

PAROLE AMENDMENT ACT 1981

No. 83 of 1981

TABLE OF PROVISIONS

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| <ol style="list-style-type: none"> 1. Short title. 2. Commencement. 3. Principal Act. 4. Amendment of section 7 of Principal Act (Proceedings of the Board). 5. Amendment of section 19 of Principal Act (Release on parole). 6. Amendment of section 21 of Principal Act (Sentences for offences committed during release on parole). 7. Amendment of section 23 of Principal Act (Effect of parole orders). 8. Amendment of section 24 of Principal Act (Prisoner on parole deemed still under sentence). | <ol style="list-style-type: none"> 9. Amendment of section 25 of Principal Act (Power of Board to revoke parole orders, &c.). 10. Amendment of section 26 of Principal Act (Warrants for return of prisoners to gaol). 11. Amendment of section 27 of Principal Act (Effect of suspension of parole orders). 12. Amendments of Principal Act consequential to the <i>Prison Act 1977</i>. 13. Transitional provision. |
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SCHEDULE 1—AMENDMENTS OF
PRINCIPAL ACT CONSEQUENTIAL
TO THE PRISON ACT 1977



PAROLE AMENDMENT ACT 1981

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 No. 83 of 1981
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AN ACT to amend the Parole Act 1975 for the purposes of altering the provisions of that Act relating to deputies of members of the Parole Board, effecting procedural and administrative improvements to the parole system under that Act, and making amendments to that Act that are consequential to the Prison Act 1977.

[Royal Assent 17 December 1981]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

- 1**—This Act may be cited as the *Parole Amendment Act 1981*. Short title.
- 2**—This Act shall commence on the seventh day after the date on which it receives the Royal Assent. Commencement.
- 3**—In this Act, the *Parole Act 1975** is referred to as the *Principal Act*. Principal Act.

* No. 73 of 1975.

Amendment of
section 7 of
Principal Act
(Proceedings of
the Board).

4—(1) Section 7 (1) of the Principal Act is amended by inserting “ or his deputy ” after “ chairman ”.

(2) Section 7 of the Principal Act is further amended by omitting subsections (2) and (3) and substituting the following subsections:—

(2) The Minister may appoint a person to be the deputy of the chairman of the Board, and the deputy so appointed holds office during the pleasure of the Minister.

(3) The deputy of the chairman of the Board is entitled to attend a meeting of the Board if the chairman is absent from that meeting and, when so attending, shall be deemed to be a member of, and the chairman of, the Board.

(3A) During a vacancy in the office of the chairman of the Board, the person who holds office as deputy of the chairman shall be deemed to be a member of, and the chairman of, the Board.

(3B) The Minister may appoint 2 persons to be deputies of the members of the Board other than the chairman, and a deputy so appointed holds office during the pleasure of the Minister.

(3C) The following provisions apply to a deputy appointed under subsection (3B):—

(a) the deputy shall be designated by the Minister as principal deputy to one of the members of the Board referred to in that subsection;

(b) the deputy is entitled to attend a meeting of the Board if—

(i) the member of whom he is the principal deputy is absent from the meeting; or

(ii) the other member of the Board who is not the chairman being absent from the meeting, that other member’s principal deputy is so absent;

(c) when so attending a meeting of the Board, the deputy shall be deemed to be a member of the Board.

5—(1) Section 19 of the Principal Act is amended by inserting the following subsection after subsection (5):—

Amendment of section 19 of Principal Act (Release on parole).

(5A) The chairman of the Board or his deputy may, at any time before the release of a prisoner under a parole order, suspend the order for a period not exceeding 14 days.

(2) Section 19 (6) of the Principal Act is amended as follows:—

- (a) by omitting “ a notice ” and substituting “ notice ”;
- (b) by omitting “ concerned.” and substituting “ concerned in such manner as it considers appropriate.”.

6—Section 21 of the Principal Act is amended by omitting all the words after “ parole ”, where firstly occurring, and substituting “, that sentence shall be cumulative on the remainder of the sentence in respect of which the prisoner was released on parole unless the court, because it is of the opinion that special circumstances make it desirable to do so, orders that the first-mentioned sentence shall be concurrent with the remainder of the last-mentioned sentence ”.

Amendment of section 21 of Principal Act (Sentences for offences committed during release on parole).

7—(1) Section 23 of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:—

Amendment of section 23 of Principal Act (Effect of parole orders).

(2) A prisoner who is released under a parole order shall, as long as he is on parole—

- (a) be under the supervision of a parole officer; and
- (b) comply with any terms and conditions to which the order is subject and with such requirements as may be made of him by the parole officer in accordance with the regulations.

(2A) Notwithstanding subsection (2), where the period of parole granted under a parole order to a life prisoner or dangerous criminal (in this subsection referred to as “ the parolee ”) is the term of his natural life or a period of such other length that the Governor considers it unnecessary or unreasonable for the parolee to be under supervision for the whole of that period, the Governor may direct in the order that the parolee shall be under the supervision of a parole officer for such period as is specified in the order, being a period less than the period of parole so granted to him.

