must report to the Board about every prisoner who applies to be released under an RRO.
- (2) A report by the CEO under subsection (1) must be given to the Board as soon as practicable after a prisoner applies to be released under an RRO.
- (3) A report by the CEO under subsection (1) must address the release considerations relating to the prisoner.

[Section 51 amended by No. 41 of 2006 s. 42.]

52. Board may make RRO

- (1) The Board must consider the case of every prisoner who applies to be released under an RRO and may, in respect of such a prisoner —
 - (a) make an RRO to come into effect on a date specified by the Board; or
 - (b) defer the making of an RRO; or
 - (c) refuse to make an RRO.

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(2) When deciding whether or not to make an RRO in respect of the prisoner the Board is to have regard to [the requirements of section 66B\(1\) and](#) the release considerations relating to a prisoner.

(3) In particular the Board must have regard to whether the personal safety of people in the community or of any individual in the community would be better assured if the prisoner were released under an RRO instead of at the time when he or she would otherwise have to be released.

[(4) deleted]

(5) An RRO may relate to more than one term.

[Section 52 amended by No. 41 of 2006 s. 43; [Sentence Administration Amendment Bill 2017 cl. 8.](#)]

[53. Deleted by No. 41 of 2006 s. 44.]

54. RRO, nature of

(1) An RRO is an order that on a release date specified in the order a prisoner is to be released if he or she —

- (a) acknowledges in writing that he or she understands the general effect of Part 5 Divisions 2 and 3 should the order be cancelled;
- (b) gives a written undertaking that while the RRO is in force he or she will comply with —
 - (i) the standard obligations in section 55; and
 - (ii) such of the primary requirements in section 56 as the RRO contains; and
 - (iii) any additional requirements imposed by the Board under section 57.

(2) An RRO ceases to be in force when the period of the RRO ends, or when it is cancelled, whichever happens first.

(3) The period of an RRO is the period —

- (a) beginning on the day when the prisoner is released under the RRO; and
- (b) ending on the date when under section 95 of the *Sentencing Act 1995*, the prisoner must be released.

- (4) A prisoner who is released under an RRO is nevertheless still subject to the sentence or sentences of imprisonment to which the RRO relates.

[Section 54 amended by No. 41 of 2006 s. 45.]

55. RRO, standard obligations

The standard obligations of an RRO are that the prisoner —

- (a) must report to a community corrections centre within 72 hours after being released, or as otherwise directed by a CCO; and
- (b) must, in each period of 7 days, do the prescribed number of hours of community corrections activities; and
- (c) must not leave the State; and
- (d) must not change address or place of employment without the prior permission of a CCO; and
- (e) must comply with section 76.

[Section 55. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

56. RRO, primary requirements

- (1) Every RRO must contain at least one of these primary requirements —
- (a) a requirement that the prisoner must —
 - (i) seek or engage in gainful employment or in vocational training; or
 - (ii) engage in gratuitous work for an organisation approved by the CEO;
 - (b) a requirement that the prisoner must engage in activities, as ordered by a CCO, that will facilitate the prisoner's re-entry into the community after being released from custody.
- (2) If a requirement under subsection (1)(b) is included in an RRO, a CCO may give the prisoner any reasonable order that the CCO considers will facilitate the prisoner's re-entry into the community, including but not limited to the following —
- (a) an order to attend educational, vocational, or personal development programmes or courses;
 - (b) an order to undergo counselling in relation to behavioural matters.

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57. RRO, additional requirements

- (1) The Board may impose such additional requirements as it thinks fit in an RRO.
- (2) Without limiting the generality of subsection (1), additional requirements may include —
 - (a) requiring the prisoner to wear any device for monitoring purposes;
 - (b) requiring the prisoner to permit the installation of any device or equipment at the place where the prisoner resides for monitoring purposes.

58. Prisoner's undertaking

- (1) A prisoner must give the written acknowledgment and undertaking required by section 54 on or before the release date specified in the RRO and if he or she does not, the RRO is to be taken as having been cancelled.
- (2) If an RRO is cancelled by the operation of subsection (1) and the prisoner subsequently gives the Board written notice that he or she is prepared to give the required written acknowledgment and undertaking, the Board, if it thinks fit, may then make an RRO.

59. CEO to ensure prisoner is supervised during RRO

- (1) The CEO must ensure that during the period of an RRO a CCO is assigned to supervise the prisoner.
- (2) However, if at any time the CEO is satisfied that —
 - (a) the prisoner is complying with his or her undertaking in a satisfactory manner; and
 - (b) the risk of the prisoner re-offending if not subject to supervision by a CCO is minimal,

the CEO may recommend to the Board that the prisoner no longer be supervised by a CCO.

- (3) If the CEO makes a recommendation under subsection (2), the Board may direct the CEO that the prisoner need no longer be supervised during the period of the RRO and the CEO may cease the supervision of the prisoner.
- (4) If the CEO ceases the supervision of a prisoner the CEO is to inform the prisoner.

- (5) The fact that a prisoner ceases to be under supervision does not affect the prisoner's duty to obey the requirements of his or her undertaking during the period of the RRO.
- (6) The Board may at any time cancel a direction given to the CEO under subsection (3).

[60. Deleted by No. 41 of 2006 s. 46.]

61. Suspension by Board or CEO

- (1) The Board or the CEO may suspend an RRO at any time during the period of the order.
- (2) The period of suspension may be for a fixed or indefinite period as the Board or the CEO (as the case may be) thinks fit.
- (3) Without limiting subsection (1), if a prisoner subject to an RRO is charged with or convicted of an offence, or if the CEO is satisfied that a prisoner has failed to comply with a requirement of an RRO, the CEO may do either or both of the following —
 - (a) suspend the RRO;
 - (b) refer the prisoner's case to the Board for consideration.
- (4) If the CEO suspends the RRO of a prisoner who is charged with an offence the CEO must, when the charge has been determined —
 - (a) if the prisoner is not convicted of the charge — cancel the suspension; or
 - (b) if the prisoner is convicted of the charge —
 - (i) cancel the suspension; or
 - (ii) suspend the order for a further period; or
 - (iii) refer the prisoner's case to the Board for consideration.
- (5) If the CEO suspends an RRO for a fixed period of one month or more, or if an indefinite suspension extends for a month, the CEO must refer the prisoner's case to the Board to consider.
- (6) If the CEO suspends an RRO and the prisoner's case is not referred to the Board, the CEO may cancel the suspension of the RRO at any time before the suspension ends.
- (7) If the Board suspends an RRO, it may cancel the suspension at any time before the suspension ends.

