



ANNO TRICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1984

No. 94 of 1984

An Act to amend the Correctional Services Act, 1982.

[Assented to 20 December 1984]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Correctional Services Act Amendment Act, 1984". Short title.

(2) The Correctional Services Act, 1982, is in this Act referred to as "the principal Act".

2. (1) This Act shall come into operation on a day to be fixed by proclamation. Commencement.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. Section 3 of the principal Act is amended—

(a) by striking out the item:

DIVISION III—PRISONERS ASSESSMENT COMMITTEE

and substituting the item:

DIVISION III—ASSESSMENT OF PRISONERS;

(b) by striking out the item:

DIVISION I—JURISDICTION AND POWERS OF VISITING TRIBUNALS

and substituting the item:

DIVISION I—POWERS OF VISITING TRIBUNALS;

(c) by striking out the item:

DIVISION III—PROCEEDINGS AGAINST PRISONERS FOR OTHER OFFENCES;

and

Amendment of
s. 3—
Arrangement.

(d) by striking out the item:

PART VII—CONDITIONAL RELEASE
and substituting the item:

PART VII—REMISSION OF SENTENCE.

Amendment of
s. 4—
Interpretation.

4. Section 4 of the principal Act is amended—

- (a) by striking out the definition of “the Assessment Committee”;
- (b) by striking out the definition of “conditional release”;
- (c) by inserting after the definition of “the Department” the following definition:
- “designated part”, in relation to a correctional institution, means a part of the institution designated by the Minister under Part II to be a part in which prisoners of a specified class may be detained;
- (d) by striking out from the definition of “Magistrate” the passage “special magistrate appointed under the Justices Act, 1921-1981” and substituting the passage “magistrate appointed under the Magistrates Act, 1983”;
- (e) by inserting after the definition of “Magistrate” the following definition:
- “manager”, in relation to a correctional institution, means the person for the time being in charge of the institution;
- (f) by inserting in the definition of “prisoner” after the passage “pursuant to” the passage “an order of a court or”;
- and
- (g) by striking out the definition of “superintendent”.

Amendment of
s. 7—
Power of Minister
and Permanent
Head to delegate.

5. Section 7 of the principal Act is amended—

- (a) by inserting in subsection (2) after the passage “the Permanent Head may” the passage “, with the approval of the Minister,”;
- and
- (b) by inserting after subsection (2) the following subsection:
- (2a) The Permanent Head may, with the approval of the Minister, delegate to the manager of a police prison any of the powers, functions, duties or responsibilities—
- (a) that are vested, imposed upon or delegated to the Permanent Head;
- and
- (b) that are applicable to the police prison or to those persons who are, or are to be, detained in it.

Amendment of
s. 10—
Continuance of
the Advisory
Council.

6. Section 10 of the principal Act is amended by inserting in subsection (3) after the word “woman” the passage “and at least one must be a man”.

Amendment of
s. 17—
Establishment of
Visiting
Tribunals.

7. Section 17 of the principal Act is amended by striking out subsections (2) and (3) and substituting the following subsection:

(2) The Governor may, by proclamation, appoint—

- (a) a Magistrate;
- (b) two Justices of the Peace;
- or
- (c) a Justice of the Peace,

to be a Visiting Tribunal for a correctional institution.

8. Section 19 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

Amendment of s. 19—
Correctional institutions to be under the control of the Minister.

(2) The Minister may, by notice in the *Gazette*—

- (a) designate a specified part of a correctional institution to be a part of the institution in which a prisoner of a specified class may be detained;
- (b) vary or revoke a notice under this section.

9. Section 20 of the principal Act is repealed and the following section is substituted:

Repeal of s. 20 and substitution of new section.

20. (1) The Minister shall cause correctional institutions to be inspected on a regular basis by an inspector for the purpose of ascertaining whether the provisions of this Act relating to the treatment of prisoners are being complied with.

Minister shall cause correctional institutions to be inspected on a regular basis.

(2) The Governor may appoint such number of Justices of the Peace as inspectors for the purposes of this section as he thinks fit.

(3) An inspector shall not be directed to inspect any correctional institution in respect of which he constitutes a Visiting Tribunal or is a member of such a Tribunal.

(4) For the purposes of, or in the course of, carrying out an inspection, an inspector may—

- (a) enter and inspect any part of the correctional institution;
- (b) question any person within the institution;
- (c) inquire into the treatment of the prisoners, or of a particular prisoner;

and

(d) receive and investigate any complaint of a prisoner.

(5) An inspector may, in investigating a complaint, be assisted by any other person authorized by the Attorney-General for the purpose.

(6) An inspector shall, as soon as reasonably practicable after carrying out an inspection pursuant to this section, or at such other intervals as the Minister may direct, furnish the Minister with a written report on the inspection, including his findings in relation to any complaint investigated by him in the course of the inspection.

(7) An inspector may, in a report furnished by him pursuant to this section, make such recommendations on any matter arising out of the report as he thinks fit.

Amendment of s. 21—
Day on which sentence of imprisonment shall commence.

