

2001

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health, Housing and Community Services)

Rehabilitation of Offenders (Interim) Bill 2001

Contents

	Page	
Chapter 1	Preliminary	
1	Name of Act	2
2	Commencement	2
3	Dictionary	2
4	Notes	3
5	Meaning of <i>subject</i> to imprisonment etc	3
Chapter 2	Home detention orders	
Part 2.1	Making home detention orders	
6	Imprisonment by way of home detention	4

2001 091B

		Page
7	Remand by way of home detention	5
Part 2.2	Procedures for making home detention orders	
Division 2.2.1	General	
8	Application of pt 2.2	6
Division 2.2.2	Restrictions on making home detention orders	
9	Home detention not available for offenders for certain offences	6
10	Home detention not available for sentenced offenders or remandees with certain history	8
11	Suitability of sentenced offenders and remandees for home detention	9
Division 2.2.3	Assessment reports	
12	Referral of sentenced offender or remandee for assessment	11
13	Assessment of suitability for home detention	11
14	Obtaining information etc for assessment report	12
Division 2.2.4	Explanation of home detention orders	
15	Explanation of home detention orders to be given	13
Part 2.3	Operation of home detention orders	
16	Effect of home detention order for sentenced offender	14
17	Effect of home detention order for remandee	14
18	Conditions of home detention orders	14
19	Obligations under home detention orders	15
20	Duration of home detention orders	15
Part 2.4	Revocation of home detention orders	
21	Arrest without warrant of person subject to home detention order	16
22	Arrest with warrant of person subject to home detention order	16
23	Duty of corrections officers relating to breaches of home detention orders	17
24	Revocation of home detention order	17
25	Date of effect of revocation of home detention orders	17
26	Consequential revocation of other home detention orders	18

		Page
Part 2.5	Other provisions about home detention orders	
27	Regulations about home detention	19
28	Exercise of functions by court after home detention order has ended	19
Chapter 3	Nonparole periods and parole	
Part 3.1	Preliminary	
29	Definitions for ch 3	20
30	Application of ch 3 to victim who is a child	21
Part 3.2	Nonparole periods	
31	Court to set nonparole period	22
32	Setting of nonparole period for person serving 1 or more previous sentences	23
33	Secretary to be told about setting of nonparole period etc	23
34	Secretary to keep victims register etc	24
Part 3.3	Parole	
Division 3.3.1	General	
35	Application of pt 3.3	25
Division 3.3.2	Release on parole	
36	Eligibility for release on parole	25
37	Parole order necessary for release	25
38	Conditions of parole	25
39	Obligations under parole order	26
40	Rescission of parole order before release	26
41	Release under parole order	27
42	Victim to be told of decision to make parole order etc	27
43	Sentence not discharged unless parole completed	28
44	Parole order not invalidated by failure to comply with procedural requirements	28

Contents

	Page
Division 3.3.3 Making decisions about release on parole	
45 Consideration of release on parole	28
46 Board to seek views of victims	29
47 Initial consideration of parole by board	30
48 Notice of intention to refuse parole	30
49 Further consideration by board of intention to refuse parole	31
50 Decision of board about parole after further consideration	31
51 General duty of board in making parole decisions	32
Division 3.3.4 Parole orders in exceptional circumstances	
52 Making of parole orders in exceptional circumstances	33
Part 3.4 Revocation of parole orders	
53 Arrest of parolee without warrant	35
54 Arrest of parolee with warrant	35
55 Duty of corrections officers relating to breaches of parole orders	36
56 Warrant remanding parolee into custody	36
57 Inquiry into suspected breaches of parole orders	37
58 Revocation of parole orders	37
59 Date of effect of revocation of parole order	38
60 Warrant by board committing parolee to prison	38
61 Parole order revoked if parolee sentenced to imprisonment	39
Part 3.5 Other provisions about parole	
62 Regulations about parole	40
63 Exercise of functions by board after parole order has ended	40
Chapter 4 Sentence Administration Board	
Part 4.1 Establishment and membership of board	
64 Establishment of board	41
65 Functions of board	41
66 Membership of board	41
67 Appointment of members	41
68 Term of appointment of members etc	43
69 Ending of appointment of members	43

	Page	
70	Conditions of appointment of members generally	44
71	Divisions of board	44
Part 4.2	Proceedings of board	
72	Time and place of board meetings	45
73	Presiding at board meetings	45
74	Conduct of board proceedings	45
75	Board procedure	46
76	Board minutes	47
77	Disclosure of interests by members of board	47
78	Authentication of board documents	48
79	Evidentiary certificate about board decisions	48
80	Proof of certain matters relating to board not required	48
81	Application of pt 4.2 and pt 4.3 to divisions of board	49
Part 4.3	Inquiries by board	
82	Board may hold inquiries and hearings	50
83	Sentenced offenders to appear before board	50
84	Board may require attendance of people and production of documents	51
85	Giving evidence and answering questions before board	52
86	Offences relating to hearings by board	52
87	Misconduct before board	53
88	Reports for board	53
89	Rights of sentenced offenders making submissions to board	53
90	Allowances and expenses payable to board witnesses	54
Part 4.4	Other provisions about the board	
91	Effect of board warrants	55
92	Secretary and assistant secretaries	55
Chapter 5	Miscellaneous	
93	Chief Minister may make arrangements with NSW	56
94	Exercise of prerogative of mercy and other laws not affected	56
95	Security of certain information	56

Contents

	Page	
96	Corrections officers	57
97	Approved forms	57
98	Regulation-making power	57
99	Review of home detention provisions	57
Chapter 6	Transitional provisions, repeals and amendments	
100	Definitions for ch 6	58
101	Nonparole periods fixed under former Act	58
102	Decisions of former board refusing parole etc	58
103	Parole orders under former Act	59
104	Revocation of existing parole orders for breaches before commencement	59
105	Warrants to appear before former board	59
106	Existing arrangements with NSW	60
107	Appointments to former board	60
108	Regulations about transitional matters	60
109	Regulations modifying ch 6	61
110	Repeals	61
111	Acts amended—sch 1	61
112	Expiry of ch 6	61

	Page
Schedule 1	
Consequential amendments	62
Part 1.1	62
Part 1.2	62
Part 1.3	63
Part 1.4	63
Part 1.5	65
Part 1.6	65
Part 1.7	66
Dictionary	67

2001

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health, Housing and Community Services)

Rehabilitation of Offenders (Interim) Bill 2001

A Bill for

An Act about home detention and the release of prisoners on parole, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

2001 091B

1

2 **Chapter 1 Preliminary**

3

4

5 **1 Name of Act**

6 This Act is the *Rehabilitation of Offenders (Interim) Act 2001*.

7 **2 Commencement**

8 This Act commences on a day fixed by the Minister by notice in the
9 Gazette.

10 *Note 1* The naming and commencement provisions automatically commence on
11 the notification day (see *Legislation Act 2001*, s 75).

12 *Note 2* A single day or time may be fixed, or different days or times may be
13 fixed, for the commencement of different provisions (see *Legislation*
14 *Act 2001*, s 77 (1)).

15 *Note 3* If a provision has not commenced within 6 months beginning on the
16 notification day, it automatically commences on the first day after that
17 period (see *Legislation Act 2001*, s 79).

18 **3 Dictionary**

19 The dictionary at the end of this Act is part of this Act.

20 *Note 1* The dictionary at the end of this Act defines certain words and
21 expressions used in this Act, and includes references (*signpost*
22 *definitions*) to other words and expressions defined elsewhere in this
23 Act or in other legislation.

24 For example, the signpost definition '*domestic violence offence*—see
25 the Crimes Act, dictionary' means that the expression 'domestic
26 violence offence' is defined in that dictionary and the definition applies
27 to this Act.

28 *Note 2* A definition in the dictionary (including a signpost definition) applies to
29 the entire Act unless the definition, or another provision of the Act,
30 provides otherwise or the contrary intention otherwise appears (see
31 *Legislation Act 2001*, s 155 and 156 (1)).

1 **4 Notes**

2 A note included in this Act is explanatory and is not part of this Act.

3 *Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of
4 notes.

5 **5 Meaning of *subject* to imprisonment etc**

6 (1) A sentenced offender is *subject* to a sentence of imprisonment if the
7 sentence has been imposed, whether or not the offender has begun
8 to serve the sentence.

9 (2) A sentenced offender is *subject* to a home detention order if a home
10 detention order has been made for the offender, whether or not the
11 offender has begun to serve the relevant sentence of imprisonment
12 by way of home detention.

13 (3) A remandee is *subject* to a home detention order if a home detention
14 order has been made for the remandee, whether or not the remandee
15 has begun to serve the remand by way of home detention.

16 (4) A sentenced offender is *subject* to a parole order if a parole order
17 has been made for the offender, whether or not the offender has
18 been released on parole under the order.

1

2 Chapter 2 Home detention orders

3 Part 2.1 Making home detention orders

4

5 6 Imprisonment by way of home detention

6 (1) A court that has sentenced a person (the *offender*) to imprisonment
7 for not longer than 18 months for an offence may make a home
8 detention order directing that the sentence for the offence be served
9 by way of home detention.

10 (2) A home detention order may not be made in relation to a sentence of
11 imprisonment (a *new sentence*) to be served concurrently or
12 consecutively (or partly concurrently and partly consecutively) with
13 any existing sentence of imprisonment if the date when the new
14 sentence will end is more than 18 months after the date when the
15 existing sentence was imposed.

16 (3) For this section, if a sentence of imprisonment is completely
17 suspended, the sentence is to be disregarded.

18 (4) For this section, if a sentence of imprisonment is partly suspended,
19 the period for which it is suspended is to be disregarded.

20 (5) This section is subject to part 2.2 (Procedures for making home
21 detention orders), but does not affect part 3.2 (Nonparole periods).

22 (6) This Act applies in relation to a young offender who is committed to
23 a State institution or another institution—

24 (a) as if—

25 (i) the committal were a sentence of imprisonment; and

26 (ii) a period during which the young offender were subject to
27 a home detention order were a period for which the
28 young offender were committed to an institution; and

- 1 (b) with all other necessary changes and any changes prescribed
2 under the regulations.

3 **7 Remand by way of home detention**

- 4 (1) This section applies if a person (the *remandee*)—

5 (a) has been charged with an offence but has not been convicted or
6 found guilty of the offence; or

7 (b) has been convicted or found guilty of an offence but has not
8 been sentenced for the offence.