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- (8) If the case of a prisoner is referred to the Board, the Board may vary the suspension period of or cancel the CEO's suspension order, or cancel the RRO.

[62. Deleted by No. 41 of 2006 s. 47.]

63. Cancellation by Board

- (1) The Board may cancel an RRO at any time during the period of the order.
- (2) Without limiting subsection (1) or affecting the operation of section 67 the Board may cancel an RRO if, during the period of the order, the prisoner is charged with or is convicted of an offence.

[64. Deleted by No. 41 of 2006 s. 48.]

Part 5 — Provisions applying to early release orders

Division 1 — General

65. Period of early release order counts as time served

If during the period of an early release order —

- (a) the prisoner does not commit an offence (in this State or elsewhere) for which he or she is sentenced to imprisonment (whether the sentence is imposed during or after that period); and
- (b) the early release order is not cancelled,

then the period of the early release order is to be taken as time served in respect of the term or terms to which the early release order relates.

66. Prisoner under sentence until discharged

- (1) Subject to this Part, a person sentenced to imprisonment and released under an early release order remains under and subject to that sentence until discharged from it.
- (2) Subject to this Part, a person sentenced to imprisonment is discharged from the sentence —
 - (a) if released under a parole order — at the end of the parole period; or
 - (b) if released under an RRO — at the end of the period of the RRO unless the sentence is a parole term.
- (3) Subsections (1) and (2) do not affect the operation of section 65 and Divisions 2 and 3.

Division 1A — Homicide offence or homicide related offence

[Heading inserted by the Sentence Administration Amendment Bill 2017 cl. 9.]

66A. Terms used

In this Division —

homicide offence means an offence of —

- (a) murder; or
- (b) infanticide under *The Criminal Code* section 287A as in force before the commencement of the *Criminal Law Amendment (Homicide) Act 2008* section 13;

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Division 1A Homicide offence or homicide related offence

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homicide related offence means any of the following offences, if the offence relates to the death of a person —

- (a) counselling or procuring the commission of a homicide offence; or
- (b) inciting another person to commit a homicide offence; or
- (c) becoming an accessory after the fact to a homicide offence; or
- (d) conspiring with another person to commit a homicide offence;

release action means making a parole order under section 23(3)(b) in respect of a prisoner;

release decision means —

- (a) a decision to recommend, in a report given under section 12 or 12A, that a prisoner be released; or
- (b) a decision under section 20(2) that it is appropriate to release a prisoner on parole; or
- (c) a decision under section 23(3)(a) to make a parole order in respect of a prisoner; or
- (d) a decision under section 52(1) to make an RRO in respect of a prisoner;

relevant prisoner means —

- (a) a person serving a sentence for a homicide offence or homicide related offence; or
- (b) a person subject to a sentence of detention imposed under *The Criminal Code* section 279(5)(b); or
- (c) a person in, or regarded as being in, strict or safe custody by virtue of an order under *The Criminal Code* section 282 (repealed by the *Criminal Law Amendment (Homicide) Act 2008* section 10); or
- (d) a person subject to a direction or sentence under *The Criminal Code* section 661 or 662 (repealed by the *Sentencing (Consequential Provisions) Act 1995* section 26) where at least one of the offences referred to in *The Criminal Code* section 661 or 662 was a homicide offence or homicide related offence;

remains of the victim, in relation to a homicide offence, means the remains of the person against whom the homicide offence was committed.

[Section 66A inserted by the *Sentence Administration Amendment Bill 2017* cl. 9.]

66B. Board not to release or recommend release unless prisoner cooperates or victim's remains located

(1) The Board must not make a release decision, or take release action, in relation to a relevant prisoner in custody for a homicide offence or homicide related offence unless the Board is satisfied that —

(a) the prisoner has cooperated with a member of the Police Force in the identification of the location, or last known location, of the remains of the victim of the homicide offence; or

(b) a member of the Police Force knows the location of the remains of the victim of the homicide offence.

(2) The Board may be satisfied under subsection (1)(a) in relation to a relevant prisoner in custody for a homicide offence or homicide related offence even if the prisoner did not cooperate —

(a) before being sentenced for the offence; or

(b) before the determination of an appeal against the conviction or sentence for the offence.

(3) This section applies to a decision or action in relation to a relevant prisoner in custody for a homicide offence or homicide related offence whether the offence was committed before, on or after the day on which the *Sentence Administration Amendment Act 2017* section 9 comes into operation.

[Section 66B inserted by the Sentence Administration Amendment Bill 2017 cl. 9.]

66C. Commissioner of Police report

(1) On each occasion on which the Board is required to consider whether to make a release decision, or take release action, in relation to a relevant prisoner in custody for a homicide offence or homicide related offence, the Board must make a written request to the Commissioner of Police for a written report.

(2) The Board does not have to request a report if the Board is already satisfied that a member of the Police Force knows the location of the remains of the victim of the homicide offence.

(3) The report must deal with each of the following matters —

(a) in relation to the prisoner's cooperation described in section 66B(1)(a) —

(i) the nature and extent of the prisoner's cooperation; and

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Division 2 Automatic cancellation

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(ii) the timeliness of the prisoner's cooperation; and

(iii) the truthfulness, completeness and reliability of any information or evidence provided by the prisoner; and

(iv) the significance and usefulness of the prisoner's cooperation;

(b) whether a member of the Police Force knows the location of the remains of the victim of the homicide offence.

