

Crimes (Serious Sex Offenders) Bill 2006

Explanatory note

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

Overview of Bill

The object of this Bill is to provide for the supervision and detention of serious sex offenders.

Outline of provisions

Part 1 Preliminary

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

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 sets out the objects of the proposed Act, which are to provide for the extended supervision and continuing detention of serious sex offenders so as to ensure the safety and protection of the community and to facilitate the rehabilitation of such offenders.

Clause 4 defines certain words and expressions used in the proposed Act.

Clause 5 defines the expressions *serious sex offence* and *offence of a sexual nature* for the purposes of the proposed Act.

Part 2 Extended supervision orders

Clause 6 enables the Attorney General to apply to the Supreme Court for an extended supervision order against a sex offender who is currently in custody while serving a sentence of imprisonment for a sex offence, or while under supervision pursuant to an existing extended supervision order or continuing detention order. Such an application may not be made until the last 6 months of the offender's current custody or supervision, and must be supported by specified documentation.

Clause 7 requires an application to be served on a sex offender within 2 business days after it is filed, for a preliminary hearing to be conducted within 28 days after it is filed and for a decision to be made as to whether or not there is a case against the offender. If there is, the Supreme Court is to make an order for a psychiatric examination of the offender. If there is not, the application is to be dismissed. There must be full disclosure to the offender of all relevant material available to the Attorney General.

Clause 8 enables the Supreme Court to make an interim supervision order so that an offender can be kept under supervision pending the determination of an application under proposed section 6. Such an order may have effect for up to 28 days, but the total period for which an offender can be kept under interim supervision is 3 months.

Clause 9 provides that the Supreme Court may make an extended supervision order if it is satisfied, to a high degree of probability, that the offender is likely to commit a further serious sex offence if he or she is not kept under supervision. The clause specifies certain matters to which the Supreme Court must have regard.

Clause 10 provides that the maximum term for an extended supervision order is 5 years.

Clause 11 specifies the kinds of conditions that can be imposed on a supervision order.

Clause 12 makes it an offence (punishable by a fine of 100 penalty units or imprisonment for 2 years, or both) for a person to fail to comply with the requirements of a supervision order.

Clause 13 enables the Supreme Court to vary or revoke a supervision order, and requires the Commissioner of Corrective Services to provide the Attorney General with annual reports on each sex offender so as to enable the Attorney General to decide whether or not to apply for such a variation or revocation.

Part 3 Continuing detention orders

Clause 14 enables the Attorney General to apply to the Supreme Court for a continuing detention order against a sex offender who is currently in custody in a correctional centre while serving a sentence of imprisonment by way of full-time detention for a sex offence or pursuant to a continuing detention order. Such an application may not be made until the last 6 months of the offender's current custody, and must be supported by specified documentation.

Clause 15 requires an application to be served on a sex offender within 2 business days after it is filed, for a preliminary hearing to be conducted within 28 days after it is filed and for a decision to be made as to whether or not there is a case against the offender. If there is, the Supreme Court is to make an order for a psychiatric examination of the offender. If there is not, the application is to be dismissed. There must be full disclosure to the offender of all relevant material available to the Attorney General.

Clause 16 enables the Supreme Court to make an interim detention order so that an offender can be kept in custody pending the determination of an application under proposed section 14. Such an order may have effect for up to 28 days, but the total period for which an offender can be kept in interim custody is 3 months.

Clause 17 provides that the Supreme Court may make an extended supervision order or continuing detention order if it is satisfied, to a high degree of probability, that the offender is likely to commit a further serious sex offence if he or she is not kept under supervision, but that a continuing detention order is not to be made unless it is satisfied that an extended supervision order would not provide adequate supervision. The clause specifies certain matters to which the Supreme Court must have regard.

Clause 18 provides that the maximum term for a continuing detention order is 5 years.

Clause 19 enables the Supreme Court to vary or revoke a detention order, and requires the Commissioner of Corrective Services to provide the Attorney General with annual reports on each sex offender so as to enable the Attorney General to decide whether or not to apply for such a variation or revocation.

Clause 20 enables the Supreme Court to issue a warrant of committal to give effect to a detention order.

Part 4 Supreme Court proceedings

Clause 21 provides that proceedings under the proposed Act are civil proceedings, to be conducted in accordance with the law relating to civil proceedings.

Clause 22 enables an appeal to be made to the Court of Appeal against any determination made by the Supreme Court under the proposed Act.

Clause 23 provides that no order for costs may be made against a sex offender in relation to proceedings under the proposed Act.

Clause 24 preserves the jurisdiction of the Supreme Court apart from the proposed Act.

Part 5 Miscellaneous

Clause 25 empowers the Attorney General to require any person to provide him or her with any document, report or other information concerning the behaviour, or physical or mental condition, of any sex offender. It will be an offence (punishable by a fine of 100 penalty units or imprisonment for 2 years, or both) for a person to fail to comply with the requirements of such an order. Any document or report so provided will be admissible in proceedings under the proposed Act, despite any Act or law to the contrary.

Clause 26 protects certain persons (including the State) from liability for acts and omissions that are done or omitted to be done in connection with the administration of the proposed Act.

Clause 27 provides that the proposed Act does not affect the right of any party to proceedings under the proposed Act to appear, to examine or cross-examine witnesses or to make submissions in proceedings under the proposed Act.

Clause 28 provides that the *Bail Act 1978* does not apply to a person who is a defendant to proceedings under the proposed Act, other than proceedings for an offence under proposed section 12 or 25.

Clause 29 enables rules of court under the *Supreme Court Act 1970* to be made in relation to proceedings under the proposed Act.

Clause 30 enables regulations to be made under the proposed Act.

Clause 31 is a formal provision that gives effect to a Schedule of amendments to the *Crimes (Administration of Sentences) Act 1999* (Schedule 1) and to a Schedule of savings and transitional provisions (Schedule 2).

Clause 32 provides for the review of the proposed Act at the end of 3 years from the date of assent.

Schedule 1 Amendment of Crimes (Administration of Sentences) Act 1999 No 93

Schedule 1 amends the *Crimes (Administration of Sentences) Act 1999* so as:

(a) to provide that a sex offender to whom a continuing detention order applies is a convicted inmate for the purposes of that Act (items [1], [2] and [3]), and

(b) to provide that an offender is not eligible for release on parole if he or she is the subject of a continuing detention order under the proposed Act (item [4]),
and

(c) to deem an offender's obligations under an extended supervision order, in the case of an offender on parole, to be obligations under a parole order (item [5]).

Schedule 2 Savings, transitional and other provisions

Schedule 2 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.