

Passed by both Houses



New South Wales

Crimes Legislation Amendment (Parole) Bill 2003

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2003

Clerk of the Parliaments



New South Wales

Crimes Legislation Amendment (Parole) Bill 2003

Act No , 2003

An Act to amend the *Crimes (Sentencing Procedure) Act 1999* to make further provision for the inclusion of parole supervision conditions in parole orders made by the courts; to amend the *Crimes (Administration of Sentences) Act 1999* to provide that the Parole Board is required to record its reasons for releasing offenders on parole and to make further provision with respect to the constitution of the Parole Board; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Legislation Amendment (Parole) Act 2003*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92

The *Crimes (Sentencing Procedure) Act 1999* is amended as set out in Schedule 1.

4 Amendment of Crimes (Administration of Sentences) Act 1999 No 93

The *Crimes (Administration of Sentences) Act 1999* is amended as set out in Schedule 2.

5 Amendment of Crimes (Sentencing Procedure) Regulation 2000

The *Crimes (Sentencing Procedure) Regulation 2000* is amended as set out in Schedule 3.

Schedule 1 Amendment of Crimes (Sentencing Procedure) Act 1999

(Section 3)

[1] Section 51 Conditions on parole orders

Insert after section 51 (1A):

- (1AA) If, in making a parole order, the court does not impose any such conditions in relation to the supervision of the offender, the parole order is, unless the court expressly states that the offender is not to be subject to supervision, taken to include conditions requiring that the offender be subject to supervision prescribed by the regulations under the *Crimes (Administration of Sentences) Act 1999* while released on parole.

[2] Section 51 (1B)

Omit “subsection (1A)”. Insert instead “subsections (1A) and (1AA)”.

[3] Section 51 (1B) (a)

Omit “may not”. Insert instead “are not to”.

[4] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Crimes Legislation Amendment (Parole) Act 2003, to the extent that it amends this Act

[5] Schedule 2, Part 10

Insert after Part 9:

Part 10 Provisions consequent on enactment of Crimes Legislation Amendment (Parole) Act 2003

50 Application of section 51 (1AA)

Section 51 (1AA), as inserted by the *Crimes Legislation Amendment (Parole) Act 2003*, does not apply to any parole order made by a court under section 50 before the commencement of that subsection.

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

(Section 4)

[1] Section 128 Conditions governing parole

Insert “(including any conditions that are, under section 51 (1AA) of the *Crimes (Sentencing Procedure) Act 1999*, taken to be included in the order)” after “court” in section 128 (1) (b).

[2] Section 131A

Insert after section 131:

131A Reasons for parole decisions

- (1) If the Parole Board makes a decision under this Part:
 - (a) that an offender should be released on parole, or
 - (b) that an offender should not be released on parole,the Parole Board must cause the reasons for its decision to be recorded in its minutes.
- (2) In giving those reasons, the Parole Board must, in the case of a decision made under Division 2, have regard to the following:
 - (a) the principle and matters referred to in section 135 and, if the decision relates to a serious offender to whom section 154 applies, the matters referred to in that section,
 - (b) such other matters that the Parole Board is, under this Act or the regulations, required to take into account in making the decision.

[3] Sections 141 (4) (a), 149 (4) (a) and 150 (4) (a)

Omit the paragraphs.

[4] Section 175 Decision after review

Insert after section 175 (4):

- (5) If the Parole Board rescinds the revocation of the periodic detention order, home detention order or parole order concerned, the Parole Board must cause the reasons for its decision to be recorded in its minutes.

[5] Section 180 Offenders to attend Parole Board when called on

Omit “the Chairperson, Alternate Chairperson, Deputy Chairperson or” from section 180 (2) (a).

Insert instead “a judicial member of the Parole Board (as referred to in section 183 (2) (a)) or the”.

[6] Section 181 Warrants committing offenders to correctional centres

Omit section 181 (2). Insert instead:

- (2) A warrant under this section is to be signed by a judicial member of the Parole Board as referred to in section 183 (2) (a).

[7] Section 183 Constitution of Parole Board

Omit section 183 (2). Insert instead:

- (2) The Parole Board is to consist of the following members:
 - (a) at least 4 (referred to as *judicial members*) are to be judicially qualified persons appointed by the Governor,
 - (b) at least one is to be a police officer appointed by the Commissioner of Police,
 - (c) at least one is to be an officer of the Probation and Parole Service appointed by the Commissioner of Corrective Services,
 - (d) one is to be the Secretary of the Parole Board,
 - (e) at least 10 (referred to as *community members*) are to be persons, appointed by the Governor, who reflect as closely as possible the composition of the community at large.

[8] Schedule 1 Parole Board

Omit clause 1 (1). Insert instead:

- (1) A person who is appointed as a judicial member of the Parole Board is, in and by the instrument by which the person is so appointed (or such other instrument as may be executed by the Governor), to be appointed as:
 - (a) the Chairperson of the Parole Board, or

- (b) the Alternate Chairperson of the Parole Board, or
- (c) a Deputy Chairperson of the Parole Board.

[9] Schedule 1, clause 2 (2)

Omit “the Deputy Chairperson”.

Insert instead “a Deputy Chairperson designated by the Chairperson”.

[10] Schedule 1, clause 2 (3)

Omit “the Deputy Chairperson” wherever occurring.

Insert instead “a Deputy Chairperson”.

[11] Schedule 1, clause 2 (6) (a)

Omit “the Chairperson, Alternate Chairperson or Deputy Chairperson”.

Insert instead “the judicial member concerned”.

[12] Schedule 1, clause 2 (6) (b)

Insert “a” before “Deputy Chairperson” where firstly occurring.

[13] Schedule 1, clause 14A

Insert after clause 14:

14A Attendance of official members

- (1) For the purposes of any meeting of the Parole Board:
 - (a) not more than one police officer, and
 - (b) not more than one officer of the Probation and Parole Service,may attend for the purposes of constituting the Parole Board.
- (2) Despite subclause (1), the Chairperson may convene up to 6 meetings a year of the Parole Board at which all official members may attend.

[14] Schedule 1, clause 16

Omit “or Deputy Chairperson” wherever occurring.

Insert instead “or a Deputy Chairperson”.

[15] Schedule 5 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Crimes Legislation Amendment (Parole) Act 2003, to the extent that it amends this Act

[16] Schedule 5

Insert in appropriate order with appropriate Part and clause numbers:

**Part Provisions consequent on enactment of
Crimes Legislation Amendment (Parole)
Act 2003**

Constitution of Parole Board

The substitution of section 183 (2) of this Act by the *Crimes Legislation Amendment (Parole) Act 2003* does not affect the appointment of a person as a member of the Parole Board if the appointment was in force immediately before the substitution of that subsection.

Judicial members of Parole Board

The substitution of clause 1 (1) of Schedule 1 to this Act by the *Crimes Legislation Amendment (Parole) Act 2003* does not affect a judicial member's appointment as Chairperson, Alternate Chairperson or Deputy Chairperson, respectively, of the Parole Board if the appointment was in force immediately before the substitution of that subclause.

Schedule 3 Amendment of Crimes (Sentencing Procedure) Regulation 2000

(Section 5)

Schedule 1 Forms

Insert before item 1 in Form 2:

In making this parole order, the Court has expressly stated that this offender is not to be subject to supervision while released on parole