(4) The Commissioner of Police must give the Board the report within a reasonable period of time after receiving the request.

(5) If the Board requests a report the Board must, when deciding whether it is satisfied for the purposes of section 66B(1), take into account the matters referred to in subsection (3) as dealt with in the report.

[Section 66C inserted by the Sentence Administration Amendment Bill 2017 cl. 9.]

Division 2 — Automatic cancellation

67. Cancellation automatic if prisoner imprisoned for offence committed on early release order

- (1) If a prisoner, while subject to an early release order, commits an offence (in this State or elsewhere) and is sentenced to imprisonment for that offence —
 - (a) any early release order applicable to the prisoner when the offence was committed is cancelled by virtue of this section; and
 - (b) any early release order made in respect of the prisoner on or after the date on which the offence was committed and before the sentence of imprisonment was imposed is cancelled by virtue of this section, irrespective of whether it had taken effect or not.
- (2) For the purposes of subsection (1) it does not matter if the sentence of imprisonment for the offence committed while subject to the early release order is imposed on the prisoner —
 - (a) after the period of the order; or
 - (b) after the date when, but for the cancellation of the order by virtue of subsection (1), the prisoner would have served or be taken to have served the term to which the order relates.

Division 3 — Consequences of suspension and cancellation

68. Suspension, effect of

- (1) If an early release order in respect of a prisoner serving a fixed term is suspended, the prisoner is then liable to resume serving the fixed term in custody and, unless the suspension ceases, is not entitled to be released until he or she has served the whole of that term.
- (2) If a parole order in respect of a prisoner serving life imprisonment is suspended, the prisoner is then liable to resume serving the sentence in custody.
- (3) The suspension of an early release order ceases at the end of the suspension period or when, before then, the suspension is cancelled.
- (4) When the suspension of an early release order ceases, the early release order and any other early release order taken to be suspended again have effect unless during the period of suspension the early release order was itself cancelled.
- (5) Nothing in this section prevents another early release order being made under this Act in respect of a prisoner.

[Section 68 amended by No. 29 of 2008 s. 39(12).]

69. Cancellation, effect of

- (1) If an early release order in respect of a prisoner serving a fixed term is cancelled after the prisoner is released under the order, the prisoner is then liable to resume serving the fixed term in custody and, subject to subsection (1b), is not entitled to be released until he or she has served the whole of that term.
- (1a) Subsection (1b) applies to a prisoner who resumes serving a fixed term in custody under subsection (1) if —
 - (a) the early release order was an RRO; and
 - (b) the fixed term is not a parole term and was imposed on or before 30 August 2003.
- (1b) Subject to Part 2 Division 2, a prisoner to whom this subsection applies is entitled to be released when he or she has served two-thirds of the fixed term.
- (2) If a parole order in respect of a prisoner serving life imprisonment is cancelled after the prisoner is released under

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the order, the prisoner is then liable to resume serving the sentence in custody.

- (3) If a parole order in respect of a prisoner serving indefinite imprisonment is cancelled after the prisoner is released under the order, the prisoner is then liable to resume serving the indefinite imprisonment in custody.
- (4) If a parole order in respect of a person referred to in section 27B(1) is cancelled after the person is released under the order, the person is liable to be again kept in strict or safe custody at the Governor's pleasure.
- (5) Subject to Division 4, this section does not prevent another early release order being made in respect of a prisoner.
- (6) For the purposes of this section, to calculate the length in days of two-thirds of a fixed term imposed on or before 30 August 2003 —
 - (a) determine the date on which the term as imposed by the court began and will end, and then express the term as a number of days (*T*);
 - (b) then divide *T* by 3 and disregard any remainder;
 - (c) then subtract that result from *T* and add to the result the number of days of remission that the prisoner has been ordered to forfeit under the *Prisons Act 1981* (if any).

[Section 69 amended by No. 41 of 2006 s. 49; No. 29 of 2008 s. 39(13).]

70. Returning prisoner to custody

- (1) When an early release order is suspended or cancelled, the warrant of commitment that relates to the sentence of imprisonment to which the early release order relates is again in force and the prisoner may be arrested and kept in custody under that warrant.
- (2) Despite subsection (1), if an early release order is suspended or cancelled as mentioned in subsection (1), a warrant to have the prisoner arrested and returned to custody may be issued, whenever necessary during the period of the order —
 - (a) by a Supreme Court judge or a District Court judge; or
 - (b) by the Board if it suspended or cancelled the order; or
 - (c) by the CEO if the CEO suspended the order.

- (3) If a warrant under subsection (2) is issued because of the suspension of an early release order, the prisoner may be arrested, whether under that warrant or under the warrant of commitment referred to in subsection (1), at any time during the period of the order.
- (4) Notwithstanding section 65 or 74, if a warrant under subsection (2) is issued because of the cancellation of an early release order, the prisoner may be arrested, whether under that warrant or under the warrant of commitment referred to in subsection (1), at any time —
 - (a) during or after the period of the order; or
 - (b) after the date when, but for the cancellation of the order, the prisoner would have served or be taken to have served the term or terms to which the order relates.

[Section 70 amended by No. 41 of 2006 s. 50.]

[Section 70. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

71. Clean street time counts as time served

- (1) Subject to subsection (2), if an early release order in respect of a prisoner serving a fixed term is cancelled after the prisoner is released under the order —
 - (a) the period beginning on the day when the prisoner was released under the order and ending on the day when the order is cancelled counts as time served in respect of the fixed term; and
 - (b) the period (if any) beginning on the day when the order is cancelled and ending on the day when the prisoner concerned is returned to custody does not count as time served in respect of the fixed term.
- (2) If an early release order in respect of a prisoner serving a fixed term is suspended and, without the suspension ceasing, is subsequently cancelled, then —
 - (a) the period beginning on the day when the prisoner was released under the order and ending on the day when the order is suspended counts as time served in respect of the fixed term;
 - (b) the period (if any) beginning on the day when the order is suspended and ending on the day when the prisoner is

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returned to custody does not count as time served in respect of the fixed term.

