

2007

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

**CRIMES (SENTENCE ADMINISTRATION)
AMENDMENT REGULATION 2007 (No 1)**

EXPLANATORY STATEMENT

Circulated by authority of the
Attorney General
Simon Corbell MLA

Crimes (Sentence Administration) Amendment Regulation 2007 (No 1)

Outline

The *Crimes (Sentencing) Act 2005*, the *Crimes (Sentence Administration) Act 2005* and the Corrections Management Bill 2006 have been drafted using common terms, methods and connections. The three are designed to work together and make sense of a sentence from sentencing to the completion of a prison term.

The *Sentencing Legislation Amendment Act 2006* provided consequential amendments for the *Crimes (Sentencing) Act 2005*, the *Crimes (Sentence Administration) Act 2005*, and the foreshadowed Corrections Management Act. The *Sentencing Legislation Amendment Act 2006* repealed old sentencing and sentence administration laws and updated references in the ACT's statute book to be consistent with the new laws.

The *Sentencing Legislation Amendment Act 2006* also provided transitional arrangements to enable the existing custodial laws to apply until the Corrections Management Act has commenced.

Amendment 1.163 in schedule 1 to the *Sentencing Legislation Amendment Act 2006* introduced a new transitional chapter 17 to the *Crimes (Sentence Administration) Act 2005*.

Chapter 17 now provides transitional arrangements to enable existing custodial laws to apply until the Corrections Management Act has commenced. To ensure the ACT's custodial laws continue to operate in harmony with the new Sentencing Acts, chapter 17 also provides transitional methods and powers to resolve any legal conflicts should they arise.

Section 612 of the *Crimes (Sentence Administration) Act 2005* is part of chapter 17 and operates to expire the chapter 1 year after it commenced, namely 2 June 2007. However, section 611 of that Act also provides that a regulation may prescribe transitional measures necessary or convenient to be prescribed because of the enactment of the three pieces of legislation. In the circumstances of the Corrections Management Bill not yet having been passed close to the 2 June 2007 expiry date, this regulation retains chapter 17 for a longer period.

In order that the statute book should continue to make it clear what arrangements applied during the period before 2 June 2006 and the commencement of the Corrections Management Act (the *interim custody period*), the regulation also enables the transitional provisions to appear on the statute book for a conservative period of two years.

In time section 612 will be substantively amended in a similar way to the operation of this regulation modifying section 612.

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Detail

Clause 1 — Name of regulation

This is a technical clause which names the regulation. The name of the regulation would be the *Crimes (Sentence Administration) Amendment Regulation 2007*.

Clause 2 — Commencement

The regulation commences on the day following the day the regulation is notified on the legislation register.

Clause 3— Legislation amended

This clause identifies the regulation to be amended, namely the *Crimes (Sentence Administration) Regulation 2006*.

Clause 4 — New section 5

Clause 4 inserts new words into section 5(2) of the *Crimes (Sentence Administration) Regulation 2006*. Section 5 of the regulation expires the section and schedule 1 of the regulation on the day the foreshadowed Corrections Management Act commences.

Clause 4 will ensure that section 5 will expire when schedule 1, part 1.3 of the foreshadowed Corrections Management Act commences. In effect, it expires the regulation upon commencement of the Correction Management Act's schedule, rather than the whole Act. The regulation will expire when schedule 1, part 1.3 of the Corrections Management Act commences, because the schedule 1 of the Act includes relevant amendments that give effect to the substance of this regulation.

Existing section 5 relies upon the regulation making power in section 611 of the *Crimes (Sentence Administration) Act 2005* to modify the transitional arrangements in the *Crimes (Sentence Administration) Act 2005*. The modifications are set out in schedule 1 of the regulation.

Clause 5 — Schedule 1, new modification 1.1A

Schedule 1 of the regulation amends the *Crimes (Sentence Administration) Act 2005*.

New 1.1A to Schedule 1 qualifies the definition of *interim custody period* in section 603(1) of the *Crimes (Sentence Administration) Act 2005*. The amendment means that the interim custody period lasts until the commencement of chapter 3 of the foreshadowed Corrections Management Act, rather than the Act as a whole. This is because certain parts of the foreshadowed Act may need to be commenced ahead of other parts.

Clauses 6 and 7 — Modifications 607A and 607B

Schedule 1 of the regulation is currently in force and reads in new sections 607A and 607B into the *Crimes (Sentence Administration) Act 2005*.

Explanation of these sections was set out in the explanatory statement to the *Crimes (Sentence Administration) Regulation 2006*, SL2006–23.

Clauses 6 and 7 expire the modified provisions 607A and 607B when schedule 1, part 1.3 of the foreshadowed Corrections Management Act commences.

Clause 8 — Schedule 1, new modifications 1.2

Clause 8 modifies section 612 of the *Crimes (Sentence Administration) Act 2005* to enable chapter 17 to continue until two years after the foreshadowed Corrections Management Act commences.