9 (2) If the court remands the person in custody in relation to the offence,
10 the court may make a home detention order directing that the
11 remand be served by way of home detention.

12 (3) This section is subject to part 2.2 (Procedures for making home
13 detention orders).

- 14 (4) If the remandee is a young offender, this Act applies—

15 (a) as if—

16 (i) a reference to remand in custody were a reference to the
17 ordering of the detention of the young offender under the
18 *Children and Young People Act 1999*; and

19 (ii) a period during which the young offender were detained
20 under that Act subject to a home detention order were a
21 period for which a young offender were detained in a
22 shelter; and

23 (b) with all other necessary changes and any changes prescribed
24 under the regulations.

- 25 (5) In this section:

26 *sentenced*, for a young offender, means dealt with under the
27 *Children and Young People Act 1999*, section 96 (Disposition of
28 young offenders).

1

2 **Part 2.2** **Procedures for making home**
3 **detention orders**

4 **Division 2.2.1** **General**

5 **8** **Application of pt 2.2**

6 This part applies where a court is considering making, or has made,
7 a home detention order.

8 **Division 2.2.2** **Restrictions on making home**
9 **detention orders**

10 **9** **Home detention not available for offenders for certain**
11 **offences**

12 (1) This section applies only to a person who—

13 (a) is sentenced to imprisonment for an offence; or

14 (b) is convicted or found guilty of an offence and is remanded in
15 custody in relation to the offence.

16 *Note* This section does not apply to a person who has been charged with an
17 offence but has not been convicted or found guilty of the offence (see
18 s 7 (1) (a)).

19 (2) A home detention order may not be made in relation to the offence
20 if it is—

21 (a) an offence against the Crimes Act, section 12 (Murder) or
22 section 15 (Manslaughter);

23 (b) an offence against the Crimes Act, section 19 (Intentionally
24 inflicting grievous bodily harm) or section 20 (Recklessly
25 inflicting grievous bodily harm);

-
- 1 (c) an offence against the Crimes Act, section 24 (Assault
2 occasioning actual bodily harm) or section 25 (Causing
3 grievous bodily harm);
- 4 (d) an offence against the Crimes Act, section 34A (Stalking);
- 5 (e) an offence against the Crimes Act, part 3A (Sexual offences);
- 6 (f) an offence against the Crimes Act, section 101 (Armed
7 robbery);
- 8 (g) an offence against the Crimes Act, section 103 (Aggravated
9 burglary);
- 10 (h) any other offence against the Crimes Act involving the use of a
11 firearm;
- 12 (i) a domestic violence offence consisting of behaviour directed at
13 anyone with whom it is likely the person would live in the
14 same household if the home detention order were made;
- 15 (j) an offence against the *Drugs of Dependence Act 1989*,
16 section 162 (3) (Cultivation of prohibited plants) in relation to
17 the cultivation, or participation in the cultivation of, more than
18 20 prohibited plants (within the meaning of that section);
- 19 (k) an offence against the *Drugs of Dependence Act 1989*,
20 section 163 (1) or (2) (Wholesale);
- 21 (l) an offence against the *Drugs of Dependence Act 1989*,
22 section 164 (2) or (3) (Sale or supply);
- 23 (m) an offence against the *Drugs of Dependence Act 1989*,
24 section 165 (Sale or supply—cannabis) in relation to a
25 commercial quantity or trafficable quantity of cannabis within
26 the meaning of that Act;
- 27 (n) an offence against the *Periodic Detention Act 1995*,
28 section 57 (1) (Offences by persons other than detainees); or
- 29 (o) an offence against the *Remand Centres Act 1976*, section 18
30 (Offences by persons other than detainees);

- 1 (p) an offence against any other Territory law prescribed under the
2 regulations.

3 **10 Home detention not available for sentenced offenders or**
4 **remandees with certain history**

- 5 (1) A home detention order may not be made for a sentenced offender
6 or remandee in relation to an offence if—

- 7 (a) the sentenced offender has at any time been convicted, whether
8 in or outside the ACT or Australia, of any of the following
9 offences:

10 (i) murder, manslaughter or corresponding offence against a
11 law outside the ACT or Australia;

12 (ii) sexual assault of an adult or child or a sexual offence
13 involving a child; or

14 (b) the sentenced offender has at any time in the last 10 years been
15 convicted, whether in or outside the ACT or Australia, of—

16 (i) an offence against the Crimes Act, section 34A (Stalking)
17 or a corresponding offence against a law outside the ACT
18 or Australia; or

19 (ii) a domestic violence offence, or a corresponding offence
20 against a law outside the ACT or Australia, directed at
21 anyone with whom it is likely the person would live in
22 the same household if the home detention order were
23 made; or

24 (c) the sentenced offender or remandee is, or has at any time
25 during the last 5 years been, subject to a final order under the
26 *Protection Orders Act 2001* (other than an order reversed or set
27 aside on appeal) that restrains the offender or remandee from
28 engaging in behaviour in relation to a person with whom it is
29 likely the offender or remandee would live in the same
30 household if the home detention order were made; or

- 1 (d) the sentenced offender or remandee has at any time been
2 convicted of an offence prescribed under the regulations; or
- 3 (e) a home detention order has previously been made for the
4 sentenced offender or remandee in relation to the offence and
5 the order has been revoked under part 2.4 (Revocation of home
6 detention orders).
- 7 (2) Subsection (1) (e) does not apply if the home detention order is
8 revoked for a reason other than a breach of the person's obligations
9 under the order.
- 10 (3) An offence prescribed under the regulations for subsection(1) (d)
11 may include an offence against a law of the Commonwealth, a State,
12 another Territory or a foreign country.
- 13 (4) In subsection(1) (c), a reference to a final order under the
14 *Protection Orders Act 2001* includes a protection order under the
15 *Domestic Violence Act 1986* and a restraining order under the
16 *Magistrates Court Act 1930*.
- 17 (5) Subsection(4) and this subsection expire 5 years after the
18 *Protection Orders Act 2001* commences.

19 **11 Suitability of sentenced offenders and remandees for**
20 **home detention**

- 21 (1) A court may make a home detention order for a person under
22 section 6 (Imprisonment by way of home detention) or section 7
23 (Remand by way of home detention) only if satisfied that—
- 24 (a) the person is a suitable person to serve the relevant sentence of
25 imprisonment or remand by way of home detention; and
- 26 (b) it is appropriate in the circumstances that the sentence or
27 remand be served by way of home detention; and
- 28 (c) the people with whom it is likely the person would live in the
29 same household (other than as a tenant or boarder) during the
30 person's home detention have consented in writing to the
31 making of the order; and

- 1 (d) the person has signed an undertaking to comply with the
2 person's obligations under the order.
- 3 (2) In deciding whether or not to make a home detention order, the
4 court must consider—
- 5 (a) the assessment report about the person; and
6 (b) any evidence given by a corrections officer about the person.
- 7 (3) A court may make a home detention order only if the assessment
8 report about the person states that, in the opinion of the person
9 making the assessment, the person is suitable to serve the relevant
10 sentence of imprisonment or remand by way of home detention.
- 11 (4) However, a home detention order must not be made if the court
12 considers it likely that the person will commit a sexual offence or an
13 offence involving violence while the order is in force, even if the
14 person has no history of committing offences of that kind.
- 15 (5) A court may, for any reason it considers sufficient, decide not to
16 make a home detention order despite the contents of the assessment
17 report, and any evidence given by a corrections officer, about the
18 person.
- 19 (6) For subsection(1) (c), the consent of a child, or a person with a
20 mental disability—
- 21 (a) may be given on behalf of the child or the person with a mental
22 disability in accordance with the regulations; or
- 23 (b) may be dispensed with in accordance with the regulations if the
24 regulations allow the consent to be dispensed with.
- 25 (7) In subsection(6):
- 26 *person with a mental disability*, in relation to a consent under
27 subsection(1) (c), means a person (other than a child) who is not
28 legally competent to give the consent, and includes such a person
29 even if a guardian or manager has not been appointed for the person
30 under the *Guardianship and Management of Property Act 1991*.

1

2 **Division 2.2.3 Assessment reports**

3 **12 Referral of sentenced offender or remandee for**
4 **assessment**

5 (1) When a court sentences a person to a term of imprisonment as
6 mentioned in section 6 (Imprisonment by way of home detention) or
7 remands a person in custody as mentioned in section 7 (Remand by
8 way of home detention), the court may ask the chief executive for an
9 assessment report about the person.

10 (2) A request under subsection (1)—

11 (a) for a sentenced offender—does not stay the execution of the
12 sentence; or

13 (b) for a remandee—does not affect the order for remand.

14 **13 Assessment of suitability for home detention**

15 (1) If a court asks the chief executive for an assessment report about a
16 person, the chief executive must investigate and report to the court
17 on the matters mentioned in section 11 (1) (Suitability of sentenced
18 offenders and remandees for home detention).

19 (2) The report must deal with the following matters:

20 (a) any criminal record of the person, and the likelihood that the
21 person will reoffend;

22 (b) any dependency of the person on illegal drugs;

23 (c) the likelihood that the person will commit a domestic violence
24 offence;

25 (d) the likelihood that the person will commit a sexual offence or
26 an offence involving violence, even if the person has no history
27 of committing offences of that kind;

- 1 (e) whether any circumstances of the person's residence,
2 employment, study or other activities would inhibit effective
3 monitoring of a home detention order;
- 4 (f) whether the people with whom it is likely the person would
5 live in the same household (other than as a tenant or boarder)
6 during any home detention understand the likely obligations of
7 the person under a home detention order and are prepared to
8 live in accordance with them so far as may be necessary;
- 9 (g) whether the making of the order would place at risk of harm
10 anyone who would be living with the person or nearby;
- 11 (h) anything else prescribed under the regulations.
- 12 (3) The report may indicate the kind of additional conditions that would
13 be appropriate for the court to impose on a home detention order if
14 the court were to make an order.
- 15 (4) Subsections (2) and (3) do not limit the matters that may be dealt
16 with in the report.
- 17 (5) The regulations may make provision in relation to the conduct of
18 investigations and the preparation of reports under this section.

19 **14 Obtaining information etc for assessment report**

- 20 (1) For an assessment report about a person, the chief executive may
21 ask an administrative unit, Territory authority, statutory office
22 holder or any other entity to provide information or documents
23 relevant to the person.
- 24 (2) An administrative unit, Territory authority or statutory office holder
25 must promptly comply with a request under subsection (1).
- 26 (3) If information or a document is given honestly and with reasonable
27 care to the chief executive under subsection (2), the giving of the
28 information or document is not—
- 29 (a) a breach of confidence, professional etiquette or ethics or a rule
30 of professional conduct; or

- 1 (b) the publication of an actionable libel; or
2 (c) a ground for civil proceedings for malicious prosecution or
3 conspiracy.
4 (4) This section does not limit any other power to obtain information or
5 documents.