- (3) For the purposes of subsection (1), the day when an early release order is cancelled is —
- (a) if it is cancelled by a decision of the Board — the day of the decision; or
 - (b) if it is cancelled by virtue of section 67 —
 - (i) the day when the offence that resulted in the cancellation was committed; or
 - (ii) if the CEO cannot ascertain the day when that offence was committed — the latest day on which that offence could have been committed, as determined by the CEO.
- (4) For the purposes of subsection (2), the day when an early release order is suspended is the day of the decision to suspend the order.

[Section 71 amended by No. 41 of 2006 s. 51.]

Division 4 — Re-release after cancellation

72. Re-release after cancellation of order made by Board

- (1) If an early release order made by the Board —
- (a) is cancelled under section 43, 44 or 63; or
 - (b) is cancelled by virtue of section 67,

then the Board may, subject to Parts 3 and 4, subsequently make another early release order in respect of the prisoner.

- (2) If the subsequent early release order is a parole order, the parole period in it is the period that begins on the day when the prisoner is released and ends when the term ends.

[Section 72 amended by No. 41 of 2006 s. 52.]

73. Re-release after cancellation of parole order made by Governor

- (1) If a parole order made by the Governor is cancelled under section 43 or 44 or by virtue of section 67, the Governor may subsequently make another parole order in respect of the prisoner.

- (2) The parole period in the subsequent parole order is to be set by the Governor and must be at least 6 months, not more than 5 years, and not longer than the parole period of the cancelled parole order.

[Section 73 amended by No. 41 of 2006 s. 53.]

74. Parole period under new parole order deemed to be time served

If —

- (a) for the purposes of section 72 or 73 a parole order is made in respect of a prisoner; and
- (b) the Board does not cancel the parole order under Part 3 Division 10; and
- (c) the prisoner does not commit an offence (in this State or elsewhere) during the parole period for which he or she is sentenced to imprisonment (whether the sentence is imposed during or after the parole period),

then the prisoner is taken to have served the term, or the aggregate of terms, to which the parole order relates.

[Section 74 amended by No. 41 of 2006 s. 54.]

Part 9 — Prisoners Review Board

[Heading inserted by No. 41 of 2006 s. 56.]

102. Board established

- (1) A board called the Prisoners Review Board is established.
- (2) The Board is to be taken to be a continuation of the Parole Board established previously.

[Section 102 inserted by No. 41 of 2006 s. 57.]

103. Membership

- (1) The members of the Board are —
 - (a) a chairperson, to be nominated by the Minister and appointed by the Governor; and
 - (b) at least 2 deputy chairpersons, to be nominated by the Minister and appointed by the Governor; and
 - (c) as many community members as are necessary to deal with the workload of the Board, to be nominated by the Minister and appointed by the Governor; and
 - (d) as many officers of the Public Sector agency of which the CEO is the chief executive officer as are necessary to deal with the workload of the Board, to be appointed by the CEO; and
 - (e) as many police officers as are necessary to deal with the workload of the Board, to be appointed by the Commissioner of Police.
- (2) The Minister must not nominate a person as the chairperson unless —
 - (a) the person —
 - (i) is a judge of the Supreme Court or the District Court; or
 - (ii) is a retired judge of one of those courts;and
 - (b) if paragraph (a)(i) applies to the person, the Minister has consulted the Chief Justice or the Chief Judge of the District Court (as the case may be) about the nomination.
- (3) The Minister must not nominate a person as a deputy chairperson unless the person has, in the Minister's opinion,

extensive or special knowledge of matters involved in the performance of the Board's functions.

- (4) The Minister must not nominate a person as a community member unless the Minister is satisfied —
- (a) that the person is able to make an objective and reasonable assessment of the degree of risk that the release of a prisoner would appear to present to the personal safety of people in the community or of any individual in the community; and
 - (b) that the person has one or more of the following attributes —
 - (i) the person has a knowledge and understanding of the impact of offences on victims;
 - (ii) the person has a knowledge and understanding of Aboriginal culture local to this State;
 - (iii) the person has a knowledge and understanding of a range of cultures among Australians;
 - (iv) the person has a knowledge and understanding of the criminal justice system;
 - (v) the person has a broad experience in a range of community issues such as issues relating to employment, substance abuse, physical or mental illness or disability, or lack of housing, education or training.
- (5) In nominating persons as community members the Minister is to ensure that at all times at least one community member has the attribute mentioned in subsection (4)(b)(i) and at least one community member is an Aboriginal person who has the attribute mentioned in subsection (4)(b)(ii).
- (6) On appointing a member of the Board under subsection (1)(d) or (e), the CEO or the Commissioner of Police, as the case may be, must give written notice of the appointment to —
- (a) the person appointed; and
 - (b) the registrar of the Board.

[Section 103 inserted by No. 41 of 2006 s. 57.]

s. 104

104. Training of members

- (1) The chairperson and deputy chairpersons are responsible for directing the education, training, and professional development of members of the Board.
- (2) The Minister is to ensure that appropriate provision is made for the education, training, and professional development of members of the Board.

[Section 104 inserted by No. 41 of 2006 s. 57.]

104A. Registrar and other staff

- (1) A person is to be appointed as the registrar of the Board.
- (2) The registrar and any other staff of the Board are to be appointed under Part 3 of the *Public Sector Management Act 1994*.

[Section 104A inserted by No. 41 of 2006 s. 57.]

105. Tenure, meetings etc. (Sch. 1)

Schedule 1 has effect in relation to the Board.

106. Functions

- (1) The functions of the Board are set out in this Act.
- (2) The Board may do all things necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions.
- (3) A member of the Board, other than the chairperson, must comply with any relevant public sector standard or code of ethics established under section 21 of the *Public Sector Management Act 1994* when performing functions as a member of the Board.

[Section 106 amended by No. 41 of 2006 s. 58.]

