

OFFENDERS PROBATION AND PAROLE.

No. 73 of 1965.

AN ACT to amend the Offenders Probation and
Parole Act, 1963-1964.

[Assented to 25th November, 1965.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Offenders Probation and Parole Act Amendment Act, 1965.* Short title and citation.

(2) In this Act the Offenders Probation and Parole Act, 1963-1964, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Offenders Probation and Parole Act, 1963-1965.

Commence-
ment.

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

S. 6
amended.

3. Section six of the principal Act is amended—

(a) by deleting the passage, “, who is a Clerk of Petty Sessions, or an officer appointed under the Child Welfare Act, 1947,” in lines four, five and six of subsection (3); and

(b) by repealing subsection (4).

S. 9
amended.

4. Section nine of the principal Act is amended—

(a) by adding after subsection (1) a subsection as follows—

(1a) Where a court has convicted a person of an offence and requires a report from the Chief Probation Officer under paragraph (a) of section eight of this Act, before sentencing the person for the offence or making a probation order with respect to him, the court may, without prejudice to any other powers that the court may exercise, adjourn the hearing of the proceedings with respect to the offence and release the person on bail, with or without sureties to appear on the adjourned hearing. ; and

(b) by adding after the word, “order” being the last word in subsection (5) the words, “or as otherwise so directed”.

S. 19A
added.

5. The principal Act is amended by adding after section nineteen a section as follows—

19A. (1) A complaint for breach of a probation order made under this Part of this Act may aver—

(a) that the defendant is the person in respect of whom the probation order was made; and

Power
to make
certain
averments
in complaint
alleging
breach of
probation
order.

- (b) that the defendant was convicted by the court specified in the complaint on the day so specified of an offence committed during the probation period.

(2) In any proceedings under this Part of this Act upon a complaint averring the facts referred to in paragraphs (a) and (b) of subsection (1) of this section, the person charged with breach of probation may be asked by the court before which he appears or is brought whether—

- (a) he was convicted of the offence in respect of which the probation order was made; and
- (b) he was convicted of an offence during the probation period,

and if he admits either or both of those convictions, no further proof of the conviction or convictions so admitted, is necessary.

(3) Where a person charged with breach of probation is asked by the court pursuant to subsection (2) of this section concerning a conviction averred in the complaint and the person does not admit that conviction, the court may, without making any order as to costs,—

- (a) adjourn the hearing of the proceedings for proof of that conviction; and
- (b) commit the person charged to custody or release him on bail, with or without sureties to appear on the adjourned hearing. .

6. Section thirty-four of the principal Act is ^{S. 34} amended—

- (a) by substituting for the words, “that custody” in the last line of paragraph (a) of subsection (2), the words, “safe custody during the pleasure of the Governor”:

(b) by adding after paragraph (b) of subsection (2) a paragraph as follows—

(ba) whether so requested by the Minister or not with respect to each prisoner—

(i) undergoing a sentence of life imprisonment commuted pursuant to section six hundred and seventy-nine of The Criminal Code from a sentence of death, furnish to the Minister, as soon as practicable after a period of ten years has elapsed from the date the sentence was so commuted and thereafter as soon as practicable after each period of five years;

(ii) undergoing a life sentence that has not been so commuted, furnish to the Minister, as soon as practicable after a period of five years has elapsed since the prisoner was sentenced to life imprisonment and thereafter as soon as practicable after the expiration of each period of five years,

a written report with or without a recommendation with respect to that prisoner; ;

(c) by adding after the word “specify” being the last word in paragraph (c) of subsection (2), the following passage—

“ ;

(d) whenever the Board has, pursuant to section thirty-four A of this Act, made an order that any person be returned to the custody of the person or authority from which he was released by the Governor under that section, furnish to the Minister

within one month after making the order, a report setting out the reasons for the order”.

7. The principal Act is amended by adding after section thirty-four a section as follows—

S. 34A
added.

34A. (1) Where any person ordered pursuant to section six hundred and fifty-three or subsection (4) of section six hundred and ninety-three of The Criminal Code to be kept in safe custody during the pleasure of the Governor is released from custody by order of the Governor, the Governor may in that order specify such conditions as he thinks fit, subject to which the person shall be released, including a condition that during the period specified in the order he be under the supervision of a parole officer.

Power to release certain persons in custody subject to conditions including supervision.

(2) Where a person is so released subject to a condition that he be under the supervision of a parole officer for a period the Board may in respect of that person—

Powers of Board in respect of persons released subject to conditions.

- (a) direct the Chief Parole Officer to assign a parole officer to supervise that person during that period and from time to time as occasion arises to assign another parole officer instead of the parole officer previously assigned;
- (b) in its discretion at any time during the period of such supervision, order that the person be returned to the custody of the person or authority from which he was released by the Governor; and
- (c) after making any such order by warrant signed by any two members, authorise any member of the police force or other officer to apprehend the person and deliver him to the custody of the person or authority specified in the warrant at a place so specified.

(3) A warrant issued under this section is sufficient authority to the member of the police force or other officer to whom it is directed for the apprehension of the person to whom it relates and for his being delivered into detention at the place specified in the warrant.

(4) Where a person is delivered at a place of detention pursuant to a warrant issued under this section, the order of the Governor for the detention of that person during the pleasure of the Governor that was previously in force shall continue to be in force. .

S. 35
amended.

8. Section thirty-five of the principal Act is amended—

(a) by adding after the word, “person” in line one of paragraph (b) of subsection (1), the words, “to be the Deputy Chief Parole Officer”;

(b) by deleting the passage, “who is—

(a) A Clerk of a Court of Petty Sessions;
or

(b) an officer appointed under the Child Welfare Act, 1947,” in lines four, five, six and seven of subsection (3);

(c) by repealing subsection (4).

S. 37
amended.

9. Section thirty-seven of the principal Act is amended by adding after subsection (2) a subsection as follows—

(3) Where a person is before a court to be sentenced upon convictions of two or more offences that court, notwithstanding that it sentences the person to be imprisoned in respect of all or any of those offences for which he is convicted and is then to be sentenced, shall not fix a minimum term in respect of each of

the offences for which he is sentenced to be imprisoned but if the court is of opinion that a minimum term should be fixed in respect of those offences, it shall fix a minimum term in respect of the aggregate period of imprisonment the person shall be liable to serve under all the sentences then imposed. .

10. Subsection (2) of section forty-one of the principal Act is amended by adding after the word, "may" in line one, the passage, ", by order signed by any two members,". S. 41
amended.

11. Section forty-two of the principal Act is amended— S. 42
amended.

(a) by substituting for the passage, "Subject to subsection (2) of this section, the Governor may, on the recommendation of the Board," in lines one, two and three of subsection (1), the words, "The Governor may";

(b) by substituting for the words, "as may be recommended by the Board" in lines six and seven of subsection (1), the words, "as the Governor thinks fit"; and

(c) by repealing subsection (2).

12. Subsection (1) of section forty-four of the principal Act is amended by adding after the word, "writing" in line five the words, "signed by any two members". S. 44
amended.