Insertion of new s. 21a.

Documentation to be presented upon admission of a prisoner to a correctional institution.

10. Section 21 of the principal Act is amended by striking out subsection (3).

11. The following section is inserted after section 21 of the principal Act:

21a. A person who is to be detained in a correctional institution pursuant to an order of a court or a warrant of commitment shall not be admitted to a correctional institution for detention except upon presentation of—

(a) a written statement that contains particulars of the order of the court;

or

(b) the warrant of commitment, which must contain particulars of the order of the court on which it is founded.

Amendment of s. 22—

Permanent Head may assign prisoner to a specified correctional institution and to a specified part of the institution.

12. Section 22 of the principal Act is amended—

(a) by inserting in subsection (1) after the passage “in such correctional institution” the passage “and, where relevant, in such designated part of the institution,”;

and

(b) by inserting in subsection (2) after the passage “in such correctional institution” the passage “and, where relevant, in such designated part of the institution,”.

Repeal of Division III and substitution of new Division.

13. Division III of Part IV of the principal Act is repealed and the following Division is substituted:

DIVISION III—ASSESSMENT OF PRISONERS

Initial and periodic assessment of prisoners.

23. (1) The Permanent Head shall, as soon as practicable after the initial admission to a prison of a person who has been sentenced to a term of imprisonment exceeding six months, to life imprisonment or to a sentence of indeterminate duration, and thereafter at regular intervals of not more than one year, assess the prisoner and his circumstances and determine whether or not the prisoner should be transferred to some other designated part of the prison or to some other prison.

(2) The Minister may establish a committee for the purpose of assisting the Permanent Head in carrying out assessments under this section.

(3) In carrying out an assessment under this section, the Permanent Head shall have regard to—

(a) the age, sex and social, medical, psychological and vocational background and history of the prisoner;

(b) the needs of the prisoner in respect of education or training or medical or psychiatric treatment;

(c) the aptitude or suitability of the prisoner for any particular form of training or work;

(d) the nature of the offence, or offences, in respect of which the prisoner is imprisoned and the length of his sentence;

- (e) the information contained in any file held by a court in respect of the prisoner;
 - (f) the behaviour of the prisoner while in prison;
 - (g) the security of, and availability of accommodation in, any prison or part of a prison under consideration;
 - (h) the question of maintaining the prisoner's family ties;
 - (i) where relevant, any proposed plans in respect of the release of the prisoner and his social rehabilitation;
- and
- (j) such other matters as the Permanent Head thinks relevant.

(4) The Permanent Head shall, before commencing an assessment, notify the prisoner of his intention to do so and shall, if the prisoner so requests, grant him an opportunity to make representations in person to the Permanent Head or to a committee established pursuant to subsection (2).

(5) The prisoner may make written representations in respect of his assessment to the Permanent Head or to a committee established pursuant to subsection (2).

(6) After the first assessment of a prisoner has been completed, the Permanent Head shall prepare a programme in relation to the prisoner that contains particulars of any proposals for the education or training or medical or psychiatric treatment of the prisoner, and may, after any subsequent assessment, add to or vary that programme.

14. Section 25 of the principal Act is amended—

- (a) by inserting in subsection (1) after the passage "correctional institution" the passage ", or that he be transferred from one designated part of a correctional institution to another";

and

- (b) by inserting in subsection (2) after the passage "correctional institution" the passage ", or designated part of a correctional institution,".

Amendment of
s. 25—
Transfer of
prisoners.

15. Section 28 of the principal Act is amended by striking out from subsection (2) the word "superintendent" and substituting the word "manager".

Amendment of
s. 28—
Removal of
prisoner for
attendance in
court, etc.

16. Section 29 of the principal Act is amended by striking out from subsections (1), (2) and (4) the word "superintendent" wherever it occurs and substituting, in each case, the word "manager".

Amendment of
s. 29—
Prison work.

17. Section 32 of the principal Act is amended by striking out the passage "superintendent of a place of imprisonment" and substituting the passage "manager of a correctional institution".

Amendment of
s. 32—
Purchase of items
of personal use by
prisoners.

18. Section 33 of the principal Act is amended—

- (a) by striking out from subsections (2), (3) and (4) the word "superintendent" wherever it occurs and substituting, in each case, the word "manager";

Amendment of
s. 33—
Prisoners' mail.

- (b) by striking out from subsection (5) the passage “superintendent may” and substituting the passage “manager may, with the prior approval of the Minister,”;
 - (c) by striking out from paragraph (a) of subsection (5) the word “superintendent” and substituting the word “manager”;
 - (d) by inserting in subsection (7) after paragraph (c) the following paragraph:
 - (ca) to an inspector of the correctional institution;;
 - (e) by inserting in subsection (8) after the passage “Visiting Tribunal” the passage “, an inspector”;
 - (f) by striking out from subsections (10), (11) and (12) the word “superintendent” wherever it occurs and substituting, in each case, the word “manager”;
- and
- (g) by striking out from subsection (14) the word “appointed” and substituting the word “authorized”.