107. Board to have powers of Royal Commission

- (1) For the purpose of carrying out its functions, the Board and its chairperson and members have and may exercise the powers that a Royal Commission and its chairman and commissioners have under the *Royal Commissions Act 1968*.
- (2) The *Royal Commissions Act 1968*, with any necessary changes, has effect in relation to the Board, its chairperson and members.

107A. Board may use experts etc.

The Board may appoint a person with relevant knowledge or experience to assist the Board in relation to a matter within the Board's functions by providing a report, advice or professional services.

[Section 107A inserted by No. 41 of 2006 s. 59.]

107B. Notification of Board's decisions

- (1) The Board must give a prisoner written notice of any decision made under this Act in respect of the person as soon as practicable after the decision is made.
- (2) The Board must give the CEO written notice of any decision made under this Act in respect of a prisoner as soon as practicable after the decision is made.
- (3) Without limiting subsections (1) and (2), they apply —
 - (a) to a decision, whether by the Board or the Governor, not to make an early release order in respect of a prisoner; and
 - (b) to a decision to make a parole order in which the release date is not the day when, under section 23(2) or section 93(1) of the *Sentencing Act 1995*, the prisoner is eligible to be released on parole; and
 - (c) to a decision, whether by the Governor or the Board, to amend, suspend or cancel an early release order; and
 - (d) to a decision by the Board not to make a request under section 13(4) after receiving a report under section 13(3) or not to endorse, with or without variations, a re-socialisation programme received under section 13(4),and, in the case of subsection (1) —
 - (e) to a decision by the CEO to suspend an early release order.
- (4) Subject to section 114, a notice under subsection (1) or (2) must include the reasons for the decision.
- (5) If the decision is a reviewable decision, as that term is defined in section 115A, a notice under subsection (1) must inform the prisoner of the effect of section 115A.

[Section 107B inserted by No. 41 of 2006 s. 59.]

s. 107C

107C. Publication of Board's decisions

- (1) This section operates despite section 119.
- (2) The chairperson of the Board may make public a decision of the Board or the reasons for it if the chairperson considers it is in the public interest to do so having regard to all the circumstances including the interests of the prisoner concerned and the interests of any victim.

[Section 107C inserted by No. 41 of 2006 s. 59.]

108. Orders by Board

- (1) In this section —
authorised person means —
 - (a) the registrar or a member of the Board; or
 - (b) a departmental officer performing the functions of a prescribed office or an office of a prescribed class.
- (2) An order giving effect to a decision made by the Board is to be signed by 2 members of the Board.
- (3) A notice of a decision made by the Board may be signed by an authorised person.
- (4) Despite subsection (2), an authorised person, on behalf of and in the name of the Board, may make a parole order in accordance with guidelines issued by the Board except in respect of a prisoner serving a parole term of at least 2 years for a serious offence.
- (5) The Board may issue guidelines to be observed by authorised persons when making parole orders under subsection (4).

[Section 108 amended by No. 41 of 2006 s. 60.]

109. Board may require prisoner to appear before it

- (1) At any time while a prisoner is subject to a parole order (other than a parole order (unsupervised)) or an RRO, the Board, by order, may require him or her to appear before the Board.
- (2) For the purposes of subsection (1), the Board may issue a warrant to have the prisoner arrested and brought before the Board.
- (3) The powers in this section may be exercised whether or not the Board has amended, suspended, cancelled or otherwise made a decision in relation to the order concerned.

[Section 109 amended by No. 41 of 2006 s. 61.]

110. Issue of warrants by Board

- (1) If this Act empowers the Board to issue a warrant to have a person arrested, it is not necessary for the Board to meet before the warrant is issued.
- (2) A warrant issued by the Board to have a person arrested must be signed by —
 - (a) 2 members of the Board; or
 - (b) the chairperson of the Board if he or she is a judge of the Supreme Court or the District Court.

[Section 110 amended by No. 41 of 2006 s. 62.]

111. Judicial notice of appointment and signature

- (1) Judicial notice must be taken of —
 - (a) the fact that a person is or was a member or the registrar of the Board; and
 - (b) the official signature of such a person.
- (2) Evidence of a parole order, an RRO or a decision made by the Board may be given by producing a copy of the order or decision certified by the registrar of the Board as a true copy.

[Section 111 amended by No. 41 of 2006 s. 63.]

112. Annual report to Minister

Before 1 October in each year, the Board is to give a written report to the Minister on —

- (a) the performance of the Board's functions during the previous financial year;
- (b) the number of prisoners who became eligible to be released under a parole order during the previous financial year;
- (c) the number of prisoners who applied to be released under an RRO during the previous financial year;
- (d) the number of prisoners who were refused an early release order by the Board or the Governor during the previous financial year;
- (e) the number of prisoners released under an early release order by the Board or the Governor during the previous financial year;

s. 113

- (ea) the number of prisoners whose cooperation was considered by the Board for the purposes of section 66B(1)(a) during the previous financial year;
- (eb) the number of prisoners referred to in paragraph (ea) who were released under an early release order by the Board or the Governor during the previous financial year;
- (f) the number of prisoners who completed an early release order during the previous financial year;
- (g) the number of early release orders suspended or cancelled during the previous financial year and the reasons for suspension or cancellation;
- (h) the number of prisoners for whom participation in a re-socialisation programme was approved by the Board or the Governor during the previous financial year;
- (i) the number of prisoners who completed re-socialisation programmes during the previous financial year;
- (j) the operation of this Act and relevant parts of the *Sentencing Act 1995* so far as they relate to early release orders and to the activities of CCOs in relation to those orders during the previous financial year.

[Section 112 inserted by No. 41 of 2006 s. 64; amended by Sentence Administration Amendment Bill 2017 cl. 10.]

113. Special reports to Minister

- (1) The Minister, in writing, may request the Board to report about any specified special matter relating to —
 - (a) the operation of this Act or the *Sentencing Act 1995* so far as it is relevant to the Board; or
 - (b) the performance of any function of the Board.
- (2) If so requested, the Board must provide a written report as soon as practicable.

