

**PERIODIC DETENTION OF PRISONERS (AMENDMENT) BILL,  
1985**

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**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Periodic Detention of Prisoners Act, 1981, so as—

- (a) to provide that, where a periodic detainee does not serve a weekly detention period in certain circumstances (for example, where leave of absence has been granted for health reasons) and the detainee is not entitled to any remission of sentence, the detainee's periodic detention shall be extended by 1 week (Schedule 1 (10) (a), (b)); and
- (b) to enable the Corrective Services Commission to exempt, for health reasons or on compassionate grounds, a periodic detainee from serving the detainee's remaining detention periods where it is satisfied that the detainee is unlikely to be able to serve those periods within a reasonable time (Schedule 1 (10) (c)).

The Bill also contains other provisions of a minor, consequential or ancillary nature.

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**PERIODIC DETENTION OF PRISONERS (AMENDMENT) BILL,  
1985**

No. , 1985.

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**A BILL FOR**

An Act to amend the Periodic Detention of Prisoners Act, 1981, in relation to the service of detention periods where a periodic detainee is granted leave of absence and in certain other circumstances.

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*Periodic Detention of Prisoners (Amendment) 1985*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**5 Short title.**

1. This Act may be cited as the "Periodic Detention of Prisoners (Amendment) Act, 1985".

**Commencement.**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

10 (2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**Amendment of Act No. 18, 1981.**

3. The Periodic Detention of Prisoners Act, 1981, is amended in the 15 manner set forth in Schedule 1.

**Savings.**

4. The amendments made by this Act do not apply to or in respect of a term of imprisonment ordered to be served by way of periodic detention before the day appointed and notified under section 2 (2).

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*Periodic Detention of Prisoners (Amendment) 1985*

## SCHEDULE 1.

(Sec. 3.)

## AMENDMENTS TO THE PERIODIC DETENTION OF PRISONERS ACT, 1981.

(1) (a) Section 4 (1), definition of "detention period"—

5 In paragraph (a), after "person", insert "or during any term by which the person's periodic detention has been extended by the operation of section 21 (1) or (2)".

(b) Section 4 (1), definition of "periodic detention"—

After "means", insert ", subject to section 21 (1) and (2),".

10 (2) Section 5 (7)—

After section 5 (6), insert:—

15 (7) Subject to this Act, an order for periodic detention remains in force until all the detention periods required to be served under the order or during any term by which the periodic detention has been extended by the operation of section 21 (1) or (2) have been served.

(3) Section 7 (1) (b)—

Omit "his sentence", insert instead "the person's sentence and during any term by which the person's periodic detention may be extended by the operation of section 21 (1) or (2)".

20 (4) Section 9 (2)—

Omit "his sentence", insert instead "the periodic detainee's sentence and during any term by which the periodic detainee's periodic detention has been extended by the operation of section 21 (1) or (2)".

25 (5) Section 10 (1)—

Omit "he is serving his sentence", insert instead "the periodic detainee is serving any term of periodic detention".



*Periodic Detention of Prisoners (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PERIODIC DETENTION OF PRISONERS ACT, 1981—  
*continued.*

(6) (a) Section 11—

5 Omit “unexpired portion of his sentence” where firstly occurring, insert instead “periodic detainee’s term of periodic detention”.

(b) Section 11—

Omit “the unexpired portion of his sentence” where secondly occurring, insert instead “that term”.

10 (7) Section 12 (1), (3)—

Omit “his sentence” wherever occurring, insert instead “the periodic detainee’s sentence and during any term by which the periodic detainee’s periodic detention has been extended by the operation of section 21 (1) or (2)”.

15 (8) Section 13 (1)—

Omit “his sentence”, insert instead “the periodic detainee’s sentence or any term by which the periodic detainee’s periodic detention has been extended by the operation of section 21 (1) or (2)”.