6 **Division 2.2.4 Explanation of home detention**
7 **orders**

8 **15 Explanation of home detention orders to be given**

- 9 (1) If a court makes a home detention order in relation to a person's
10 sentence of imprisonment or remand, the court must ensure that all
11 reasonable steps are taken to explain to the person (in language that
12 the person can readily understand)—
13 (a) the person's obligations under the order; and
14 (b) the consequences that may follow if the person fails to comply
15 with the obligations.
16 (2) A home detention order made by a court is not invalid only because
17 the court does not comply with this section.

1

2 **Part 2.3** **Operation of home detention**
3 **orders**
4

5 **16 Effect of home detention order for sentenced offender**

6 (1) If a court makes a home detention order directing that a sentence of
7 imprisonment of a sentenced offender for an offence be served by
8 way of home detention, a period during which the offender is
9 subject to the home detention order is taken to be a period of
10 imprisonment served by the offender for the offence.

11 (2) To remove any doubt, if the home detention order is revoked, any
12 time after the revocation takes effect is to be disregarded for
13 subsection(1).

14 **17 Effect of home detention order for remandee**

15 (1) For the Crimes Act, section 451 (Time held in custody to count),
16 time during which remand is served by a remandee by way of home
17 detention in relation to an offence is taken to be time during which
18 the remandee was held in custody in relation to proceedings for the
19 offence.

20 (2) To remove any doubt, if the home detention order is revoked, any
21 time after the revocation takes effect is to be disregarded for
22 subsection(1).

23 **18 Conditions of home detention orders**

24 (1) A home detention order for a person is subject to the following
25 conditions:

26 (a) the standard conditions prescribed under the regulations;

27 (b) any additional conditions imposed by the relevant court.

28 (2) A court may impose the conditions it considers appropriate on a
29 home detention order made by it, other than conditions requiring the

1 person to whom the order relates to make any payment, whether in
2 the nature of a fine, compensation or otherwise.

3 (3) However, the court may not—

4 (a) revoke or amend any standard conditions prescribed under the
5 regulations; or

6 (b) impose any additional conditions, or amend any additional
7 conditions imposed by it, so as to impose any limits on, or
8 otherwise be inconsistent with, the standard conditions
9 prescribed under the regulations.

10 **19 Obligations under home detention orders**

11 A person serving a sentence of imprisonment or remand by way of
12 home detention must comply with this Act and any conditions to
13 which the person's home detention order is subject.

14 *Note* The *Legislation Act 2001*, s 104 provides that a reference to an Act
15 includes a reference to the statutory instruments made under or in force
16 under the Act.

17 **20 Duration of home detention orders**

18 (1) If a person is subject to a home detention order, the order ends—

19 (a) when the term of the sentence or the remand to which the order
20 relates ends; or

21 (b) if the person is released on parole.

22 (2) The home detention order also ends if it is revoked under part 2.4
23 (Revocation of home detention orders).

1

2 **Part 2.4** **Revocation of home detention**
3 **orders**
4

5 **21 Arrest without warrant of person subject to home**
6 **detention order**

7 (1) If a police officer believes, on reasonable grounds, that a person
8 who is subject to a home detention order has breached, or will
9 breach, the person's obligations under the order, the police officer
10 may arrest the person without a warrant.

11 (2) If the police officer arrests the person under this section, the police
12 officer must bring the person before the relevant court as soon as is
13 practicable.

14 *Note* **Relevant court** is defined in the dict.

15 **22 Arrest with warrant of person subject to home detention**
16 **order**

17 (1) If a judicial officer is satisfied by information on oath that there are
18 reasonable grounds for believing that a person who is subject to a
19 home detention order has breached, or will breach, the person's
20 obligations under the order, the judicial officer may issue a warrant
21 for the apprehension of the person and for bringing the person
22 before the relevant court.

23 (2) The warrant must—

24 (a) be in writing signed by the judicial officer; and

25 (b) be directed to all police officers or a named police officer; and

26 (c) state shortly the matter of the information on which it is based;
27 and

28 (d) order the apprehension of the person and the bringing of the
29 person before the relevant court.

1 (3) A person who is apprehended under a warrant under this section
2 must be brought before the relevant court as soon as is practicable.

3 (4) In this section:

4 *judicial officer* means a judge of the Supreme Court or a magistrate.

5 **23 Duty of corrections officers relating to breaches of home**
6 **detention orders**

7 If a corrections officer believes, on reasonable grounds, that a
8 person subject to a home detention order has committed a breach of
9 the person's obligations under the order, the officer must tell the
10 relevant court about the breach.

11 **24 Revocation of home detention order**

12 (1) The relevant court may make an order (a *revocation order*) revoking
13 a home detention order for a person if—

14 (a) the court is satisfied that the person has breached the person's
15 obligations under the order; or

16 (b) the court is satisfied that, because of a change in the person's
17 circumstances, it is no longer appropriate that the relevant
18 sentence of imprisonment or remand be served by way of home
19 detention; or

20 (c) a person who consented under section 11 (1) (c) (Suitability of
21 sentenced offenders and remandees for home detention) to the
22 making of the order withdraws the consent by written notice
23 given to the court; or

24 (d) the person applies to the court for the order to be revoked.

25 (2) Subsection (1) does not limit the relevant court's powers in relation
26 to the person.

27 **25 Date of effect of revocation of home detention orders**

28 (1) An order revoking a home detention order for a person takes effect
29 on the date stated in the order.

Section 26

- 1 (2) The date stated in the order must be—
2 (a) the date the order is made; or
3 (b) if the relevant court is satisfied that the person breached the
4 person's obligations under the order—the date when it appears
5 to the court that the person breached the obligations; or
6 (c) if the relevant court is satisfied that the person breached the
7 person's obligations under the order on 2 or more separate
8 days—the date when it appears to the court that the person first
9 breached the obligations.

10 **26 Consequential revocation of other home detention orders**

- 11 (1) If a home detention order (the *principal order*) to which a sentenced
12 offender is subject is revoked under this part, any other home
13 detention order to which the offender is subject is also automatically
14 revoked.
15 (2) The date of effect of a home detention order revoked under
16 subsection (1) is—
17 (a) if the order is in force—the date of effect of the revocation of
18 the principal order under this part; or
19 (b) if the order is not in force—the date the principal order is
20 revoked under this part.

1

2 **Part 2.5** **Other provisions about home**
3 **detention orders**
4

5 **27 Regulations about home detention**

6 The regulations may make provision in relation to—

7 (a) blood testing, breath testing, urinalysis and other test
8 procedures for detecting alcohol or drug use by sentenced
9 offenders or remandees subject to home detention orders; and

10 (b) the standard conditions to which home detention orders are
11 subject, including, for example, conditions about—

12 (i) the employment of a sentenced offender or remandee
13 subject to a home detention order while the order is in
14 force; and

15 (ii) performing community service work; and

16 (iii) attending personal development activities or counselling
17 or treatment programs as directed by a corrections
18 officer.

19 **28 Exercise of functions by court after home detention order**
20 **has ended**

21 A court may exercise a function in relation to a home detention
22 order made by it (including a function under part 2.4 (Revocation of
23 home detention orders)) even though the order has ended.

1

2 **Chapter 3** **Nonparole periods and**
3 **parole**

4 **Part 3.1** **Preliminary**
5

6 **29** **Definitions for ch 3**

7 In this chapter:

8 *harm* includes—

- 9 (a) physical injury; and
10 (b) mental injury or emotional suffering (including grief); and
11 (c) pregnancy; and
12 (d) economic loss; and
13 (e) substantial impairment of rights accorded by law.

14 *relevant offence*, in relation to a sentenced offender who is serving
15 a sentence of imprisonment, means—

- 16 (a) an offence for which the offender is serving the sentence; or
17 (b) an offence taken into account by the relevant court in imposing
18 the sentence.

19 *victim*, in relation to a sentenced offender who is serving a sentence
20 of imprisonment, means—

- 21 (a) a person (the *primary victim*) who suffers harm—
22 (i) during, or as the result of, the commission of a relevant
23 offence; or
24 (ii) while assisting a police officer in the exercise of the
25 officer's power to arrest the offender or to take action to
26 prevent the commission of an offence by the offender; or

- 1 (b) if the primary victim dies as a result of the commission of a
2 relevant offence—anyone who was financially or
3 psychologically dependent on the primary victim immediately
4 before the victim's death; or
- 5 (c) a person who witnessed the commission of a relevant offence
6 in circumstances in which it is probable that the person would
7 suffer harm.

8 **30 Application of ch 3 to victim who is a child**

- 9 (1) If a victim of a sentenced offender is a child under 15 years old, this
10 chapter applies in relation to the victim as if a reference to the
11 victim were a reference to the person who has parental
12 responsibility for the victim.
- 13 (2) In this section:
- 14 *parental responsibility*—see the *Children and Young People Act*
15 *1999*, section 17.

1

2 **Part 3.2 Nonparole periods**

3

4 **31 Court to set nonparole period**

5 (1) If a court sentences a person to a term of imprisonment of 1 year or
6 longer, or 2 or more terms of imprisonment that total 1 year or
7 longer, the court must set a period (a *nonparole period*) during
8 which the person is not eligible to be released on parole.

9 *Note* Section 43 provides that, if the person is released on parole, the
10 sentence is not discharged unless the parole is completed without the
11 parole order being revoked.

12 (2) When the court sets the nonparole period, the court must specify—

13 (a) the date the nonparole period begins; and

14 (b) the date the nonparole period ends.

15 (3) The date specified under subsection (2) (a) may be a date before the
16 sentence of imprisonment is imposed.

17 *Note* The *Crimes Act 1900*, s 451 requires time held in custody to count as a
18 period of imprisonment already served under the sentence.

19 (4) Subsection (1) does not apply if—

20 (a) the court, having regard to the nature of the offence or offences
21 and the antecedents of the person, considers that setting a
22 nonparole period would be inappropriate; or

23 (b) the person is or has been sentenced to imprisonment for life.

24 (5) For this section, if a sentence of imprisonment is completely
25 suspended, the sentence is to be disregarded.