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Notes

¹ This is a compilation of the *Sentence Administration Act 2003* and includes the amendments made by the other written laws referred to in the following table ^{1M, 1a, 5}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Sentence Administration Act 2003</i>	49 of 2003	9 Jul 2003	s. 1 and 2: 9 Jul 2003; Act other than s. 1 and 2: 31 Aug 2003 (see s. 2 and <i>Gazette</i> 29 Aug 2003 p. 3833)
<i>Criminal Code Amendment Act 2004 s. 5</i>	4 of 2004	23 Apr 2004	21 May 2004 (see s. 2)
<i>Sentencing Legislation Amendment Act 2004 Pt. 2 Div. 2</i>	27 of 2004	14 Oct 2004	31 May 2006 (see s. 2 and <i>Gazette</i> 30 May 2006 p. 1965)
<i>Workers' Compensation Reform Act 2004 s. 174</i>	42 of 2004	9 Nov 2004	4 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7131)
<i>Parole and Sentencing Legislation Amendment Act 2006 Pt. 2⁶</i>	41 of 2006	22 Sep 2006	28 Jan 2007 (see s. 2 and <i>Gazette</i> 29 Dec 2006 p. 5867)
<i>Prisons and Sentencing Legislation Amendment Act 2006 Pt. 3</i>	65 of 2006	8 Dec 2006	4 Apr 2007 (see s. 2 and <i>Gazette</i> 3 Apr 2007 p. 1491)
<i>Financial Legislation Amendment and Repeal Act 2006 s. 6 and Sch. 1 cl. 155</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
Reprint 1: The <i>Sentence Administration Act 2003</i> as at 20 Jul 2007 (includes amendments listed above)			
<i>Fines Legislation Amendment Act 2008 Pt. 4</i>	3 of 2008	12 Mar 2008	28 Mar 2008 (see s. 2(c) and <i>Gazette</i> 27 Mar 2008 p. 899)
<i>Criminal Law Amendment (Homicide) Act 2008 s. 39</i>	29 of 2008	27 Jun 2008	1 Aug 2008 (see s. 2(d) and <i>Gazette</i> 22 Jul 2008 p. 3353)
<i>Public Sector Reform Act 2010 s. 89</i>	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)
Reprint 2: The <i>Sentence Administration Act 2003</i> as at 1 Apr 2011 (includes amendments listed above)			
<i>Sentencing Legislation Amendment Act 2014 Pt. 3</i>	6 of 2014	22 Apr 2014	23 Apr 2014 (see s. 2(b))
<i>Dangerous Sexual Offenders Legislation Amendment Act 2016 Pt. 6</i>	17 of 2016	11 Jul 2016	10 Sep 2016 (see s. 2(b) and <i>Gazette</i> 9 Sep 2016 p. 3871)
<i>Sentencing Legislation Amendment Act 2016 Pt. 2 Div. 1</i>	45 of 2016	7 Dec 2016	8 Dec 2016 (see s. 2(b))
<u><i>Sentence Administration Amendment Bill 2017</i></u>	<u>Current Bill (No. 8-1)</u>		

^{1M} Under the *Cross-border Justice Act 2008* section 14, in order to give effect to that Act, this Act must be applied with the modifications prescribed by the *Cross-border Justice Regulations 2009* Part 3 Division 20 as if this Act had been altered in that way. If a modification is to replace or insert a numbered provision, the new provision is identified by the superscript 1M appearing after the provision number. If a modification is to replace or insert a definition, the new definition is identified by the superscript 1M appearing after the defined term.

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016</i> Pt. 3 Div. 7 ⁷	49 of 2016	29 Nov 2016	1 Jul 2017 (see s. 2(b) and <i>Gazette</i> 7 Feb 2017 p. 1157)
<i>Sentencing Legislation Amendment Act 2016</i> Pt. 3 Div. 2 ⁸	45 of 2016	7 Dec 2016	1 Jul 2017 (see s. 2(c) and <i>Gazette</i> 7 Feb 2017 p. 1159)

⁷ On the date as at which this compilation was prepared, the *Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016* Pt. 3 Div. 7 had not come into operation. It reads as follows:

Part 3 — Consequential amendments to other Acts

Division 7 — *Sentence Administration Act 2003* amended

106. Act amended

This Division amends the *Sentence Administration Act 2003*.

107. Section 4 amended

In section 4(2) delete the definition of *victim* and insert:

victim of an offender or prisoner has the meaning given in section 5D;

108. Section 5A amended

In section 5A(d) delete “an offence for which the prisoner is in custody if the prisoner” and insert:

the prisoner if the prisoner

109. Section 5C amended

In section 5C(1) delete “offence for which a prisoner” and insert:

offender who

110. Section 5D inserted

At the end of Part 2 Division 1 insert:

5D. Term used: victim of an offender or prisoner

(1) In this Act —

victim of an offender or prisoner means —

- (a) a person who has suffered injury, loss or damage as a direct result of an offence committed by the offender or prisoner, whether or not that injury, loss or damage was reasonably foreseeable by the offender or prisoner; or
- (b) where an offence committed by the offender or prisoner resulted in a death, any member of the immediate family of the deceased; or
- (c) a person protected by a family violence restraining order under the *Restraining Orders Act 1997* to which the offender or prisoner is a respondent; or
- (d) a person who can demonstrate, to the satisfaction of the CEO that —
 - (i) the person is the victim of a violent personal offence previously committed by the offender or prisoner; and
 - (ii) the violent personal offence occurred in the context of a family relationship, as defined in the *Restraining Orders Act 1997* section 4, with the offender or prisoner.

violent personal offence means —

- (a) an offence specified in the *Restraining Orders Act 1997* section 63(4AA)(a); or
- (b) a violent personal offence as defined in the *Restraining Orders Act 1997* section 63A(1A).