Amendment of
s. 34—
Prisoners' right to
have visitors.

19. Section 34 of the principal Act is amended by striking out from subsection (3) the word “superintendent” wherever it occurs and substituting, in each case, the word “manager”.

Amendment of
s. 36—
Segregation.

20. Section 36 of the principal Act is amended—

- (a) by striking out subsection (1) and substituting the following subsection:
 - (1) Where the Permanent Head is satisfied that the proper administration of justice requires that a prisoner who is alleged to have committed an offence be segregated from other prisoners while an investigation of the alleged offence is conducted, the Permanent Head may direct that the prisoner be segregated from the other prisoners in the correctional institution and detained in the part of the institution designated for the purpose for such period, not exceeding thirty days, as the Permanent Head thinks fit.;
- (b) by striking out subsection (3) and substituting the following subsection:
 - (3) Where the Permanent head is satisfied that the welfare of a prisoner requires that he be segregated from the other prisoners in the correctional institution, or that a prisoner is likely to injure another person or unduly harass another prisoner, the Permanent Head may direct that he be segregated from the other prisoners and detained in the part of the institution designated for the purpose for such period, not exceeding seven days, as the Permanent Head thinks fit.;
- (c) by striking out from subsection (4) the passage “separate confinement” and substituting the passage “segregation and detention”;
- (d) by striking out from subsection (4) the passage “confined separately” and substituting the passage “so segregated and detained”;

(e) by striking out subsection (6);

and

(f) by striking out from subsection (7) the passage "subsection (4)" and substituting the passage "this section".

21. Section 37 of the principal Act is amended—

Amendment of
s. 37—
Search of
prisoners.

(a) by striking out from subsection (1) the word "superintendent" and substituting the word "manager";

and

(b) by inserting in paragraph (a) of subsection (1) after the passage "correctional institution" the passage ", or moving from one part of the institution to another".

22. Section 39 of the principal Act is amended by striking out subsections (2), (3), (4) and (5) and substituting the following subsections:

Amendment of
s. 39—
Release of a
prisoner from
prison.

(2) The Permanent Head may, by instrument in writing, authorize the release of a prisoner from prison on any day during the period of thirty days preceding the day on which he is due to be released from prison pursuant to any other provision of this Act.

(3) Where a contempt prisoner purges his contempt or complies with the court order for payment of a pecuniary sum, and does so between 5 p.m. on one day and 9 a.m. on the next day, the manager of the correctional institution is not, notwithstanding any other provision of this Act or any other Act or law, required to release the prisoner from the institution until that next day, at some time after 10 a.m.

23. The following sections are inserted in Part IV of the principal Act after section 39:

Insertion of new
ss. 39a, 39b and
39c.

39a. Where a prisoner is released from prison on parole, or on the expiration or extinguishment of his sentence of imprisonment, the Permanent Head shall hand over to the prisoner any personal property held on his behalf, and shall pay to the prisoner any money held to his credit pursuant to this Act—

Delivery of
property and
money to
prisoner on his
release.

(a) in a lump sum;

or

(b) in the case of a prisoner released on parole subject to the supervision of a parole officer, in a lump sum, or in such instalments payable during the period of supervision as the parole officer may determine

39b. (1) Where a former prisoner has left any personal property in a correctional institution in which he was at some time detained, the manager of the correctional institution shall give a written notice to the former prisoner, sent by post to his last known address, setting out particulars of the personal property and of the place at which it may be collected.

Manner in which
former prisoner's
personal property
is to be dealt
with.

(2) If the former prisoner fails to collect his personal property within three months of being given a notice under subsection (1), the

manager of the correctional institution shall deal with the property in the following manner:

- (a) where the property consists solely of items that would, in the opinion of the manager, be of negligible monetary value and of no sentimental value to the former prisoner, he may dispose of the property in such manner as he thinks fit;

and

- (b) in any other case—

- (i) if the whereabouts of the former prisoner is known to the manager, he shall cause the property to be delivered to the former prisoner except where it is not practicable to do so, in which case the manager may dispose of the property in such manner as he thinks fit;

or

- (ii) if the whereabouts of the former prisoner is, after reasonable inquiries, unknown to the manager, he may dispose of the property in such manner as he thinks fit.

(3) Moneys received from the sale of any personal property pursuant to this section shall be paid into the General Revenue of the State.

Certain prohibited items not to be returned to prisoners.

39c. Nothing in this Division requires the delivery or return to a person of any item of personal property the possession of which by him is prohibited by law.

Amendment of heading preceding s. 40.

24. The heading preceding section 40 is amended by striking out the passage "JURISDICTION AND".

Repeal of s. 40.

25. Section 40 of the principal Act is repealed.

Amendment of s. 42—
Immunity from liability of persons who constitute Visiting Tribunals.

(2). 26. Section 42 of the principal Act is amended by striking out subsection

Amendment of s. 43—
Manager may deal with breaches of prison regulations.