26 (6) For this section, a sentence of imprisonment is partly suspended, the
27 period for which it is suspended is to be disregarded.

28 (7) If a court sentences a person to imprisonment but fails to set, or fails
29 properly to set, a nonparole period, the court may set a nonparole

1 period on the application of the Attorney-General, the director of
2 public prosecutions, the secretary, or the person sentenced.

3 (8) This section applies to an offence whether the offence was
4 committed, a person was convicted of the offence, or a person was
5 sentenced for the offence, before or after the commencement of this
6 Act.

7 **32 Setting of nonparole period for person serving 1 or more**
8 **previous sentences**

9 (1) If a person who is serving a sentence of imprisonment (the *existing*
10 *sentence*) is sentenced to a further term of imprisonment (the *new*
11 *sentence*), section 31 (Court to set nonparole period) applies as if
12 the court by which the new sentence is imposed had sentenced the
13 person to imprisonment for a term equal to the total of the terms of
14 the existing sentence and the new sentence.

15 (2) The imposition of the new sentence automatically revokes any
16 nonparole period set in relation to the existing sentence.

17 (3) The nonparole period set when the new sentence is imposed must
18 not make the person eligible to be released on parole earlier than if
19 the new sentence had not been imposed.

20 (4) This section applies whether the existing sentence was imposed
21 before, or is imposed after, the commencement of this Act.

22 **33 Secretary to be told about setting of nonparole period etc**

23 (1) This section applies if a court sentences a person to a term of
24 imprisonment and sets a nonparole period for the person.

25 (2) The court must give the secretary written notice of the following as
26 soon as practicable:

27 (a) the sentence;

28 (b) the nonparole period;

29 (c) the date the nonparole period begins;

Section 34

- 1 (d) the date the nonparole period ends;
2 (e) if a victim consents to details of the victim being given to the
3 board—those details.

4 **34 Secretary to keep victims register etc**

5 As soon as practicable after receiving details of a person under
6 section 33 (2) (e) (Secretary to be told about setting of nonparole
7 period etc), the secretary must—

- 8 (a) enter the details in a register kept by the secretary (the *victims*
9 *register*); and
10 (b) contact the person and advise the person about—
11 (i) the role of the board; and
12 (ii) the rights of victims in relation to the granting of parole
13 to sentenced offenders.

1

2 **Part 3.3 Parole**

3 **Division 3.3.1 General**

4 **35 Application of pt 3.3**

5 This part applies to a sentenced offender who is serving a sentence
6 of imprisonment (including a sentence of imprisonment by way of
7 home detention), whether or not a previous parole order in relation
8 to the person has been revoked.

9 **Division 3.3.2 Release on parole**

10 **36 Eligibility for release on parole**

- 11 (1) A sentenced offender may be released on parole in accordance with
12 this part.
- 13 (2) A sentenced offender is eligible for release on parole only if—
- 14 (a) the offender is subject to 1 or more sentences for which a
15 nonparole period has been set; and
- 16 (b) the offender has served the nonparole period.
- 17 (3) This part does not authorise the release of a sentenced offender who
18 is required to be kept in custody in relation to an offence against a
19 law of the Commonwealth, a State or another Territory.

20 **37 Parole order necessary for release**

21 A sentenced offender who is eligible for release on parole may be
22 released on parole only in accordance with a parole order directing
23 the release of the offender.

24 **38 Conditions of parole**

- 25 (1) A parole order for a sentenced offender is subject to the following
26 conditions:

1 (a) the standard conditions for parole prescribed under the
2 regulations;

3 (b) any additional conditions imposed by the board.

4 (2) The board may, by written notice given to the sentenced offender,
5 impose additional conditions on a parole order.

6 *Note* Power given under an Act to make a statutory instrument (including a
7 notice imposing conditions) includes power to amend or revoke the
8 instrument (see *Legislation Act 2001*, s 46 (1)).

9 (3) The conditions of a parole order may include conditions requiring
10 the sentenced offender to whom the order relates to be subject to
11 supervision prescribed under the regulations during the period stated
12 in the order or prescribed under the regulations.

13 (4) However, the board may not—

14 (a) revoke or amend any standard conditions prescribed under the
15 regulations; or

16 (b) impose any additional conditions, or amend any additional
17 conditions imposed by it, so as to impose any limits on, or
18 otherwise be inconsistent with, the standard conditions
19 prescribed under the regulations.

20 **39 Obligations under parole order**

21 While a sentenced offender is on release on parole, the offender
22 must comply with this Act and any conditions to which the
23 offender's parole order is subject.

24 *Note* A reference to an Act includes a reference to the statutory instruments
25 made or in force under the Act, including regulations (see *Legislation*
26 *Act 2001*, s 104).

27 **40 Recission of parole order before release**

28 The board may, by written order and in circumstances prescribed
29 under the regulations, rescind a parole order at any time before the

1 sentenced offender to whom the order relates is released under the
2 order.

3 **41 Release under parole order**

4 (1) A sentenced offender's parole order is sufficient authority for
5 anyone having custody of the offender to release the offender in
6 accordance with the order.

7 (2) A sentenced offender who is to be released on parole must be
8 released from custody on the offender's parole date.

9 *Note Parole date* is defined in the dict.

10 (3) A sentenced offender who is a prisoner may be released from
11 custody at any time on the parole date.

12 (4) However, if the parole date is a non-working day, the sentenced
13 offender may be released from custody at any time during the next
14 day that is not a non-working day if the offender asks to be released
15 on that day.

16 (5) In this section:

17 *non-working day* means—

18 (a) a Saturday or Sunday; or

19 (b) a public holiday at the place where the sentenced offender is
20 being held in custody.

21 **42 Victim to be told of decision to make parole order etc**

22 If the board decides to make a parole order for a sentenced offender
23 and is aware of concerns expressed by or on behalf of a victim about
24 the need for protection from violence or harassment by the offender,
25 the board must take all reasonable steps to tell the victim, as soon as
26 is practicable, of—

27 (a) the board's decision; and

28 (b) the date when the person is to be released on parole; and

1 (c) the offender's obligations under the parole order.

2 **43 Sentence not discharged unless parole completed**

3 (1) If a sentenced offender is released on parole, the offender is taken to
4 be under sentence of imprisonment, and not to have served any
5 period of imprisonment that remained to be served on the parole
6 date, unless—

7 (a) the parole ends without the parole order being revoked; or

8 (b) the offender is otherwise discharged from that imprisonment.

9 (2) If the parole ends without the parole order being revoked, the
10 sentenced offender is taken to have served the period of
11 imprisonment that remained to be served on the parole date and to
12 have been discharged from that imprisonment.

13 (3) To remove any doubt, if the parole order is revoked after the end of
14 the parole with effect from a date before the end of the parole, this
15 section has effect as if the parole had not ended without the parole
16 order being revoked.

17 **44 Parole order not invalidated by failure to comply with**
18 **procedural requirements**

19 A parole order is not invalid only because the board failed to
20 comply with any procedural requirement of this Act.

21 **Division 3.3.3 Making decisions about release on**
22 **parole**

23 **45 Consideration of release on parole**

24 (1) The board must consider whether or not a sentenced offender should
25 be released on parole—

26 (a) a reasonable time before the offender's eligibility date; and

27 (b) if the offender is not released on parole on or after the
28 eligibility date—within each successive year after the

1 eligibility date (unless the offender is no longer eligible for
2 release on parole); and

3 (c) if the offender is released on parole on or after the eligibility
4 date but the parole order is revoked and a further parole order
5 is not subsequently made—within each successive year after
6 the revocation (unless the offender is no longer eligible for
7 release on parole).

8 *Note* *Eligibility date* is defined in the dict.

9 (2) However, the board may decline to consider the case of a sentenced
10 offender for not longer than 3 years at a time after it last considered
11 releasing the offender on parole.

12 **46 Board to seek views of victims**

13 (1) Before considering whether or not a sentenced offender should be
14 released on parole, the board must contact each victim of the
15 offender of which it is aware (whether or not details of the victim
16 are included in the victims register).

17 (2) The board must—

18 (a) give each victim any information about the sentenced offender
19 necessary for the victim to exercise the victim's rights under
20 this section (for example, the offender's conduct to date while
21 serving the offender's sentence and the standard conditions for
22 parole prescribed under the regulations); and

23 (b) ask the victim whether the victim wishes to—

24 (i) make a written submission to the board about the release
25 of the offender on parole, including the likely effect on
26 the victim, or on the victim's family, if the offender were
27 to be released on parole; or

28 (ii) tell the board, in writing, about any concern of the victim
29 or the victim's family about the need to be protected from
30 violence or harassment by the offender; and

- 1 (c) tell the victim that any submission or concerns made in writing
2 to the board within a reasonable stated time will be considered
3 in deciding whether the offender should be released on parole
4 and, if so, whether the offender's parole order should be
5 subject to additional conditions imposed by the board; and
- 6 (d) allow the victim a reasonable time (not less than 7 days) within
7 which to make a written submission or tell the board, in
8 writing, about any concerns.

9 **47 Initial consideration of parole by board**

10 Immediately after considering whether a sentenced offender should
11 be released on parole, the board must either—

- 12 (a) make a written order directing the release of the offender on
13 parole on the offender's eligibility date or on a stated date
14 within a reasonable time after the order is made; or
- 15 (b) give the offender notice that, based on the information
16 currently before it, the board does not intend to make a parole
17 order (*a notice of intention to refuse parole*).

18 *Note* Power given under an Act to make a statutory instrument (including an
19 order) includes power to amend or revoke the instrument (see
20 *Legislation Act 2001*, s 46 (1)).

21 **48 Notice of intention to refuse parole**

22 (1) A notice of intention to refuse parole for a sentenced offender
23 must—

- 24 (a) be in writing, and
- 25 (b) state a date (that is as soon as is practicable, but not earlier than
26 14 days, after the notice is given to the offender) when the
27 board will meet to further consider whether the offender should
28 be released on parole; and

1 (c) require the offender to tell the secretary, not later than 7 days
2 before the stated date, if the offender wishes to make
3 submissions to the board about being released on parole; and

4 (d) be accompanied by a copy of every report and other document
5 intended to be used by the board in deciding whether the
6 sentenced offender should be released on parole.

7 *Note* Section 95 (Security of certain information) provides that copies of
8 certain reports and documents need not be provided.

9 **49 Further consideration by board of intention to refuse**
10 **parole**

11 (1) If a sentenced offender who has been given a notice of intention to
12 refuse parole tells the secretary that the offender wishes to make
13 submissions to the board, the chairperson must call a meeting of the
14 board, on the date stated in the notice, to conduct a hearing to decide
15 whether the offender should be released on parole.