(9) Section 14 (a)—

20 Omit “unexpired portion of his sentence”, insert instead “periodic detainee’s term of periodic detention”.

(10) (a) Section 21 (1)—

25 Omit “the leave, he shall forfeit 1 week of any remission of sentence to which he may otherwise be entitled under section 19.”, insert instead:—

the leave—

(a) any remission of sentence to which the periodic detainee may otherwise be entitled under section 19 is, by this subsection, reduced by 1 week; or

*Periodic Detention of Prisoners (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PERIODIC DETENTION OF PRISONERS ACT, 1981—  
*continued.*

5 (b) where the periodic detainee is not entitled to any remission of sentence under section 19—the periodic detention which the periodic detainee is required by this Act to serve is, by this subsection, extended by 1 week.

(b) Section 21 (2)—

10 Omit “he shall forfeit 1 week of any remission of sentence to which he may otherwise be entitled under section 19”, insert instead “any remission of sentence to which the periodic detainee may otherwise be entitled under section 19 is, by this subsection, reduced by 1 week or, where the periodic detainee is not entitled to any remission of sentence under section 19, the periodic  
15 detention which the periodic detainee is required by this Act to serve is, by this subsection, extended by 1 week”.

(c) Section 21 (4)–(7)—

After section 21 (3), insert:—

20 (4) The Commission may, for health reasons or on compassionate grounds, order that a detention period or a number of detention periods remaining to be served by a periodic detainee be regarded as served for the purposes of this Act where it is satisfied that the periodic detainee is unlikely to be able to serve the detention period or detention periods within such time as  
25 is, in the opinion of the Commission, a reasonable time.

(5) The Commission shall, in determining what is a reasonable time for the purposes of subsection (4) in respect of a periodic detainee, have regard to the number of detention periods remaining to be served by the periodic detainee and the likely duration of the period during which the periodic detainee  
30 will be unable to serve periodic detention.



*Periodic Detention of Prisoners (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PERIODIC DETENTION OF PRISONERS ACT, 1981—  
*continued.*

5 (6) A periodic detainee shall be deemed to have served in  
prison a detention period in respect of which an order has been  
made under subsection (4).

10 (7) The warrant issued under section 6 in respect of a  
periodic detainee shall be sufficient warrant for the detention of  
the periodic detainee for the purpose of serving a detention  
period during any period by which the periodic detainee's  
periodic detention is extended under subsection (1) or (2).

(11) Section 28 (a)—

15 Omit "his sentence", insert instead "the periodic detainee's sentence  
or any term by which the periodic detainee's periodic detention has  
been extended by the operation of section 21 (1) or (2)".

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985



**PERIODIC DETENTION OF PRISONERS (AMENDMENT)  
ACT, 1985, No. 17**

*New South Wales*



ANNO TRICESIMO QUARTO

**ELIZABETHÆ II REGINÆ**

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**Act No. 17, 1985.**

An Act to amend the Periodic Detention of Prisoners Act, 1981, in relation to the service of detention periods where a periodic detainee is granted leave of absence and in certain other circumstances. [Assented to, 29th March, 1985.]

*Periodic Detention of Prisoners (Amendment) 1985*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**Short title.**

1. This Act may be cited as the "Periodic Detention of Prisoners (Amendment) Act, 1985".

**Commencement.**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**Amendment of Act No. 18, 1981.**

3. The Periodic Detention of Prisoners Act, 1981, is amended in the manner set forth in Schedule 1.

**Savings.**

4. The amendments made by this Act do not apply to or in respect of a term of imprisonment ordered to be served by way of periodic detention before the day appointed and notified under section 2 (2).

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*Periodic Detention of Prisoners (Amendment) 1985*

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## SCHEDULE 1.

(Sec. 3.)

## AMENDMENTS TO THE PERIODIC DETENTION OF PRISONERS ACT, 1981.

## (1) (a) Section 4 (1), definition of "detention period"—

In paragraph (a), after "person", insert "or during any term by which the person's periodic detention has been extended by the operation of section 21 (1) or (2)".

## (b) Section 4 (1), definition of "periodic detention"—

After "means", insert ", subject to section 21 (1) and (2),".

## (2) Section 5 (7)—

After section 5 (6), insert:—

(7) Subject to this Act, an order for periodic detention remains in force until all the detention periods required to be served under the order or during any term by which the periodic detention has been extended by the operation of section 21 (1) or (2) have been served.