(2) For the purposes of subsection (1) in the definition of *victim* paragraph (c) or (d), it is irrelevant that the family violence restraining order or the previous violent personal offence, as the case requires, is unrelated to the offence referred to in paragraph (a) or (b) of that definition.

111. Section 30 amended

In section 30(b) delete “an offence committed by the prisoner” and insert:

a prisoner

112. Section 97D amended

Delete section 97D(1).

⁸ On the date as at which this compilation was prepared, the *Sentencing Legislation Amendment Act 2016* Pt. 3 Div. 2 had not come into operation. It reads as follows:

Part 3 — Amendments about parole and post-sentencing supervision

Division 2 — *Sentence Administration Act 2003* amended

21. Act amended

This Division amends the *Sentence Administration Act 2003*.

22. Section 4 amended

(1) In section 4(2) insert in alphabetical order:

post-sentence supervision order means a post-sentence supervision order made under Part 5A;
supervised offender has the meaning given in section 74E(1);

(2) In section 4(3) insert in alphabetical order:

PSSO for post-sentence supervision order;

23. Section 22 amended

In section 22(1)(a) and (b) delete “12” and insert:

6

24. Section 24 deleted

Delete section 24.

25. Part 5A inserted

After section 74 insert:

Part 5A — Post-sentence supervision of certain offenders

74A. Terms used

In this Part —

breach, in relation to a PSSO, means to contravene any obligation or requirement of the order;

cancelled PSSO has the meaning given in section 74K(1);

prisoner means a prisoner who is serving a fixed term for a serious violent offence;

PSSO considerations has the meaning given in section 74B;

PSSO period has the meaning given in section 74E(2);

serious violent offence means —

- (a) an offence specified in Schedule 4; or
- (b) an offence declared under the *Sentencing Act 1995* section 97A(3) to be a serious violent offence.

74B. PSSO considerations

In this Part a reference to the PSSO considerations is a reference to these considerations —

- (a) issues for any victim of a serious violent offence for which the prisoner is in custody, including any matter raised in a victim's submission;
- (b) the behaviour of the prisoner when in custody insofar as it may be relevant to determining how the prisoner is likely to behave if released;
- (c) whether the prisoner has participated in programmes available to the prisoner when in custody, and if not the reasons for not doing so;
- (d) the prisoner's performance when participating in a programme mentioned in paragraph (c);
- (e) the behaviour of the prisoner when subject to any PSSO made previously;
- (f) the likelihood of the prisoner committing a serious violent offence when subject to a PSSO;
- (g) the likelihood of the prisoner complying with the standard obligations and any additional requirements of any PSSO;
- (h) any other matter that is or may be relevant to whether the prisoner should be subject to a PSSO after the prisoner's release.

74C. Reports by CEO to Board about prisoners

- (1) The CEO must give the Board a written report about every prisoner that addresses the PSSO considerations relating to the prisoner.
- (2) The report must be given to the Board no later than 3 months before the end of the prisoner's term.
- (3) This section applies whether or not the prisoner is subject to an early release order.

74D. Board may make PSSO

- (1) Before the end of a prisoner's term, the Board must consider whether a post-sentence supervision order should be made in respect of the prisoner.
- (2) Subsection (1) applies whether or not the prisoner is subject to an early release order.
- (3) If the Board, having regard to —
 - (a) the PSSO considerations relating to the prisoner; and
 - (b) the report made by the CEO under section 74C; and
 - (c) any other information about the prisoner brought to its attention,

decides that it is appropriate to make a post-sentence supervision order in respect of the prisoner, the Board must do so.

74E. Nature of PSSO

- (1) A PSSO is an order that the person specified in the order (the *supervised offender*) must during the PSSO period comply with —
 - (a) the standard obligations in section 74F; and
 - (b) any of the additional requirements in section 74G that are specified in the PSSO.
- (2) Subject to section 74K(2), the *PSSO period* is the period of 2 years beginning on —
 - (a) if the supervised offender is not released on parole — the day on which the offender is released after serving the offender's term; or
 - (b) if the supervised offender is released on parole — the day after the day on which the offender's term ends.

74F. Standard obligations of PSSO

The standard obligations of a PSSO are that the supervised offender —

- (a) must report to a community corrections centre within 72 hours after being released, or as otherwise directed by a CCO; and
- (b) must notify a CCO of any change of address or place of employment within 2 clear working days after the change; and
- (c) must comply with section 76.

74G. Additional requirements of PSSO

A PSSO may contain any of these additional requirements as the Board thinks fit —

- (a) a requirement relating to where the supervised offender must reside;
- (b) requirements relating to the protection of any victim of an offence committed by the supervised offender from coming into contact with the offender;
- (c) a requirement that the supervised offender must wear any device for monitoring purposes;
- (d) a requirement that the supervised offender permit the installation of any device or equipment at the place where the offender resides for monitoring purposes;
- (e) a requirement that, if the CEO so directs, the supervised offender —
 - (i) wear any device for monitoring purposes;
 - (ii) permit the installation of any device or equipment at the place where the offender resides for monitoring purposes;
- (f) a requirement that the supervised offender must not leave Western Australia except with and in accordance with the written permission of the CEO;

- (g) requirements to facilitate the supervised offender's rehabilitation;
- (h) a requirement that the supervised offender must, in each period of 7 days, do the prescribed number of hours of community corrections activities;
- (i) a requirement that the supervised offender must —
 - (i) seek or engage in gainful employment or in vocational training; or
 - (ii) engage in gratuitous work for an organisation approved by the CEO;
- (j) prescribed requirements.

74H. CEO to ensure person subject to PSSO is supervised

The CEO must ensure that a CCO is assigned to supervise a supervised offender for the duration of the PSSO period.

74I. Amendment of PSSO

- (1) The Board may amend a PSSO at any time before the end of the PSSO period.
- (2) If a PSSO is amended, the amended PSSO applies accordingly.