16 (2) At the hearing, or at a hearing conducted at a subsequent meeting,
17 the sentenced offender is entitled to make submissions to the board
18 about being released on parole.

19 *Note* Section 89 (Rights of sentenced offenders making submissions to board)
20 deals with the offender's rights at the hearing.

21 (3) If the sentenced offender's eligibility date has not passed, any
22 subsequent meeting must, if practicable, be held before that date.

23 **50 Decision of board about parole after further consideration**

24 (1) After considering all the reports, documents and other information
25 before it about a sentenced offender, the board must decide—

26 (a) whether the offender should be released on parole; or

27 (b) whether, for reasons stated in the board's minutes, the question
28 whether the offender should be released on parole should be
29 deferred.

- 1 (2) The question whether the sentenced offender should be released on
2 parole—
- 3 (a) may be deferred only once; and
- 4 (b) may not be deferred for longer than 2 months.
- 5 (3) If the board decides that the sentenced offender should be released
6 on parole, the board must make a written order directing the release
7 of the offender on parole on the offender's eligibility date or on a
8 stated date within a reasonable time after the order is made.
- 9 (4) If the board decides that the sentenced offender should not be
10 released on parole, the board must—
- 11 (a) record its reasons in the minutes of the board; and
- 12 (b) tell the offender that it has decided that the offender should not
13 be released on parole; and
- 14 (c) give the offender a copy of its reasons.

15 **51 General duty of board in making parole decisions**

- 16 (1) The board may make a parole order for a sentenced offender only if
17 it has decided that the release of the offender is appropriate, having
18 regard to the principle that the public interest is of primary
19 importance.
- 20 (2) In deciding whether to make a parole order, the board must have
21 regard to the following matters:
- 22 (a) any relevant recommendations, observations and comments
23 made by the sentencing court;
- 24 (b) the offender's antecedents;
- 25 (c) the likely effect on any victim of the offender, and on the
26 victim's family, of the offender being released on parole and,
27 in particular, any concern, of which it is aware, expressed by or
28 on behalf of a victim of the offender, or the victim's family,

Chapter 3 Nonparole periods and parole
Part 3.3 Parole
Division 3.3.4 Parole orders in exceptional circumstances

Section 52

- 1 (2) The board may, in the order, state a parole date that is earlier than
2 the offender's eligibility date only if satisfied that—
- 3 (a) there are exceptional circumstances justifying the release of the
4 offender on parole before the eligibility date; and
- 5 (b) the number of days before the eligibility date does not exceed
6 the number worked out at the rate of 4 days for every month, or
7 part of a month, of imprisonment actually served by the
8 offender.
- 9 (3) The board is not required to consider an application for a parole
10 order under this section, and may decide not to release a sentenced
11 offender on parole under this section without conducting a hearing.
- 12 (4) Division 3.3.3 (Making decisions about release on parole) does not
13 apply to a parole order under this section.

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Part 3.4 Revocation of parole orders

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53 Arrest of parolee without warrant

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(1) If a police officer believes, on reasonable grounds, that a sentenced offender who is subject to a parole order has breached the offender's obligations under the order, the police officer may arrest the offender without a warrant.

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(2) If the police officer arrests the sentenced offender under this section, the police officer must bring the offender before the board as soon as is practicable.

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54 Arrest of parolee with warrant

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(1) If a judicial officer is satisfied by information on oath that there are reasonable grounds for believing that a sentenced offender who is subject to a parole order has breached the offender's obligations under the order, the judicial officer may issue a warrant for the apprehension of the offender and for bringing the offender before the board.

19

(2) The warrant must—

20

(a) be in writing signed by the judicial officer; and

21

(b) be directed to all police officers or a named police officer; and

22

(c) state shortly the matter of the information on which it is based;
and

23

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25

(d) order the apprehension of the sentenced offender and the bringing of the offender before the board.

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(3) A sentenced offender who is apprehended under a warrant under this section must be brought before the board as soon as is practicable.

1 (4) In this section:

2 *judicial officer* means a judge of the Supreme Court or a magistrate.

3 **55 Duty of corrections officers relating to breaches of parole**
4 **orders**

5 If a corrections officer believes, on reasonable grounds, that a
6 sentenced offender subject to a parole order has committed a breach
7 of the offender's obligations under the order, the officer must tell
8 the board about the breach.

9 **56 Warrant remanding parolee into custody**

10 (1) If—

11 (a) a sentenced offender who is subject to a parole order appears
12 before the board in an inquiry about whether the offender has
13 breached the offender's obligations under the order; and

14 (b) the board adjourns (or again adjourns) the hearing of the
15 inquiry;

16 the board may, by warrant, remand the offender in custody to appear
17 before the board at the adjourned hearing.

18 (2) The warrant must be in writing signed by a judicial member or the
19 secretary.

20 (3) The board may remand the sentenced offender in custody under this
21 section—

22 (a) only twice in relation to the same inquiry; and

23 (b) for no longer than 15 days each time the board adjourns the
24 hearing of the inquiry; and

25 (c) if the offender has previously been remanded in custody in
26 relation to the same inquiry—only if the hearing of the inquiry
27 was adjourned on the second occasion because of
28 circumstances beyond the board's control.

- 1 (4) In working out a period for subsection(3) (b), the day when the
2 board adjourns the hearing of the inquiry, and the day when the
3 sentenced offender appears before the board at the adjourned
4 hearing, are both counted.

5 **57 Inquiry into suspected breaches of parole orders**

- 6 (1) If the board has reason to suspect that a sentenced offender subject
7 to a parole order has breached the offender's obligations under the
8 order, the board may conduct an inquiry into the matter, whether or
9 not the order has ended.
- 10 (2) At any hearing held by the board for the inquiry, the sentenced
11 offender is entitled to make submissions to the board about the
12 matter under inquiry.

13 *Note* Section 89 (Rights of sentenced offenders making submissions to board)
14 deals with the offender's rights at a hearing.

15 **58 Revocation of parole orders**

- 16 (1) The board may make an order (a *revocation order*) revoking a
17 parole order for a sentenced offender if—
- 18 (a) the board is satisfied that the offender has breached the
19 offender's obligations under the order; or
- 20 (b) the offender has failed to appear before the board when called
21 on to do so under section 83 (Sentenced offenders to appear
22 before board).
- 23 (2) A revocation order may be made only—
- 24 (a) after the board has held an inquiry into the matter; and
- 25 (b) if the offender has appeared at a hearing held by the board for
26 the inquiry.
- 27 (3) If the board is satisfied that the sentenced offender has breached the
28 offender's obligations under the parole order, but is not of the
29 opinion that the order should be revoked, the board may instead do
30 any 1 or more of the following:

Section 59

- 1 (a) give the offender a formal warning;
- 2 (b) under section 38 (Conditions of parole), impose an additional
- 3 condition on the order or amend an existing additional
- 4 condition imposed by the board on the order;
- 5 (c) give directions to a corrections officer about the supervision of
- 6 the offender;
- 7 (d) take no action.
- 8 (4) If the board takes action under subsection (1) or (3), the board must
- 9 record its reasons for taking the action in the minutes of the board.

10 **59 Date of effect of revocation of parole order**

- 11 (1) An order revoking a parole order for a sentenced offender takes
- 12 effect on the date stated in the order.
- 13 (2) The date stated in the order must be—
- 14 (a) the date the order is made; or
- 15 (b) if the board is satisfied that the sentenced offender breached
- 16 the offender's obligations under the order—the date when it
- 17 appears to the board that the offender breached the obligations;
- 18 or
- 19 (c) if the board is satisfied that the sentenced offender breached
- 20 the offender's obligation under the order on 2 or more separate
- 21 days—the date when it appears to the board that the offender
- 22 first breached the obligations.

23 **60 Warrant by board committing parolee to prison**

24 If the board revokes a parole order for a sentenced offender, a

25 judicial member or the secretary must issue a warrant committing

26 the offender to prison for the relevant period of imprisonment.

1 **61 Parole order revoked if parolee sentenced to**
2 **imprisonment**

3 If a sentenced offender is subject to a parole order, the order is
4 automatically revoked if the offender is—

- 5 (a) convicted of an offence (including an offence against the law
6 of the Commonwealth, a State or another Territory); and
7 (b) sentenced to a term of imprisonment that is not completely
8 suspended.

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2 **Part 3.5** **Other provisions about parole**

3

4 **62 Regulations about parole**

5 The regulations may make provision in relation to —

6 (a) the management, control, administration and supervision of
7 parole orders; and

8 (b) blood testing, breath testing, urinalysis and other test
9 procedures for detecting alcohol or drug use by parolees; and

10 (c) the standard conditions to which parole orders are subject; and

11 (d) the functions of correction officers for this part.

12 **63 Exercise of functions by board after parole order has**
13 **ended**

14 The board may exercise any function in relation to a parole order
15 (including a function under part 3.4 (Revocation of parole orders))
16 even though the order has ended.
17

3

4 **Chapter 4** **Sentence Administration**
5 **Board**

6 **Part 4.1** **Establishment and**
7 **membership of board**
8

9 **64** **Establishment of board**

10 The Sentence Administration Board is established.

11 **65** **Functions of board**

12 The functions of the board are—

- 13 (a) to consider the release on parole of sentenced offenders for
14 whom a court has set a nonparole period; and
15 (b) to decide additional conditions of parole orders; and
16 (c) to monitor parole orders; and
17 (d) to decide the consequences of sentenced offenders failing to
18 comply with their obligations under parole orders; and
19 (e) to provide advice to the Minister about sentenced offenders at
20 the Minister's request; and
21 (f) to exercise any other function given to the board under this Act
22 or any other Territory law.