27. Section 43 of the principal Act is amended—

- (a) by striking out from subsection (1) the word "superintendent" and substituting the passage "manager of the correctional institution";
- (b) by striking out from subsection (2) the word "superintendent" and substituting the word "manager";
- (c) by striking out from subsection (2) the word "all";
- (d) by striking out from paragraph (a) of subsection (2) the passage "or conditional release";
- (e) by striking out from paragraph (a) of subsection (2) the word "ten" and substituting the word "fifteen";

and

(f) by inserting after subsection (2) the following subsection:

(3) If, after conducting an inquiry under subsection (1), the manager is not satisfied beyond reasonable doubt that the allegation has been proved, he shall dismiss the charge.

28. Section 44 of the principal Act is amended—

- (a) by striking out from subsection (1) the word “superintendent” and substituting the word “manager”;
- (b) by striking out from subsection (2) the passage “referred to him” and substituting the passage “referred to it”;
- (c) by striking out from subsection (2) the word “all”;
- (d) by striking out paragraph (a) from subsection (2);
- (e) by striking out from paragraph (b) of subsection (2) the passage “or conditional release”;
- (f) by striking out from paragraph (c) of subsection (2) the word “superintendent” and substituting the word “manager”;
- (g) by striking out subsection (3);
- (h) by striking out from subsection (4) the word “superintendent” and substituting the word “manager”;

and

(i) by inserting after subsection (4) the following subsection:

(5) If, after hearing a matter referred to it under subsection (1), the Visiting Tribunal is not satisfied beyond reasonable doubt that the allegation against the prisoner is proved, it shall dismiss the charge.

Amendment of s. 44—
Manager may refer any matter to a Visiting Tribunal.

29. Section 45 of the principal Act is amended by striking out the word “superintendent” wherever it occurs and substituting, in each case, the word “manager”.

Amendment of s. 45—
Procedure at inquiries and hearings under this Division.

30. Section 46 of the principal Act is amended by striking out from subsections (1) and (4) the word “superintendent” wherever it occurs and substituting, in each case, the word “manager”.

Amendment of s. 46—
Appeals against penalties imposed by managers.

31. Division III of Part V of the principal Act is repealed.

Repeal of Division III of Part V.

32. Section 50 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

Amendment of s. 50—
Escape.

(2) A term of imprisonment to which a prisoner is sentenced for an offence against this section shall be cumulative on any other imprisonment that the prisoner is liable to serve.

33. The following section is inserted after section 50 of the principal Act:

Insertion of new s. 50a.

50a. (1) A prisoner who has been granted leave of absence from a correctional institution by the Permanent Head pursuant to this Act and who contravenes or fails to comply with a condition to which the leave is subject shall be guilty of an offence and liable to imprisonment for a term not exceeding one year.

Prisoner shall comply with conditions to which temporary leave of absence is subject.

(2) A term of imprisonment to which a prisoner is sentenced for an offence against this section shall be cumulative on any other imprisonment that the prisoner is liable to serve.

Amendment of
s. 55—
Continuation of
the Parole Board.

34. Section 55 of the principal Act is amended—

(a) by striking out paragraph (a) from subsection (2) and substituting the following paragraph:

(a) one, who shall be the Chairman of the Board, shall be—

- (i) a Judge of the Supreme Court;
- (ii) a person who holds judicial office under the Local and District Criminal Courts Act, 1926;
- (iii) a person who has retired from the office of Judge of the Supreme Court or from judicial office under the Local and District Criminal Courts Act, 1926, but who has not attained the age of seventy years;

or

- (iv) a person who has, in the opinion of the Governor, extensive knowledge of, and experience in, the science of criminology or penology, or any other related science;;

(b) by striking out from paragraph (b) of subsection (2) the passage “psychology or” and substituting the passage “the practice of”;

(c) by inserting in paragraph (c) of subsection (2) after the passage “experience in,” the passage “criminology or”;

(d) by inserting in subsection (3) after the word “woman” the passage “and at least one member must be a man”;

and

(e) by inserting after subsection (3) the following subsection:

(3a) At least one member of the Board must be a person of Aboriginal descent.

Amendment of
s. 59—
Deputies.

35. Section 59 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) The Governor—

(a) shall appoint one of the members of the Board to be the Deputy Chairman of the Board;

and

(b) may appoint a suitable person to be the deputy of a member of the Board other than the Chairman or the Deputy Chairman.

Repeal of s. 60
and substitution
of new ss. 60 and
60a.

36. Section 60 of the principal Act is repealed and the following sections are substituted:

Proceedings of
the Board.

60. (1) Subject to this section, the Board shall sit as a full board.

(2) If the Chairman thinks it necessary or desirable for the purpose of expediting the determination of proceedings before the Board, the Board may sit in separate divisions.

(3) The Chairman or Deputy Chairman and any other two members of the Board constitute a division of the Board.