74J. Cancellation of PSSO

- (1) The Board may cancel a PSSO at any time before the commencement of the PSSO period.
- (2) If a supervised offender, during the PSSO period, commits an offence (in this State or elsewhere) and is sentenced to imprisonment for that offence, the PSSO applicable to the supervised offender is cancelled by operation of this section.

74K. Subsequent PSSO after cancellation for committing offence

- (1) If a PSSO is cancelled under section 74J(2) (the *cancelled PSSO*), the Board may subsequently make another PSSO in respect of the prisoner.
- (2) The PSSO period in the subsequent PSSO is to be set by the Board but —
 - (a) must begin on the day when the prisoner is released; and
 - (b) must not be longer than the remaining PSSO period of the cancelled PSSO.
- (3) Subsection (2) does not apply if the offence by virtue of which the PSSO is cancelled under section 74J(2) is a serious violent offence.

74L. Offence for breach of PSSO

A supervised offender who breaches a PSSO, without reasonable excuse (proof of which is on the offender), commits a crime.

Penalty: imprisonment for 3 years.

Summary conviction penalty: a fine of \$18 000 and imprisonment for 18 months.

26. Section 75 amended

In section 75 in the definition of *community corrections order* delete “RRO” and insert:

RRO, a PSSO

27. Section 77 amended

After section 77(c) insert:

- (ca) if the offender is subject to a PSSO, report the matter to the CEO and recommend that the offender be charged with an offence under section 74L; or

28. Section 78 amended

- (1) In section 78(1) in the definition of *minimum hours requirement* paragraph (b) delete “order or an RRO —” and insert:

order, an RRO or a PSSO —

- (2) In section 78(2)(c) delete “order —” and insert:

order or a PSSO —

- (3) In section 78(3) delete “order.” and insert:

order or a PSSO.

29. Section 83 amended

In section 83 in the definition of *community corrections order* delete “RRO” and insert:

RRO, a PSSO

30. Section 94 amended

In section 94(1)(a) delete “RROs” and insert:

RROs, PSSOs

31. Section 107B amended

- (1) In section 107B(1) and (2) after “prisoner” insert:

or supervised offender

- (2) After section 107B(3)(c) insert:
- (ca) to a decision by the Board to make, amend or cancel a PSSO; and

32. Section 107C amended

In section 107C(2) after “prisoner” insert:

or the supervised offender

33. Section 109 amended

- (1) In section 109(1) delete “prisoner is subject to a parole order (other than a parole order (unsupervised)) or an RRO,” and insert:

person is subject to a parole order (other than a parole order (unsupervised)), an RRO or a PSSO,

- (2) In section 109(2) delete “prisoner” and insert:

person

Note: The heading to amended section 109 is to read:
Board may require person to appear before it

34. Section 111 amended

In section 111(2) delete “RRO” and insert:

RRO, a PSSO

35. Section 112 amended

In section 112:

- (a) after paragraph (g) insert:

- (ga) the number of prisoners who were the subject of a report under section 74C during the previous financial year;
(gb) the number of persons released subject to PSSOs during the previous financial year;

- (b) in paragraph (j) after “orders” (1st occurrence) insert:

and PSSOs

36. Section 114 amended

In section 114(2) after “prisoner” (each occurrence) insert:

or supervised offender

37. Section 115A amended

After section 115A(2)(d) insert:

(da) by the Board to make a PSSO; or

38. Part 11 heading amended

In the heading to Part 11 (as inserted by section 14 of this Act)

delete “**for *Sentencing Legislation Amendment Act 2016 Part 2***”.

39. Part 11 Division 1 heading inserted

After the heading to Part 11 (as inserted by section 14 of this Act) insert:

Division 1 — Provisions for the *Sentencing Legislation Amendment Act 2016 Part 2*

40. Section 123 amended

In section 123 (as inserted by section 14 of this Act) delete “Part” and insert:

Division

41. Section 127 amended

In section 127 (as inserted by section 14 of this Act) delete “Part” and insert:

Division

42. Section 128 amended

In section 128 (as inserted by section 14 of this Act) delete “Part” and insert:

Division

43. **Part 11 Division 2 inserted**

After section 128 (as inserted by section 14 of this Act) insert:

Division 2 — Provisions for the *Sentencing Legislation Amendment Act 2016* Part 3 Division 2

129. **Continued application of former Part 3 Division 4**

(1) In this section —

commencement day means the day on which the *Sentencing Legislation Amendment Act 2016* section 23 comes into operation;
former Division means Part 3 Division 4 as in force immediately before commencement day.

(2) If the former Division applied to a prisoner immediately before commencement day then on and after that day the former Division continues to apply to and in relation to the prisoner as if the *Sentencing Legislation Amendment Act 2016* section 23 had not come into operation.

44. **Schedule 4 inserted**

After Schedule 3 (as inserted by section 15 of this Act) insert:

Schedule 4 — Serious violent offences

[s. 74A]

Enactment	Description of offence
1. <i>The Criminal Code</i>	
s. 279	Murder
s. 280	Manslaughter
s. 281	Unlawful assault causing death
s. 283	Attempt to unlawfully kill
s. 294	Act intended to cause grievous bodily harm or prevent arrest
s. 297	Grievous bodily harm
s. 320	Sexual offences against child under 13
s. 321	Sexual offences against child of or over 13 and under 16
s. 324	Aggravated indecent assault

Enactment	Description of offence
s. 325	Sexual penetration without consent
s. 326	Aggravated sexual penetration without consent
s. 327	Sexual coercion
s. 328	Aggravated sexual coercion
s. 330	Sexual offences against incapable person
s. 392	Robbery, if the offence is committed in circumstances described in s. 392(c) or in circumstances of aggravation
s. 444(1)	Criminal damage, if the offence is committed in circumstances described in s. 444(1)(a)
s. 445A	Breach of s. 444A duty
2. <i>Bush Fires Act 1954</i>	
s. 32(2)	Offences of lighting or attempting to light fire likely to injure
3. <i>Road Traffic Act 1974</i>	
s. 59	Dangerous driving causing death or grievous bodily harm