23 **66** **Membership of board**

24 The board consists of the members appointed under section 67
25 (Appointment of members).

26 **67** **Appointment of members**

- 27 (1) The Minister must appoint the following members to the board:

Section 67

- 1 (a) a chairperson;
- 2 (b) at least 1 deputy chairperson and not more than 2 deputy
3 chairpersons;
- 4 (c) not more than 8 other members.
- 5 *Note 1* A person may be reappointed to a position if the person is eligible for
6 appointment to the position (see *Legislation Act 2001*, s 208 (1) (c) and
7 dict, pt 1, def of *appoint*).
- 8 *Note 2* The power to appoint a person to a position includes power to appoint a
9 person to act in the position (see *Legislation Act 2001*, s 209).
- 10 (2) The Minister may appoint a person to be chairperson or deputy
11 chairperson only if the person is a judicially qualified person.
- 12 (3) The members mentioned in subsection(1) (a) and (b) are the
13 *judicial members* of the board, and the members mentioned in
14 subsection(1) (c) are the *non-judicial members* of the board.
- 15 (4) The *Supreme Court Act 1933*, section 16 (Holding other judicial
16 offices) does not apply to the appointment of a judge of the Supreme
17 Court as a judicial member.
- 18 (5) The *Magistrates Court Act 1930*, section 10E (Magistrates not to
19 undertake other work) does not apply to the appointment of a
20 magistrate as a judicial member.
- 21 (6) The appointment of a person who is a judge or magistrate as a
22 judicial member does not affect the person's office of judge or
23 magistrate.
- 24 (7) A person who is a judge or magistrate may exercise the powers of
25 his or her office as judge or magistrate even though the person is a
26 judicial member.
- 27 (8) In this section:
- 28 *judicially qualified person* means—
- 29 (a) a judge or retired judge of the Supreme Court; or
- 30 (b) a magistrate or retired magistrate; or

- 1 (c) a person qualified to be appointed as a resident judge of the
2 Supreme Court.

3 *Note* Under the *Supreme Court Act 1933*, s 4 (2) a person under 70 years old
4 is eligible to be appointed as a resident judge if the person—

5 (a) is or has been a judge of a superior court of record of the
6 Commonwealth or a State or has been a judge of the Supreme
7 Court; or

8 (b) has been a legal practitioner for not less than 5 years.

9 **68 Term of appointment of members etc**

10 (1) A member of the board is to be appointed for a term not longer than
11 3 years.

12 (2) The instrument appointing, or evidencing the appointment of, a
13 member of the board must state—

14 (a) the term for which the member is appointed; and

15 (b) whether the person is appointed as chairperson, deputy
16 chairperson or a non-judicial member.

17 **69 Ending of appointment of members**

18 (1) The Minister may end the appointment of a member of the board—

19 (a) for misbehaviour or physical or mental incapacity; or

20 (b) if the member becomes bankrupt, applies to take the benefit of
21 any law for the relief of bankrupt or insolvent debtors,
22 compounds with the member's creditors or makes an
23 assignment of the member's remuneration for their benefit; or

24 (c) for contravening section 77 (Disclosure of interests by
25 members of board); or

26 (d) is absent, except on leave granted by the Minister, from 3
27 consecutive meetings of the board; or

28 (e) is convicted in the ACT of an indictable offence or is convicted
29 elsewhere of an offence that, if committed in the ACT, would
30 be an indictable offence; or

Section 70

1 (f) for a judicial member—is no longer a judicially qualified
2 person.

3 *Note* A member's appointment also ends if the member resigns (see
4 *Legislation Act 2001*, s 210).

5 (2) In this section:

6 *judicially qualified person*—see section 67 (8) (Appointment of
7 members).

8 **70 Conditions of appointment of members generally**

9 A member of the board holds the position on the conditions not
10 provided by this Act or another Territory law that are decided by the
11 Minister.

12 **71 Divisions of board**

13 (1) The chairperson may, in writing, constitute divisions of the board.

14 *Note* Power given under an Act to make a statutory instrument includes
15 power to amend or repeal the instrument (see *Legislation Act 2001*,
16 s 46 (1)).

17 (2) A division is to consist of—

18 (a) at least 1, and not more than 2, judicial members; and

19 (b) at least 2, and not more than 4, non-judicial members.

20 (3) The chairperson may delegate to a division all or any of the
21 functions of the board.

22 (4) For the exercise of a function of the board delegated to a division—

23 (a) the division is taken to be the board; and

24 (b) the judicial member of the division (or, if there are 2 judicial
25 members of the division, the judicial member nominated by the
26 chairperson) is taken to be the chairperson.

1

2 **Part 4.2 Proceedings of board**

3

4 **72 Time and place of board meetings**

- 5 (1) The board may meet at the times and places it decides.
- 6 (2) However, the chairperson may at any time call a meeting.
- 7 (3) The board may adjourn a proceeding, for any reason it considers
- 8 appropriate, to a time and place decided by it.

9 **73 Presiding at board meetings**

10 At a meeting of the board, the chairperson or another judicial

11 member nominated by the chairperson is to preside.

12 **74 Conduct of board proceedings**

- 13 (1) Business may be carried out at a meeting of the board only if 3
- 14 members are present, including at least 1 judicial member and at
- 15 least 2 non-judicial members.
- 16 (2) A question is decided by a majority of the votes of members present
- 17 and voting but, if the votes are equal, the judicial member presiding
- 18 has a casting vote.
- 19 (3) The board may conduct its proceedings (including its meetings) as it
- 20 considers appropriate.
- 21 (4) The board may hold meetings, or allow members to take part in
- 22 meetings, by telephone, closed-circuit television or another form of
- 23 communication.
- 24 (5) A member who takes part in a meeting conducted under subsection
- 25 (4) is taken to be present at the meeting.
- 26 (6) A resolution of the board is a valid resolution, even though it is not
- 27 passed at a meeting of the board, if—
- 28 (a) all members agree, in writing, to the proposed resolution; and

Section 75

- 1 (b) notice of the resolution is given under procedures decided by
2 the board.

3 **75 Board procedure**

- 4 (1) The board is not bound by the rules of evidence and may inform
5 itself of anything in any way it considers appropriate, but must
6 observe natural justice.
- 7 (2) Proceedings before the board—
- 8 (a) are not to be open to the public, unless the board decides in a
9 particular case that the proceeding is to be conducted
10 completely or partly in public; and
- 11 (b) are not to be conducted in an adversarial manner; and
- 12 (c) are to be conducted with as little formality and technicality,
13 and as quickly, as fairness to any affected person and the
14 requirements of this Act allow.
- 15 (3) Without limiting subsection (2) (a), a person (other than an eligible
16 person) is not entitled to be present at a meeting (including a
17 hearing) of the board, unless the presiding judicial member
18 otherwise directs.
- 19 (4) In subsection (3):
- 20 *eligible person* means—
- 21 (a) a member, or
- 22 (b) the secretary; or
- 23 (c) the director of public prosecutions; or
- 24 (d) for a hearing of the board at which a sentenced offender is
25 entitled under this Act to make submissions to the board—
- 26 (i) the offender; or
- 27 (ii) a lawyer representing the offender; or

1 (iii) someone else representing the offender with the board's
2 consent; or

3 (e) for any hearing of the board—a person who is required to
4 appear before, or produce a document to, the board at the
5 hearing.

6 *Note* Section 49 (Further consideration by board of intention to refuse parole)
7 and section 57 (Inquiry into suspected breaches of parole orders) entitle
8 sentenced offenders to make submissions to the board.

9 (5) A decision of the board is not invalid only because of any
10 informality or lack of form.

11 **76 Board minutes**

12 The board must keep minutes of its proceedings.

13 **77 Disclosure of interests by members of board**

14 (1) This section applies to a member of the board if—

15 (a) the member has a direct or indirect interest in an issue being
16 considered, or about to be considered, by the board; and

17 (b) the interest could conflict with the proper exercise of the
18 member's functions in relation to the board's consideration of
19 the issue.

20 (2) As soon as is practicable after the relevant facts come to the
21 member's knowledge, the member must disclose the nature of the
22 interest to a meeting of the board.

23 (3) The disclosure must be recorded in the board's minutes and, unless
24 the board otherwise decides, the member must not—

25 (a) be present when the board considers the issue; or

26 (b) take part in a decision of the board on the issue.

27 (4) Any other member who also has a direct or indirect interest in the
28 issue must not—

Section 78

- 1 (a) be present when the board is considering its decision under
2 subsection (3); or
3 (b) take part in making the decision.
- 4 (5) Within 14 days after the end of each financial year, the chairperson
5 must give the Minister a statement of any disclosure of interest
6 made under this section during the financial year.

7 **78 Authentication of board documents**

8 Any document requiring authentication by the board is sufficiently
9 authenticated if it is signed by—

- 10 (a) the judicial member who presided at the meeting of the board
11 that dealt with the proceeding in relation to which the
12 document was prepared; or
13 (b) in the absence of that member, any other member who was
14 present at that meeting or the secretary.

15 **79 Evidentiary certificate about board decisions**

16 A certificate given by the secretary that records any decision of the
17 board is admissible in any legal proceeding and is evidence of the
18 matters recorded.

19 **80 Proof of certain matters relating to board not required**

20 In any legal proceeding, proof is not required, until evidence is
21 given to the contrary, of—

- 22 (a) the constitution of the board; or
23 (b) any decision or recommendation of the board; or
24 (c) the appointment of, or holding of office by, any member; or
25 (d) the presence or nature of a quorum at any meeting of the board.

- 1 **81 Application of pt 4.2 and pt 4.3 to divisions of board**
- 2 This part and part 4.3 (Inquiries by board) apply to a division of the
- 3 board in the same way as they apply to the board, except so far as
- 4 they otherwise provide.

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Part 4.3 Inquiries by board

4

82 Board may hold inquiries and hearings

5

(1) For the exercise of a function of the board, the board may hold an inquiry.

6

7

(2) The board may hold hearings for an inquiry.

8

83 Sentenced offenders to appear before board

9

(1) This section applies to an inquiry in relation to a sentenced offender subject to a parole order.

10

11

(2) The board may call on the sentenced offender to appear before it and, if the offender does not appear, may issue a warrant for the offender's arrest.

12

13

14

(3) However, if the board is of the opinion that the sentenced offender will not appear if called on to do so or for any other reason a warrant should be immediately issued for the offender, the board may, without calling on the offender to appear before it, issue a warrant for the offender's arrest.

15

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19

(4) A warrant under this section must—

20

(a) be signed by a judicial member or the secretary; and

21

(b) be directed to all police officers or a named police officer; and

22

(c) order the apprehension of the sentenced offender to whom the warrant relates and the bringing of the offender before the board.

23

24

25

(5) If a sentenced offender is apprehended under a warrant under this section, the offender must be brought before the board as soon is practicable.