(4) Where the Board sits as a full board, the following provisions apply:

(a) the Chairman or, in his absence, the Deputy Chairman shall preside and, in the absence of both the Chairman and the Deputy Chairman, a member chosen from amongst their own number by the members present shall preside;

(b) four members shall constitute a quorum and the Board shall not proceed with the hearing or determination of any matter unless a quorum is present;

(c) a question arising for decision by the Board shall be decided by a majority of the votes cast by the members present;

and

(d) each member present shall be entitled to one vote and, in the event of an equality of votes, the person presiding shall be entitled to a second or casting vote.

(5) Where the Board sits in separate divisions, the following provisions apply:

(a) the Chairman shall preside at proceedings before the division of which he is a member and the Deputy Chairman shall preside at proceedings before the division of which he is a member;

(b) a division of the Board shall not proceed with the hearing or determination of any matter unless all members of the division are present;

(c) a decision in which all the members of a division of the Board concur shall be a decision of the Board;

and

(d) the two divisions of the Board may sit concurrently for the purpose of hearing and determining separate proceedings.

(6) Where the members of a division of the Board are unable to concur in a decision in any proceedings before that division, the person presiding over that division shall refer the proceedings to the Board sitting as a full board for fresh hearing and determination.

(7) Subject to this Act, the Board, or a division of the Board, may conduct its proceedings as it thinks fit.

60a. (1) No act or proceeding of the Board is invalid by reason of a vacancy in its membership or a defect in the appointment of a member.

Validity of acts of the board and immunity of its members.

(2) No liability attaches to a member of the Board for an act or omission by him, or by the Board, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge of his or its duties, under this Act.

(3) A liability that would, but for subsection (2), attach to a member of the Board shall lie against the Crown.

Amendment of
s. 64—
Reports by the
Board.

37. Section 64 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage “in each year, not later than a day to be fixed by the Minister” and substituting the passage “, not later than the thirty-first day of October in each year”;
- (b) by striking out paragraphs (b) and (c) of subsection (1);
- (c) by striking out from paragraph (d) of subsection (1) the passage “or revocation” twice occurring;
- (d) by inserting in subsection (2) after the passage “indeterminate duration” the passage “and every prisoner serving a sentence for a term of more than one year in respect of whom a non-parole period has not been fixed”;
- (e) by inserting after subsection (3) the following subsection:
 - (3a) The Board shall, before preparing a report on a prisoner pursuant to subsection (2) or (3) (a), interview the prisoner in person.;

and

- (f) by striking out from subsection (4) the passage “subsection (2) or (3) in relation to a prisoner serving a sentence of life imprisonment or a sentence of indeterminate duration” and substituting the passage “subsection (2) or (3) (a) in respect of a prisoner”.

Repeal of s. 65
and substitution
of new section.

38. Section 65 of the principal Act is repealed and the following section is substituted:

Court shall fix or
extend non-parole
periods.

65. (1) Where a court sentences a person to life imprisonment, or a term of imprisonment of one year or more, or imposes a number of sentences under which he is liable to imprisonment for one year or more, the court shall, unless it thinks there is special reason for not doing so, make an order fixing a period during which the person shall not be released on parole.

(2) Where—

- (a) a person who is in prison serving a sentence of imprisonment is further sentenced to imprisonment (whether for an offence committed before or after his admission to prison);

and

- (b) the total period of imprisonment to which he is liable (taking into account the combined effect of the sentences referred to in paragraph (a)) is one year or more,

the court shall, unless it thinks there is special reason for not doing so, fix a period during which the person shall not be released on parole, or shall extend any existing non-parole period, as the case may require, but the period by which an existing non-parole period is extended shall not exceed the period of the further sentence of imprisonment referred to in paragraph (a).

(3) Where—

(a) a person who has been released on parole is sentenced to imprisonment for an offence committed during the period of his release on parole;

and

(b) the total period of imprisonment to which he is liable (taking into account the combined effect of the balance of his existing sentence that he is liable to serve pursuant to section 75 and the further sentence referred to in paragraph (a)) is one year or more,

the court shall, unless it thinks there is special reason for not doing so, fix a period during which he shall not be released on parole, and the non-parole period so fixed may be greater or less than the period he is liable to serve pursuant to section 75.

(4) A prisoner who—

(a) is serving a sentence of life imprisonment, a term of imprisonment of one year or more or a number of terms under which he is liable to imprisonment for one year or more;

and

(b) has not had a non-parole period fixed in respect of that sentence, or those sentences,

may apply to the sentencing court for an order fixing a non-parole period in respect of that sentence, or those sentences.

(5) The Crown may apply to the sentencing court for an order extending a non-parole period fixed in respect of the sentence, or sentences, of a prisoner, whether so fixed before or after the commencement of this Act.

(6) In fixing or extending a non-parole period, the court—

(a) where the person is in prison serving a sentence of imprisonment, shall take into account the period he has already served;

and

(b) in the case of an application by the Crown under subsection (5), shall have regard to—

(i) the likely behaviour of the prisoner should he be released on parole;

(ii) the behaviour of the prisoner while in prison only insofar as it may assist the court in assessing the behaviour referred to in subparagraph (i);

and

(iii) such other matters as the court thinks relevant.

