

Crimes Legislation Amendment (Parole) Bill 2003

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to provide that if a court makes a parole order under the *Crimes (Sentencing Procedure) Act 1999* and it does not impose conditions requiring the offender to be subject to supervision, the parole order will be taken to include such conditions unless the court expressly states otherwise,
- (b) to provide that if the Parole Board makes a decision under the *Crimes (Administration of Sentences) Act 1999* to release an offender on parole, it will be required to record its reasons for its decision,
- (c) to provide that a warrant issued by the Parole Board under section 181 of that Act to commit an offender to a correctional centre must be signed by a judicial member of the Board only and not by the Secretary of the Board,
- (d) to allow for the membership of the Parole Board to be increased from the current maximum of 22 while ensuring that at least 4 are to be judicial members,
- (e) to make other amendments of a minor or consequential nature.

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Crimes (Sentencing Procedure) Act 1999* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Crimes (Administration of Sentences) Act 1999* set out in Schedule 2.

Clause 5 is a formal provision that gives effect to the amendment to the *Crimes (Sentencing Procedure) Regulation 2000* set out in Schedule 3.

Schedule 1 Amendment of Crimes (Sentencing Procedure) Act 1999

Under section 50 of the Act, when a court imposes a sentence of imprisonment for a term of 3 years or less and sets a non-parole period, the court must make an order directing the release of the offender on parole at the end of the non-parole period. Section 51 of the Act allows the court to impose conditions on any parole order that it makes (including conditions requiring that the offender be subject to supervision).

Schedule 1 [1] provides that if the court does not impose conditions in relation to the supervision of the offender when it makes a parole order, the parole order will be taken to include conditions that the offender be subject to supervision unless the court expressly states that the offender is not to be subject to supervision.

Schedule 1 [2] and [3] are consequential amendments.

Schedule 1 [4] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [5] provides that the amendment made by Schedule 1 [1] does not apply to any existing parole order.

Schedule 2 Amendment of Crimes (Administration of Sentences) Act 1999

Schedule 2 [1] is consequential on the amendment made by Schedule 1 [1]. At present under Part 6 of the Act, the Parole Board is required to record its reasons for making a parole decision only when it decides that an offender should not be released on parole.

Schedule 2 [2] provides that the Parole Board will also be required to record its reasons when it decides that an offender should be released on parole under that Part.

Schedule 2 [3] is a consequential amendment.

Schedule 2 [4] provides that the Parole Board will also be required to record its reasons for rescinding, under section 175 of the Act, the revocation of a periodic detention order, home detention order or parole order. At present under section 183 of the Act, the Parole Board consists of at least 10, but not more than 22, members.

Schedule 2 [7] removes the existing upper and lower limits as to the number of members so long as at least 4 of the members are judicial members, at least one is a police officer, at least one is an officer of the Probation and Parole Service and at least 10 are community members.

Schedule 2 [8] provides for the appointment (from those persons who are appointed as judicial members of the Parole Board) of more than one Deputy Chairperson of the Board.

Schedule 2 [5] and [9]–[14] are consequential amendments.

Section 181 of the Act provides that the Parole Board may issue a warrant committing an offender to a correctional centre in certain circumstances (eg if the Parole Board revokes a periodic detention order, home detention order or parole order in respect of the offender). Such a warrant is to be signed by a judicial member of the Parole Board or by the Secretary of the Board.

Schedule 2 [6] removes the capacity for the warrant to be signed by the Secretary.

Schedule 2 [15] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 2 [16] makes it clear the changes relating to the membership of the Parole Board do not affect any existing appointments.

Schedule 3 Amendment of Crimes (Sentencing Procedure) Regulation 2000

Schedule 3 **consequentially amends the form that is used when a court makes an order for unsupervised parole. As a result of the amendment made by Schedule 1 [1], the court is required to expressly state that an offender is not to be subject to supervision if the court intends to provide for unsupervised parole.**