26

27

- 1 **84 Board may require attendance of people and production**
2 **of documents**
- 3 (1) A judicial member may, by written notice given to a person, require
4 the person—
- 5 (a) to appear before the board, at a time and place stated in the
6 notice, for the purpose of giving evidence; or
- 7 (b) to produce to the board, at a time and place stated in the notice,
8 a stated document that is relevant to any proceeding of the
9 board.
- 10 (2) A person who is given a notice under subsection(1) (a) must not,
11 without reasonable excuse, fail to—
- 12 (a) appear as required by the notice; and
- 13 (b) continue to attend as required by the judicial member presiding
14 until excused from further attendance.
- 15 **Maximum penalty: 5 penalty units.**
- 16 (3) A person who is given a notice under subsection(1) (b) must not
17 fail, without reasonable excuse, to produce a document as required
18 by the notice.
- 19 **Maximum penalty: 5 penalty units.**
- 20 (4) If a document is produced to the board, the board may take
21 possession of the document for the period that it considers necessary
22 for the proceeding before it.
- 23 (5) This section does not require a person to produce to the board any
24 document the production of which the Minister certifies in writing
25 may—
- 26 (a) endanger an offender or anyone else; or
- 27 (b) otherwise be contrary to the public interest.

Section 85

1 **85 Giving evidence and answering questions before board**

2 (1) The judicial member presiding may require a person who appears
3 before the board to be sworn for the purpose of giving evidence on
4 oath and may administer an oath to the person.

5 (2) The judicial member presiding may require a person who appears
6 before the board to answer a question that is reasonably related to
7 the proceeding before it.

8 (3) The judicial member presiding may disallow a question put to a
9 person if, in the judicial member's opinion, the question is unfair or
10 unduly prejudicial.

11 (4) A person is not excused from answering a question or producing a
12 document when required to do so for an inquiry on the ground that
13 answering the question or producing the document may tend to
14 incriminate the person.

15 (5) However—

16 (a) the answering of the question or the production of the
17 document; or

18 (b) any other information, document or thing obtained as a direct
19 or indirect consequence of the person answering the question
20 or producing the document;

21 is not admissible in evidence against the person in a criminal
22 proceeding.

23 (6) Subsection (5) does not apply to a proceeding for an offence against
24 this Act or any other offence in relation to the falsity or misleading
25 nature of an answer or document.

26 **86 Offences relating to hearings by board**

27 (1) A person must not at a hearing of the board—

28 (a) make an unsworn statement that the person knows is false or
29 misleading in a material particular; or

- 1 (b) produce a document to the board that the person knows is false
2 or misleading in a material particular; or

3 Maximum penalty: 20 penalty units.

- 4 (2) A person appearing before the board must not—

5 (a) fail to take an oath or make an affirmation when required by
6 the judicial member presiding; or

7 (b) fail, without reasonable excuse, to answer a question the
8 person is required to answer by the judicial member presiding.

9 Maximum penalty: 20 penalty units.

10 **87 Misconduct before board**

- 11 (1) A person must not, at a hearing of the board, insult any member or
12 behave in a disorderly, abusive or threatening way.

13 Maximum penalty: 10 penalty units.

- 14 (2) A person must not, at a hearing of the board, without reasonable
15 excuse—

16 (a) interrupt the hearing; or

17 (b) disobey a reasonable direction of the judicial member
18 presiding.

19 Maximum penalty: 10 penalty units.

20 **88 Reports for board**

21 A corrections officer or an authority of New South Wales must, if
22 asked by the board, give the secretary a report about a person who is
23 serving a sentence of imprisonment or on parole.

24 **89 Rights of sentenced offenders making submissions to
25 board**

26 At any hearing of the board at which a sentenced offender is entitled
27 under this Act to make submissions to the board, the offender—

Section 90

- 1 (a) may be represented by a lawyer or, with the consent of the
2 board, by anyone else; and
- 3 (b) may make submissions to the board in relation to any evidence
4 presented to the board; and
- 5 (c) may produce documents and exhibits to the board; and
- 6 (d) may give evidence on oath; and
- 7 (e) may otherwise present evidence, orally or in writing, to the
8 board, and address the board on, matters relevant to the
9 hearing.

10 *Note* Section 49 (Further consideration by board of intention to refuse parole)
11 and section 57 (Inquiry into suspected breaches of parole orders) entitle
12 sentenced offenders to make submissions to the board.

13 **90 Allowances and expenses payable to board witnesses**

- 14 (1) A person who is required to appear before, or produce a document
15 to, the board at a hearing is entitled to be paid the reasonable
16 allowances and expenses that the board decides.
- 17 (2) This section does not apply to—
- 18 (a) the sentenced offender in relation to whom the hearing is being
19 held; or
- 20 (b) a witness who is in prison or a remand centre.

1

2 **Part 4.4** **Other provisions about the**
3 **board**
4

5 **91 Effect of board warrants**

- 6 (1) A warrant issued by a judicial member or the secretary under this
7 Act has the same effect as a warrant issued by a court.
- 8 (2) All courts and persons acting judicially must take judicial notice of a
9 warrant issued by a judicial member or the secretary under this Act.

10 **92 Secretary and assistant secretaries**

- 11 (1) The chief executive may appoint a public servant as secretary of the
12 board.
- 13 (2) The chief executive may appoint 1 or more public servants as
14 assistant secretaries of the board.
- 15 (3) Subject to any direction of the chief executive, an assistant secretary
16 may exercise any of the functions of the secretary.

17 *Note* The functions of an assistant secretary may be exercised by a person
18 occupying the position of assistant secretary (see *Legislation Act 2001*,
19 s 200).

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Chapter 5 Miscellaneous

5

93 Chief Minister may make arrangements with NSW

6
7

(1) The Chief Minister may make arrangements with the Governor of New South Wales (the *State*)—

8
9

(a) for the exercise by State officers of functions in relation to ACT prisoners who are serving their sentences in the State; and

10

(b) for reports by State officers about ACT prisoners.

11

(2) In this section:

12
13

State officer means an officer or employee of the State, of a State instrumentality or of a contractor of the State.

14
15

ACT prisoner means an offender sentenced in the ACT to imprisonment by way of full-time detention.

16
17

94 Exercise of prerogative of mercy and other laws not affected

18

This Act does not affect—

19

(a) the prerogative of mercy; or

20
21

(b) any other Act, or any other law in force in the Territory, relating to offenders or remandees.

22

95 Security of certain information

23
24
25

This Act does not require a person to be given a copy of a report or another document (or any part of the report or document) if giving it to the person may, in the opinion of a judicial member—

26
27

(a) adversely affect the security, discipline or good order of a prison or remand centre; or

28

(b) endanger the person or anyone else; or

- 1 (c) jeopardise the conduct of any lawful investigation; or
2 (d) prejudice the public interest.

3 **96 Corrections officers**

4 The chief executive may appoint public servants to be corrections
5 officers for this Act.

6 **97 Approved forms**

- 7 (1) The Minister may approve forms for this Act (other than forms for
8 use in or in relation to a court).
9 (2) If the Minister approves a form for a particular purpose, the
10 approved form must be used for that purpose.
11 (3) An approved form is a notifiable instrument.

12 *Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

13 **98 Regulation-making power**

- 14 (1) The Executive may make regulations for this Act.

15 *Note* Regulations must be notified, and presented to the Legislative
16 Assembly, under the *Legislation Act 2001*.

- 17 (2) The regulations may prescribe offences for contraventions of the
18 regulations and prescribe maximum penalties of not more than 10
19 penalty units for offences against the regulations.

20 **99 Review of home detention provisions**

- 21 (1) The Minister must review the operation of the provisions of this Act
22 relating to home detention as soon as is practicable after 2 years
23 after the commencement of this Act.
24 (2) A report on the outcome of the review must be presented by the
25 Minister to Legislative Assembly within 6 months after the end of
26 the 2 years.
27 (3) This section expires 3 years after it commences.

1

2 **Chapter 6 Transitional provisions,**
3 **repeals and amendments**

3

4

5

6 **100 Definitions for ch 6**

7 In this chapter:

8 *commencement* means the commencement of this chapter.

9 *existing parole order*—see section 103 (1) (Parole orders under
10 former Act).

11 *former Act* means the *Parole Act 1976*.

12 *former board* means the parole board established under the former
13 Act.

14 **101 Nonparole periods fixed under former Act**

15 A nonparole period fixed under the former Act, section 7 that had
16 not ended before the commencement is taken, after the
17 commencement, to be a nonparole period set under section 31
18 (Court to set nonparole period) of this Act for the remainder of the
19 period for which it was fixed under the former Act.

20 **102 Decisions of former board refusing parole etc**

21 (1) An opinion formed by the former board under the former Act,
22 section 19 (1) (a) is taken, after the commencement, be a decision
23 under section 47 (b) (Initial consideration of parole by board) of this
24 Act.

25 (2) A statement given to a person under the former Act,
26 section 19 (1) (c) is taken, after the commencement, to be a notice of
27 intention to refuse parole given to the person under section 47 (b) of
28 this Act.

- 1 (3) If a request was made by a person for the former Act,
2 section 19 (1) (d), the request complied with the former Act,
3 section 19 (2), but the person had not been brought before the board
4 because of the request, then, for section 49 (Further consideration by
5 board of intention to refuse parole) of this Act, the person is taken to
6 have told the secretary that the person wishes to make submissions
7 to the board.

8 **103 Parole orders under former Act**

- 9 (1) A parole order under the former Act, section 20 that was in force
10 immediately before the commencement (an *existing parole order*) is
11 taken, after the commencement, to be a parole order under this Act.
- 12 (2) While this section remains in force, the conditions to which an
13 existing parole order was subject immediately before the
14 commencement are taken, after the commencement, to be the
15 conditions to which the order is subject.
- 16 (3) However, subsection(2) does not prevent the board imposing
17 additional conditions on an existing parole order, or amending any
18 conditions to which an existing parole order is from time to time
19 subject.
- 20 (4) To remove any doubt, the standard conditions prescribed under the
21 regulations for parole orders do not apply to an existing parole order
22 while this section remains in force.

23 **104 Revocation of existing parole orders for breaches before**
24 **commencement**

25 Part 3.4 (Revocation of parole orders) applies to a breach of a
26 condition of an existing parole order committed before the
27 commencement.

28 **105 Warrants to appear before former board**

29 A warrant issued under the former Act, section 25 that was in force
30 immediately before the commencement is taken, after the

Section 106

1 commencement, to be a warrant issued under section 54 (Arrest of
2 parolee with warrant) of this Act.

3 **106 Existing arrangements with NSW**

4 An arrangement made under the former Act, section 26 that was in
5 force immediately before the commencement is taken, after the
6 commencement, to be an arrangement made under section 93 (Chief
7 Minister may make arrangements with NSW) of this Act.