## (3) Section 7 (1) (b)—

Omit "his sentence", insert instead "the person's sentence and during any term by which the person's periodic detention may be extended by the operation of section 21 (1) or (2)".

## (4) Section 9 (2)—

Omit "his sentence", insert instead "the periodic detainee's sentence and during any term by which the periodic detainee's periodic detention has been extended by the operation of section 21 (1) or (2)".

## (5) Section 10 (1)—

Omit "he is serving his sentence", insert instead "the periodic detainee is serving any term of periodic detention".



*Periodic Detention of Prisoners (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PERIODIC DETENTION OF PRISONERS ACT, 1981—  
*continued.*

(6) (a) Section 11—

Omit “unexpired portion of his sentence” where firstly occurring, insert instead “periodic detainee’s term of periodic detention”.

(b) Section 11—

Omit “the unexpired portion of his sentence” where secondly occurring, insert instead “that term”.

(7) Section 12 (1), (3)—

Omit “his sentence” wherever occurring, insert instead “the periodic detainee’s sentence and during any term by which the periodic detainee’s periodic detention has been extended by the operation of section 21 (1) or (2)”.

(8) Section 13 (1)—

Omit “his sentence”, insert instead “the periodic detainee’s sentence or any term by which the periodic detainee’s periodic detention has been extended by the operation of section 21 (1) or (2)”.

(9) Section 14 (a)—

Omit “unexpired portion of his sentence”, insert instead “periodic detainee’s term of periodic detention”.

(10) (a) Section 21 (1)—

Omit “the leave, he shall forfeit 1 week of any remission of sentence to which he may otherwise be entitled under section 19.”, insert instead:—

the leave—

- (a) any remission of sentence to which the periodic detainee may otherwise be entitled under section 19 is, by this subsection, reduced by 1 week; or

*Periodic Detention of Prisoners (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PERIODIC DETENTION OF PRISONERS ACT, 1981—  
*continued.*

(b) where the periodic detainee is not entitled to any remission of sentence under section 19—the periodic detention which the periodic detainee is required by this Act to serve is, by this subsection, extended by 1 week.

(b) Section 21 (2)—

Omit “he shall forfeit 1 week of any remission of sentence to which he may otherwise be entitled under section 19”, insert instead “any remission of sentence to which the periodic detainee may otherwise be entitled under section 19 is, by this subsection, reduced by 1 week or, where the periodic detainee is not entitled to any remission of sentence under section 19, the periodic detention which the periodic detainee is required by this Act to serve is, by this subsection, extended by 1 week”.

(c) Section 21 (4)–(7)—

After section 21 (3), insert:—

(4) The Commission may, for health reasons or on compassionate grounds, order that a detention period or a number of detention periods remaining to be served by a periodic detainee be regarded as served for the purposes of this Act where it is satisfied that the periodic detainee is unlikely to be able to serve the detention period or detention periods within such time as is, in the opinion of the Commission, a reasonable time.

(5) The Commission shall, in determining what is a reasonable time for the purposes of subsection (4) in respect of a periodic detainee, have regard to the number of detention periods remaining to be served by the periodic detainee and the likely duration of the period during which the periodic detainee will be unable to serve periodic detention.

*Periodic Detention of Prisoners (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PERIODIC DETENTION OF PRISONERS ACT, 1981—  
*continued.*

(6) A periodic detainee shall be deemed to have served in prison a detention period in respect of which an order has been made under subsection (4).

(7) The warrant issued under section 6 in respect of a periodic detainee shall be sufficient warrant for the detention of the periodic detainee for the purpose of serving a detention period during any period by which the periodic detainee's periodic detention is extended under subsection (1) or (2).

(11) Section 28 (a)—

Omit "his sentence", insert instead "the periodic detainee's sentence or any term by which the periodic detainee's periodic detention has been extended by the operation of section 21 (1) or (2)".

*In the name and on behalf of Her Majesty I assent to this Act.*

J. A. ROWLAND,  
*Governor.*

*Government House,  
Sydney, 29th March, 1985.*