(7) The court shall not make an order extending the non-parole period of a prisoner pursuant to an application under subsection (5) unless it is satisfied that it is necessary to do so for the protection of some other person, or of other persons generally.

(8) In determining an application under subsection (4) made by a prisoner who was in prison immediately prior to the commencement

of the Prisons Act Amendment Act (No. 2), 1983, the court shall, if the prisoner has already served a period of imprisonment that would be equal to, or exceed, a non-parole period determined in accordance with this section, as reduced by the total number of days of remission credited to the prisoner after that commencement, make an order fixing a non-parole period in respect of that prisoner that expires thirty days after the day on which the order is made.

(9) This section does not apply in relation to a person who is serving or who, at the expiration of his sentence of imprisonment, is liable to serve a sentence of indeterminate duration.

(10) For the purposes of this section—

(a) a court that orders that a suspended sentence of imprisonment be carried into effect shall be deemed to have sentenced the person to whom the order relates to imprisonment;

(b) the Crown and the prisoner shall both be parties to an application under this section;

and

(c) “the sentencing court” means—

(i) where the prisoner is subject to a single sentence of imprisonment, or a number of sentences imposed by the one court, or by a number of courts of the one jurisdiction—that court, or a court of the same jurisdiction as that court or those courts;

or

(ii) where the prisoner is subject to a number of sentences of imprisonment imposed by courts of different jurisdictions—the court of the highest jurisdiction, or a court of the same jurisdiction as that court.

Repeal of ss. 66, 67 and 68 and substitution of new section.

Board shall order release on parole at end of non-parole period.

39. Sections 66, 67 and 68 of the principal Act are repealed and the following section is substituted:

66. (1) The Board shall order that a prisoner in respect of whom a non-parole period has been fixed be released from prison on parole on a day specified by the Board, being a day not later than thirty days after the day when the period the prisoner has served in prison during the non-parole period and the total number of days of remission credited to him during that period (but after the commencement of the Prisons Act Amendment Act (No. 2), 1983) together equal the non-parole period.

(2) The release of a prisoner on parole—

(a) shall be subject to the conditions—

(i) that the prisoner shall not commit any offence;

and

(ii) that the prisoner shall be under the supervision of a parole officer and shall obey the reasonable directions of the parole officer,

until the expiration of the period of his parole;

and

(b) may be subject to any other condition fixed by the Board or, in the case of a prisoner serving a sentence of life imprisonment, recommended by the Board and approved by the Governor, to be effective until the expiration of the period of his parole, or for such lesser period as may be specified in the order.

(3) Where a prisoner who is serving a sentence of life imprisonment is to be released on parole, the Board—

(a) shall recommend to the Governor the period, being a period of not less than three years nor more than ten, for which the prisoner should continue on parole;

and

(b) shall forward a copy of its recommendations as to the period of parole and the conditions to which the release on parole is to be subject to the Governor for approval.

(4) In fixing or recommending conditions to which the release on parole of a prisoner will be subject, the Board shall have regard to the following matters:

(a) the circumstances and gravity of the offence, or offences, for which the prisoner was sentenced to imprisonment;

(b) the behaviour of the prisoner while in prison;

(c) the behaviour of the prisoner during any previous period of release on parole;

(d) any reports tendered to the Board on the health, behaviour or psychological condition of the prisoner, or on any other matter relating to him;

(e) the probable circumstances of the prisoner after his release from prison;

and

(f) any other matters that the Board considers relevant.

(5) A prisoner shall not be released pursuant to this section until—

(a) the conditions to which his release on parole will be subject have been fixed or recommended by the Board and, if the case so requires, approved by the Governor, pursuant to this section;

and

(b) the prisoner has accepted those conditions in writing.

(6) Where a prisoner refuses or fails to accept the conditions to which his release on parole is to be subject, the Board shall review the circumstances of the prisoner at intervals fixed by the Board, being not less than three months nor more than one year.

(7) If, after carrying out a review pursuant to subsection (6), the Board is of the opinion that the prisoner will accept the conditions

to which his release on parole is to be subject, the Board may order the release of the prisoner from prison on parole in accordance with this Act upon the written acceptance by the prisoner of those conditions.

Amendment of s. 69—
Duration of parole in relation to prisoners other than life prisoners.

40. Section 69 of the principal Act is amended by inserting after the passage “unless his release is cancelled” the passage “or suspended”.

Amendment of s. 70—
Duration of parole in relation to prisoners serving sentences of life imprisonment.

41. Section 70 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) A prisoner serving a sentence of life imprisonment who is released on parole shall, unless his release is cancelled or suspended, or his sentence is extinguished, remain on parole—

(a) in the case of a prisoner released on parole prior to the commencement of the Prisons Act Amendment Act, 1981—for the remainder of the sentence;

and

(b) in any other case—for the period recommended by the Board and approved by the Governor.

Repeal of s. 71 and substitution of new section.

42. Section 71 of the principal Act is repealed and the following section is substituted:

Variation or revocation of parole conditions.

