



ANNO TRICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1986

No. 98 of 1986

An Act to amend the Correctional Services Act, 1982

[Assented to 11 December 1986]

The Parliament of South Australia enacts as follows:

1. (1) This Act may be cited as the "Correctional Services Act Amendment Act, 1986". Short title.

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

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

3. The following Division is inserted after Division VI in Part IV of the principal Act: Insertion of new Division VIA in Part IV.

DIVISION VIA—HOME DETENTION

37a. (1) Subject to subsection (2), the Permanent Head has an absolute discretion to release a prisoner from prison to serve a period of home detention in accordance with this Division. Permanent Head may release certain prisoners on condition of home detention.

(2) A prisoner will not be released under this Division unless—

(a) the prisoner is serving a term of imprisonment (whether by virtue of a single sentence or a number of concurrent or cumulative sentences);

(b) the prisoner has served a minimum period of that term, determined as follows:

(i) where the prisoner is not entitled to earn remission—the minimum period is one-third of the term;

and

(ii) where the prisoner is entitled to earn remission—the minimum period is two-ninths of the term plus the number of days (if any) by which the maximum number of days of remission that

could have been earned by the prisoner exceeds the number of days actually earned by the prisoner;

and

(c) the prisoner satisfies any other criteria determined by the Minister for the purposes of this section.

(3) The release of a prisoner under this Division is subject to the following conditions:

(a) a condition requiring the prisoner to remain at the prisoner's residence during the period of home detention calculated pursuant to subsection (4) and not to leave the residence at any time during that period except for the following purposes:

(i) remunerated employment;

(ii) urgent medical or dental treatment for the prisoner;

or

(iii) any other purpose approved or directed by the authorized officer to whom the prisoner is assigned;

(b) a condition requiring the prisoner to be of good behaviour during the period of home detention;

(c) a condition requiring the prisoner to obey the lawful directions of the authorized officer during the period of home detention;

and

(d) such other conditions as the Permanent Head thinks appropriate.

(4) For the purposes of subsection (3), the period of home detention is—

(a) where the prisoner was not entitled to earn remission—a period equal to the unexpired balance of the term of imprisonment;

and

(b) where the prisoner was entitled to earn remission—the period expiring on the day on which the prisoner would have been released from prison had he or she not been released under this Division, assuming that the prisoner earned throughout the period of home detention the maximum number of days of remission each month.

(5) The Permanent Head may, by notice in writing served personally on the prisoner, vary or revoke any of the conditions to which the prisoner's release is subject.

37b. (1) The Minister may appoint such authorized officers for the purposes of this Division as the Minister thinks fit.

(2) The Permanent Head must, upon the release of a prisoner under this Division, assign the prisoner to an authorized officer and

may from time to time re-assign the prisoner to another authorized officer.

(3) An authorized officer to whom a prisoner is assigned—

(a) may give reasonable directions to the prisoner—

(i) requiring the prisoner to take up, not to take up or not to give up some particular employment;

or

(ii) requiring the prisoner to attend a particular course of counselling or instruction;

and

(b) may give the prisoner other directions of a kind authorized by the Minister either generally or in relation to the particular prisoner.

(4) Any authorized officer may, at any time—

(a) enter or telephone the residence of a prisoner serving a period of home detention;

(b) telephone the prisoner's place of employment or any other place at which the prisoner is permitted or required to attend;

or

(c) question any person at that residence or place as to the whereabouts of the prisoner,

for the purposes of ascertaining whether or not the prisoner is complying with the conditions to which the prisoner's release is subject.

(5) A person shall not—

(a) hinder an authorized officer in the exercise of powers under this section;

or

(b) fail to answer truthfully any question put to the person by an authorized officer pursuant to those powers.

Penalty: \$2 000.

37c. (1) The Permanent Head—

(a) shall revoke the release of a prisoner under this Division if the prisoner breaches a condition to which the release is subject;

and

(b) may, in the absolute discretion of the Permanent Head, revoke the release of a prisoner under this Division for any other reason.

(2) A prisoner is not in breach of the condition requiring the prisoner to remain at the prisoner's residence if the prisoner leaves the residence for the purpose of averting or minimizing a serious risk of death or injury (either to the prisoner or some other person).

(3) Upon the revocation of the release of a prisoner under this Division, the prisoner may be apprehended, without warrant, by a

Revocation of
release.

member of the police force or any authorized officer and returned to prison.

(4) Where a prisoner breaches a condition to which the release of the prisoner is subject or is, during the period of home detention, sentenced to imprisonment for an offence (whenever committed), the prisoner is liable to serve in prison the balance of the term of imprisonment, being—

(a) in the case of a breach of condition or an offence committed during the period of home detention—the unexpired balance as at the date of the breach or offence;

and

(b) in the case of an offence committed at any other time—the unexpired balance as at the date on which the further sentence of imprisonment is imposed.

(5) Subsection (4) applies notwithstanding that the period of home detention may have expired before the prisoner can be apprehended.

(6) A prisoner is, upon breaching the condition referred to in section 37a (3) (a), unlawfully at large.

37d. Upon the expiry of a period of home detention, the sentence (or sentences) of imprisonment are, subject to section 37c, wholly extinguished.

Sentences extinguished upon expiry of period of home detention.

Repeal of s. 54.

4. Section 54 of the principal Act is repealed.

Insertion of new s. 88a.

5. The following section is inserted after section 88 of the principal Act:

Offences are summary.

88a. Offences against this Act (not being indictable offences) are summary offences.

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

D. B. DUNSTAN, Governor