(2) Section 23 (3) of the Principal Act is amended as follows:—

(a) by omitting “ paragraph (a) of ”;

(b) by omitting “ paragraph ”, where lastly occurring, and substituting “ subsection ”.

Amendment of section 24 of Principal Act (Prisoner on parole deemed still under sentence).

8—Section 24 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:—

(2) Subject to section 25 (4) and to section 26, when the period of parole granted to a prisoner expires without the revocation of his parole order, the sentence of the court on the prisoner shall be regarded as having been wholly satisfied.

Amendment of section 25 of Principal Act (Power of Board to revoke parole orders, &c.).

9—(1) Section 25 of the Principal Act is amended by omitting subsections (1), (2), and (3) and substituting the following subsections:—

(1) Subject to subsections (2) and (3), the Board may, at any time, of its own motion or on receiving a report from a parole officer or any other person—

(a) revoke a parole order;

(b) vary, amend, or confirm a parole order or suspend a parole order on such terms as it thinks fit; or

(c) exercise in relation to a parole order more than one of its powers under paragraph (b).

(2) The Board shall not revoke, vary, amend, confirm, or suspend a parole order under section 14 unless it has first obtained the consent of the Governor within the meaning of that section.

(3) The Board shall not revoke, vary, amend, confirm, or suspend a parole order granting parole to a prisoner unless it has first—

(a) called on the prisoner in the prescribed manner to show cause why any of those powers should not be exercised; and

(b) heard the prisoner, unless he fails to appear at the time and place appointed by the Board.

(2) Section 25 of the Principal Act is further amended by inserting the following subsection after subsection (4):—

(4A) Subsection (4) does not apply where the execution of the whole of a sentence referred to in that subsection is suspended under the *Criminal Code* or the *Justices Act 1959*.

10—(1) Section 26 of the Principal Act is amended by inserting the following subsection after subsection (1):—

Amendment of section 26 of Principal Act (Warrants for return of prisoners to gaol).

(1A) The chairman of the Board or his deputy may, if he considers special circumstances so require, sign a warrant and issue it on behalf of the Board and such a warrant has the same effect as if it were a warrant issued under subsection (1).

(2) Section 26 (2) of the Principal Act is amended by inserting “or (1A)” after “(1)”.

(3) Section 26 of the Principal Act is further amended by inserting the following subsection after subsection (2):—

(2A) On the issue of a warrant under subsection (1) or (1A), or under section 25 (6), for the apprehension of a prisoner on parole, his parole is extended for a period equal to a period commencing on the day on which the warrant is issued and ending on the day on which it is executed.

(4) Section 26 (3) of the Principal Act is amended by inserting “or (1A)” after “(1)”, where firstly occurring.

(5) Section 26 of the Principal Act is further amended by inserting the following subsections after subsection (3):—

(4) The Board is not required to comply with the provisions of section 25 (3) where, pursuant to paragraph (b) of subsection (3) of this section, it exercises in relation to a prisoner the powers referred to in that paragraph.

(5) Where a prisoner is not apprehended and returned to prison following the issue of a warrant under subsection (1) or (1A) for his apprehension, the chairman or secretary of the Board may apply to a court of petty sessions for an order directing the apprehension of the prisoner and the court shall make such an order if it is satisfied that the warrant has been properly issued.

Amendment of section 27 of Principal Act (Effect of suspension of parole orders)

11—Section 27 of the Principal Act is amended as follows:—

- (a) by inserting “(1)” before “ If the ”;
- (b) by omitting “ section 25 or section 26 ” and substituting “ section 19, 25, or 26 ”;
- (c) by adding the following subsection as subsection (2) of that section:—

(2) The period that a person is detained pursuant to subsection (1) shall be deemed to be part of the period of his release on parole.

Amendments of Principal Act consequential to the *Prison Act 1977*.

12—The Principal Act is amended in the manner specified in Schedule 1.

Transitional provision.

13—A person who, immediately before the commencement of this Act, holds office as the deputy of a member of the Parole Board other than the chairman shall be deemed to have been designated by the Minister as principal deputy to that member under section 7 (3c) (a) of the Principal Act.

SCHEDULE 1

Section 12

AMENDMENTS OF PRINCIPAL ACT CONSEQUENTIAL TO THE PRISON ACT 1977

COLUMN 1 Provision of Principal Act	COLUMN 2 Amendment
(1) Section 3	(a) By omitting the definition of "gaol"; (b) By inserting the following definition after the definition of "practitioner":— "prison" means a prison within the meaning of the <i>Prison Act 1977</i> ;
(2) Section 13 (2)	By omitting "gaol" and substituting "prison".
(3) Section 18	By omitting from subsections (1) and (2) "gaol", wherever occurring, and substituting "prison".
(4) Section 25 (6)	By omitting "gaol" wherever occurring, and substituting "prison".
(5) Section 26	By omitting from subsections (1) and (3) "gaol", wherever occurring, and substituting "prison".
(6) Section 33 (6)	By omitting from subsection (6) "gaol" and substituting "prison".