71. (1) Where a person has been released on parole from a sentence other than a sentence of life imprisonment, the Board may, upon the application of that person or of its own motion, vary or revoke a condition to which the parole is subject.

(2) Where a person has been released on parole from a sentence of life imprisonment, the Board may, upon the application of that person or of its own motion, recommend to the Governor that a condition to which the parole is subject be varied or revoked, and the Governor may, upon receiving such a recommendation, order accordingly.

(3) The Board shall not exercise its powers under this section of its own motion in relation to a person released on parole unless it has given reasonable notice of its intention to do so to that person and has considered any submissions made by him on the matter.

(4) The Board shall not make an order or recommendation under this section in relation to a person who is under the supervision of a parole officer unless it has obtained and considered a report from that parole officer.

Amendment of s. 72—
Discharge from parole for prisoners other than life prisoners.

43. Section 72 of the principal Act is amended by striking out subsection (3) and substituting the following subsection:

(3) Where a person has been discharged from parole pursuant to this section, his sentence, or sentences, of imprisonment shall, subject to section 75, be deemed to have been wholly satisfied.

Repeal of s. 73.

44. Section 73 of the principal Act is repealed.

Amendment of s. 74—
Cancellation of parole for breach of condition.

45. Section 74 of the principal Act is amended—

(a) by inserting in subsection (1) after the word “release” the passage “and direct that he serve in prison his sentence, or sentences, of imprisonment for such further period, not exceeding three months, as the Board thinks appropriate”;

and

(b) by striking out subsection (3) and substituting the following subsections:

(3) Where the release of a person was cancelled for breach of parole conditions before the commencement of the Prisons Act Amendment Act (No. 2), 1983, he is (subject to any non-parole period that may have been fixed) liable to serve in prison the balance of his sentence, or sentences, unexpired as at the day on which the breach was committed.

(4) A person who is returned to prison for breach of parole conditions after the commencement of the Prisons Act Amendment Act (No. 2), 1983, shall be released from prison on parole when he has served the period for which he was returned.

(5) The release of a prisoner on parole under subsection (4) shall be deemed to be pursuant to the order of the Board in force immediately prior to his return to prison.

46. The following section is inserted after section 74 of the principal Act:

Insertion of new s. 74a.

74a. Where a person who has been released on parole is sentenced to imprisonment for an offence committed before his release on parole or for non-payment of a pecuniary sum—

Suspension of parole while serving imprisonment for offence committed before release on parole.

(a) his parole is suspended for the duration of the imprisonment actually served in prison in pursuance of the subsequent sentence;

and

(b) on his release from prison—

(i) he shall continue on parole in respect of the sentence that was first imposed for the balance of the period of parole remaining as at the date of the commencement of the subsequent sentence;

and

(ii) if released on parole from the subsequent sentence, he shall upon his release also be on parole in respect of that sentence for the period of that parole.

47. Section 75 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsections:

Amendment of s. 75—
Automatic cancellation of parole upon further sentence of imprisonment.

(1) Where a person who has been released on parole is sentenced to imprisonment for an offence committed during the period of his release on parole and that sentence is not

suspended, he is, subject to this Part, liable to serve in prison the balance of the sentence, or sentences, of imprisonment in respect of which he was on parole, being the balance unexpired as at the day on which the offence was committed.

(1a) Subsection (1) applies notwithstanding that, at the time of conviction of the person, his parole may have expired or been discharged.

and

(b) by inserting after subsection (2) the following subsection:

(3) The Board shall, as soon as practicable after a person is returned to prison pursuant to this section, interview him in person.

Amendment of
s. 76—
Apprehension of
person whose
parole has been,
or may be,
cancelled.

48. Section 76 of the principal Act is amended by inserting after subsection (3) the following subsection:

(4) If it thinks good reason exists for doing so, the Board may, by order, cancel a warrant issued pursuant to this section that has not been executed.

Amendment of
s. 77—
Proceedings
before the Board.

49. Section 77 of the principal Act is amended—

(a) by striking out subsection (1);

(b) by striking out from paragraph (c) of subsection (2) the word “prisoner” and substituting the passage “person to whom the proceedings relate”;

and

(c) by striking out subsection (3) and substituting the following subsection:

(3) The person to whom any proceedings before the Board for cancellation of parole, or for discharge from parole, relate is entitled to be represented in those proceedings by a legal practitioner.

Repeal of s. 78.

50. Section 78 of the principal Act is repealed.

Repeal of Part
VII and
substitution of
new Part.

51. Part VII of the principal Act is repealed and the following Part is substituted:

PART VII

REMISSION OF SENTENCE

79. (1) This section applies to—

(a) a prisoner who is serving a sentence of life imprisonment and in respect of whom a non-parole period is fixed, whether before or after the commencement of this Act;

and

(b) a prisoner who is serving a sentence of imprisonment for a term exceeding three months, or a number of sentences

Remission for
certain life
prisoners and
prisoners serving
sentences
exceeding three
months.

under which he is liable to imprisonment for more than three months,

but does not apply to a prisoner who has been found or declared to be insane, an habitual criminal or incapable of exercising proper control over his sexual instincts, pursuant to the Criminal Law Consolidation Act, 1935, nor to a person returned to prison after the commencement of the Prisons Act Amendment Act (No. 2), 1983, upon cancellation of parole for breach of parole conditions.

