

Western Australia

**Sentencing Legislation (Transitional Provisions)
Amendment Act 2008**

As at 17 Dec 2008

No. 49 of 2008

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Sentencing Legislation (Transitional Provisions) Amendment Act 2008

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Sentencing Legislation (Transitional Provisions) Amendment Act 2008

No. 49 of 2008

An Act to amend the *Sentencing Legislation Amendment and Repeal Act 2003*.

[Assented to 17 December 2008]

The Parliament of Western Australia enacts as follows:

1. Short title

This is the *Sentencing Legislation (Transitional Provisions) Amendment Act 2008*.

2. Act amended

This Act amends the *Sentencing Legislation Amendment and Repeal Act 2003*.

3. Schedule 1 clause 2 deleted

Delete Schedule 1 clause 2.

4. Schedule 1 clause 3A inserted

Before Schedule 1 clause 3 insert:

3A. Provisions relating to deletion of clause 2

(1) In this clause —

clause 2 means clause 2 of this Schedule as in force immediately before the relevant commencement;

minimum custodial period of a fixed term, is the amount of the fixed term required to be served in custody before the offender would be, or was or would have been, eligible or entitled to be released, whether on parole or on being discharged from the sentence;

relevant commencement means the commencement of the *Sentencing Legislation (Transitional Provisions) Amendment Act 2008*.

(2) After the relevant commencement, clause 2 does not apply to the sentencing of an offender for an offence —

(a) even if the offence was committed before the relevant commencement; and

(b) even if the offender was convicted before the relevant commencement; and

(c) even if the sentencing is as a result of an appeal against a sentence imposed before the relevant commencement,

despite any written or unwritten law to the contrary.

(3) A court sentencing an offender to a fixed term can have regard to the minimum custodial period of the fixed term to be imposed and the minimum custodial periods of fixed terms imposed before the relevant commencement, whether or not clause 2 applied to their imposition.

- (4) A court sentencing an offender to a fixed term can impose a penalty up to the statutory penalty for the offence.
- (5) This clause expires 3 years after the relevant commencement.

5. Schedule 1 clause 14 deleted

Delete Schedule 1 clause 14.