8 **107 Appointments to former board**

9 (1) If a person held appointment as chairperson of the former board
10 immediately before the commencement, the person is taken, on the
11 commencement, to have been appointed as chairperson of the board
12 under this Act for a term of 3 years.

13 (2) If a person held appointment as a member (other than chairperson)
14 of the former board immediately before the commencement, the
15 person is taken, on the commencement, to have been appointed as a
16 non-judicial member under this Act for a term of 3 years.

17 (3) Section 68 (2) (Term of appointment of members etc) does not
18 apply to an appointment mentioned in this section.

19 **108 Regulations about transitional matters**

20 (1) The regulations may prescribe transitional matters necessary or
21 convenient to be prescribed for this Act.

22 (2) Without limiting subsection(1), the regulations may prescribe
23 matters necessary or convenient to be prescribed for carrying out or
24 giving effect to the provisions of this Act instead of the provisions
25 of the former Act.

26 (3) Regulations made under this section must not be taken to be
27 inconsistent with this Act so far as they can operate concurrently
28 with this Act.

29 (4) This section is additional to section 109.

1 **109 Regulations modifying ch 6**

2 The regulations may modify the operation of this chapter to make
3 provision with respect to any matter that is not, or is not in the
4 Executive's opinion adequately, dealt with in this chapter.

5 **110 Repeals**

6 (1) The *Parole Act 1976* No 29 is repealed.

7 (2) The *Parole Board (Fees) Regulations* SL 1977 No 9 are repealed.

8 **111 Acts amended—sch 1**

9 Schedule 1 amends the Acts mentioned in that schedule.

10 **112 Expiry of ch 6**

11 This chapter expires 1 year after it commences.

Schedule 1 Consequential amendments

(see s 111)

Part 1.1 Custodial Escorts Act 1998

[1.1] Section 3, definition of *arrested person*, paragraph (a) (i)

substitute

- (i) has been arrested by a police officer, whether under a warrant or otherwise; or

[1.2] Section 3, definition of *court*

substitute

court includes—

- (a) a judge or magistrate; and
(b) the Sentence Administration Board established under the *Rehabilitation of Offenders (Interim) Act 2001*; and
(c) any other entity having power to compel the attendance of witnesses.

Part 1.2 Director of Public Prosecutions Act 1990

[1.3] Section 6 (1) (ga)

substitute

- (ga) attending a meeting of the Sentence Administration Board established under the *Rehabilitation of Offenders (Interim) Act 2001*;

[1.4] Section 6 (1)

renumber paragraphs when Act next republished under Legislation Act 2001

Part 1.3 Evidence (Miscellaneous Provisions) Act 1991

[1.5] Section 14, definition of *Territory court*, paragraph (e)

substitute

- (e) an arbitrator or umpire conducting proceedings under the *Commercial Arbitration Act 1986*; or
- (f) the Sentence Administration Board established under the *Rehabilitation of Offenders (Interim) Act 2001*.

Part 1.4 Parole Orders (Transfer) Act 1983

[1.6] Section 3, new definition of *board*

insert

board means the Sentence Administration Board established under the Rehabilitation of Offenders Act.

[1.7] Section 3, definition of *Parole Board*

omit

[1.8] Section 3, definition of *parole order*, paragraph (a)

omit

Parole Act 1976

substitute

Rehabilitation of Offenders Act

[1.9] Section 3, new definition of *Rehabilitation of Offenders Act*

insert

Rehabilitation of Offenders Act means the *Rehabilitation of Offenders (Interim) Act 2001*.

[1.10] Section 7 (1) (d)

omit

Parole Board

substitute

board

[1.11] Section 9 (2) (b)

substitute

- (b) give the chairperson of the board a copy of the documents required under paragraph (c) to be kept in a register; and

[1.12] Section 10 (2) (c)

omit

Parole Act 1976

substitute

Rehabilitation of Offenders Act

[1.13] Section 10 (4)

substitute

- (4) If a parole order registered under this Act is revoked under the Rehabilitation of Offenders Act, the parolee is liable to serve a sentence of imprisonment equal to the period for which the parolee was liable to be imprisoned on the day the parolee was released on parole under the order.

Part 1.5 Periodic Detention Act 1995

[1.14] Section 33

substitute

33 Application of Rehabilitation of Offenders (Interim) Act

The *Rehabilitation of Offenders (Interim) Act 2001* applies in relation to a term of imprisonment required to be served by a person because of the cancellation of a periodic detention order under section 29 (Cancellation on subsequent conviction) or section 30 (Cancellation otherwise than on subsequent conviction) as if—

- (a) for section 31 (Court to set nonparole period) of that Act—the court had sentenced the person to the relevant term of imprisonment; or
- (b) for section 32 (Setting of nonparole period for person serving 1 or more previous sentences) of that Act—a reference in that section to the existing sentence or the new sentence included that term of imprisonment.

Part 1.6 Remand Centres Act 1976

[1.15] New section 15 (1) (r)

insert

- (r) a person who, under the *Rehabilitation of Offenders (Interim) Act 2001*—
 - (i) is referred by a court for assessment for suitability for home detention; or
 - (ii) is before the Sentence Administration Board pending a hearing or decision of the board about the person's parole order.

[1.16] Section 15

renumber subsections and paragraphs when Act next republished under Legislation Act 2001

Part 1.7 Removal of Prisoners Act 1968

[1.17] Section 3 (1), definition of *authorised officer*

substitute

authorised officer means—

- (a) the sheriff or a deputy sheriff of the Territory; or
- (b) a magistrate; or
- (c) the registrar or a deputy registrar of the Magistrates Court; or
- (d) the chairperson, a deputy chairperson or the secretary of the Sentence Administration Board established under the *Rehabilitation of Offenders (Interim) Act 2001*; or
- (e) a sheriff, registrar, deputy registrar, district registrar, or similar officer, of a federal court.

1

2 Dictionary

3 (see s 3)

4 ***assessment report*** means a report under section 13 (Assessment of
5 suitability for home detention).

6 ***board*** means the Sentence Administration Board.

7 ***chairperson*** means the chairperson of the board.

8 ***Crimes Act*** means the *Crimes Act 1900*.

9 ***corrections officer*** means a public servant appointed as a
10 corrections officer under section 96 (Corrections officers).

11 ***deputy chairperson*** means a deputy chairperson of the board.

12 ***domestic violence offence***—see the Crimes Act, dictionary.

13 ***eligibility date***, in relation to a sentenced offender, means the day
14 the offender's nonparole period ends.
15

16 ***full-time detention*** means imprisonment that is required to be
17 served otherwise than by way of periodic detention or home
18 detention.

19 ***harm***, for chapter 3 (Nonparole periods and parole)—see section 29
20 (Definitions for ch 3).

21 ***home detention*** means detention in accordance with chapter 2
22 (Home detention orders).

23 ***home detention order*** means an order in force under section 6
24 (Imprisonment by way of home detention) or section 7 (Remand by
25 way of home detention).

26 ***institution***—see the *Children and Young People Act 1999*,
27 dictionary.

28 ***judicial member*** means the chairperson or a deputy chairperson.

29 ***member*** means a member of the board, and includes the chairperson
30 and a deputy chairperson.

1 ***non-judicial member*** means a member other than the chairperson or
2 a deputy chairperson.

3 ***nonparole period*** means—

4 (a) a nonparole period set under section 31 (Court to set nonparole
5 period); or

6 (b) if the nonparole period is subject to reduction or remission
7 under the *Removal of Prisoners Act 1968*, section 5 (Removal
8 to, or detention in, the State)—the nonparole period less the
9 period of reduction or remission.

10 ***notice of intention to refuse parole***—see section 47 (Initial
11 consideration of parole by board).

12 ***obligations*** means—

13 (a) for a person subject to a home detention order—the obligations
14 that the person has under section 19 (Obligations under home
15 detention order) because of the making of the order

16 (b) for a person subject to a parole order—the obligations that the
17 person has under section 39 (Obligations under parole order)
18 because of the making of the order.

19 ***offender*** means a person convicted or found guilty of an offence by
20 a court.

21 ***parolee*** means a person subject to a parole order.

22 ***parole date***, for a sentenced offender subject to a parole order,
23 means the date stated in the order for the offender's release from
24 custody.

25 ***parole order*** means an order in force under any of the following
26 sections:

- 27 • section 47 (Initial consideration of parole by board)
28 • section 50 (Decision of board about parole after further
29 consideration)
30 • section 52 (Making of parole orders in exceptional
31 circumstances).

1 **police officer** includes a member of a police force or service of a
2 State or another Territory.

3 **prison** includes any place in or outside the ACT where a person who
4 has been sentenced to a term of imprisonment may be detained to
5 serve the sentence by full-time detention.

6 **relevant court** means—

7 (a) in relation to a remandee for whom a home detention order has
8 been made—the remanding court; and

9 (b) in relation to a sentenced offender for whom a home detention
10 order has been made—the sentencing court.

11 **remand centre**—see the *Remand Centres Act 1976*, section 3.

12 **remandee** means a person remanded in custody by a court for an
13 offence.

14 **remanding court**, in relation to a remandee for whom a home
15 detention order has been made, means the court that made the home
16 detention order, and includes that court differently constituted.

17 **secretary** means the secretary of the board, and includes an assistant
18 secretary of the board.

19 **sentence** means—

20 (a) when used as a noun—the penalty imposed for an offence; and

21 (b) when used as a verb—to impose a penalty for an offence.

22 **sentenced offender** means a person convicted or found guilty of an
23 offence by a court and sentenced for the offence, and includes a
24 parolee.

25 **sentencing court**, in relation to an offender sentenced by a court,
26 means the court by which the sentence was imposed, and includes
27 that court differently constituted.

28 **served**—a term of imprisonment is **served** when—

29 (a) the person is discharged from imprisonment; or

- 1 (b) apart from the person serving another term of imprisonment,
2 the person would have been discharged from imprisonment.
- 3 *State institution*—see the *Children and Young People Act 1999*,
4 section 65.
- 5 *subject*—see section 5 (Meaning of *subject* to imprisonment etc).
- 6 *victim*, for chapter 3 (Nonparole periods and parole)—see section 29
7 (Definitions for ch 3).
- 8 *victims register*—see section 34 (secretary to keep victims register
9 etc).
- 10 *young person*—see the *Children and Young People Act 1999*,
11 section 64.

Endnote

Penalty units

The *Legislation Act 2001*, s 133 deals with the meaning of offence penalties that are expressed in penalty units.