(2) Subject to subsection (3), the Permanent Head shall, at the end of each month, consider the behaviour during that month of each prisoner to whom this section applies and may, if he is of the opinion that a prisoner has been of good behaviour, credit him with such number of days of remission, not exceeding fifteen, as he considers appropriate.

(3) The Permanent Head shall not, in considering the behaviour of a prisoner for the purposes of subsection (2), take into account unsatisfactory behaviour in respect of which the prisoner is likely to be dealt with under any other provision of this Act or any other Act or law.

(4) Where the Permanent Head makes a decision under this section to credit, or not to credit, a prisoner with any days of remission, he shall notify the prisoner in writing of that decision and of his reasons for the decision.

(5) Where, at the end of a month, it appears that a prisoner, if he were to be credited with fifteen days of remission at the end of the next month, would be entitled to be released from prison before the expiration of that next month, the Permanent Head shall thereupon credit the prisoner with fifteen days of remission.

80. (1) Notwithstanding any other provision of this Act, a prisoner, other than a prisoner to whom subsection (2) applies, shall (unless released earlier under any other provision of this Act or any other Act or law) be released from prison when the total number of days of remission credited to him and the period he has served in prison together equal the term, or terms, of imprisonment to which he was sentenced.

Release of
prisoners upon
remission.

(2) Notwithstanding any other provision of this Act—

(a) a prisoner returned to prison upon cancellation of parole pursuant to section 75 (whether before or after the commencement of this Act);

or

(b) a prisoner returned to prison upon cancellation of parole pursuant to section 74 before the commencement of the Prisons Act Amendment Act (No. 2), 1983,

in respect of whom a non-parole period has not been fixed shall (unless released earlier under any other provision of this Act or any other Act or law) be released from prison when the total number of days of remission credited to him after cancellation and the period he has served in prison after cancellation together equal the total period of imprisonment that he was, upon that cancellation, liable to serve.

Sentences satisfied on release pursuant to this Part.

81. Upon a prisoner being released from prison pursuant to this Part, his sentence, or sentences, of imprisonment shall be deemed to have been wholly satisfied.

Amendment of s. 83—
Managers may make rules.

52. Section 83 of the principal Act is amended—

(a) by striking out from subsections (1) and (2) the word “superintendent” wherever it occurs and substituting, in each case, the word “manager”;

and

(b) by inserting after subsection (3) the following subsection:

(4) The Minister shall cause rules made under this section to be published for the benefit of prisoners in such manner as he thinks fit and, in giving effect to this section, shall ensure, as far as is reasonably practicable, that the rules are made known to any prisoner who is illiterate or whose principal language is not the English language.

Amendment of s. 84—
Managers to comply with certain orders and directions in the execution of process.

53. Section 84 of the principal Act is amended by striking out the passage “The superintendent” and substituting the passage “Subject to this Act, the manager”.

Repeal of s. 85.

54. Section 85 of the principal Act is repealed.

Insertion of new ss. 85a and 85b.

55. The following sections are inserted after section 85 of the principal Act:

Manager of correctional institution may refuse entry to or cause the eviction of certain persons.

85a. Notwithstanding any other provision of this Act, if the manager of a correctional institution believes, on reasonable grounds, that a volunteer who is engaged in any activity within the institution, or a person who visits a prisoner pursuant to section 34, is interfering with, or is likely to interfere with, the good order or security of the correctional institution, the manager may refuse that person entry to the institution or may cause him to be removed from the institution.

Departmental files on prisoners, probationers and parolees are confidential.

85b. An officer of the Department shall not, except as he may be required or authorized to do so by law or in the course of his employment, disclose to another person any information contained in a file maintained within the Department in relation to a prisoner, or a person on probation or parole.

Penalty: Two thousand dollars.

Amendment of s. 89—
Regulations.

56. Section 89 of the principal Act is amended—

(a) by striking out paragraph (d) of subsection (2);

(b) by striking out from paragraph (g) of subsection (2) the word “superintendent” and substituting the passage “manager of a correctional institution”;

(c) by inserting after paragraph (h) of subsection (2) the following paragraph:

(ha) regulating the times at which and procedure by which persons may be admitted to correctional institutions for detention;

- (d) by striking out from paragraph (j) of subsection (2) the passage “providing for” and substituting the passage “prohibiting or regulating”;
- (e) by inserting in paragraph (j) of subsection (2) before the passage “on behalf of” the passage “by or”;
- (f) by inserting after paragraph (k) the following paragraph:
- (ka) prohibiting, restricting or regulating the entering into of contracts between prisoners;;
- and
- (g) by striking out paragraph (l) of subsection (2) and substituting the following paragraph:
- (l) prescribing directions that parole officers may give to persons under their supervision while on parole.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor