

Western Australia

**Sentencing Legislation Amendment and Repeal  
Act 2003**

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No. 50 of 2003

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# Sentencing Legislation Amendment and Repeal Act 2003

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Western Australia

## **Sentencing Legislation Amendment and Repeal Act 2003**

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**No. 50 of 2003**

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**An Act —**

- **to amend the *Sentencing Act 1995* and the *Road Traffic Act 1974*;**
- **to repeal the —**
  - *Sentence Administration Act 1995*;
  - *Sentence Administration Act 1999*;
  - *Sentencing Legislation Amendment and Repeal Act 1999*; and
  - *Sentencing Amendment Act 2000*;
- **to amend the *Sentencing Act 1995* and other Acts as a consequence of the enactment of the *Sentence Administration Act 2003*;**
- **to amend various Acts in relation to the imposition of short sentences of imprisonment,  
and for related purposes.**

[Assented to 9 July 2003]

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This Act may be cited as the *Sentencing Legislation Amendment and Repeal Act 2003*.

### **2. Commencement**

- (1) Subject to subsection (3) this Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.
- (3) Part 5 shall not be proclaimed to come into operation on a date that is within 6 months of the coming into operation of any other part of this Act or of the *Sentence Administration Act 2003* and in the event that it is proclaimed, no other part of this Act nor of the *Sentence Administration Act 2003* may be proclaimed to come into operation within 6 months of it having come into operation.

## **Part 2 — Sentencing Act 1995 amended**

### **Division 1 — Preliminary**

#### **3. The Act amended by this Part**

The amendments in this Part are to the *Sentencing Act 1995*\*.

[\* *Reprinted as at 4 May 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 339-40 and Acts Nos. 24 of 2001 and 7 of 2002.]*

### **Division 2 — Amendments about deferring sentencing**

#### **4. Section 4 amended**

- (1) Section 4(1) is amended by inserting the following definitions in the appropriate alphabetical positions —

“

“**pre-sentence order**” (“**PSO**”) means a pre-sentence order made under Part 3A;

“**speciality court**” means a court —

- (a) that is prescribed;
- (b) that is sitting at a place prescribed; and
- (c) that is dealing with offenders of a class prescribed,

by the regulations and that is constituted by a judicial officer who is approved by the judicial officer who heads the court so prescribed;

”.

- (2) Section 4 is amended at the end of subsection (2) as follows:

- (a) by deleting the full stop and inserting a semicolon instead;
- (b) by inserting —

“ “**PSO**” for pre-sentence order. ”.

**5. Section 20 amended**

After section 20(2) the following subsection is inserted —

“

- (2a) A court considering imposing a PSO must order a pre-sentence report about (among any other things) the offender’s suitability to be the subject of a PSO.

”.

**6. Part 3A inserted**

After section 33 the following Part is inserted —

“

**Part 3A — Pre-sentence order**

**Division 1 — General**

**33A. When PSO may be made**

- (1) In this section —

“**excluded offence**” means —

- (a) an offence the statutory penalty for which is or includes mandatory imprisonment; or  
(b) an offence under section 79 of the *Prisons Act 1981*;

“**imprisonable offence**” means an offence the statutory penalty for which is or includes imprisonment.

- (2) This section applies if a court is sentencing an offender for one or more imprisonable offences, none of which is an excluded offence, at a time when the offender is neither serving nor is liable to serve a term of imprisonment for another offence.

- (3) If this section applies, the court may make a PSO in respect of the offender if it considers —
  - (a) that the seriousness of the imprisonable offence or offences warrants the imposition of a term of imprisonment under Part 13;
  - (b) that a PSO would allow the offender to address his or her criminal behaviour and any factors which contributed to the behaviour; and
  - (c) that if the offender were to comply with a PSO the court might not impose a term of imprisonment under Part 13 for the offence or offences.
- (4) If the court makes a PSO in respect of an offender in respect of an imprisonable offence, the PSO applies in respect of any other offence for which the court is sentencing offender, whether an imprisonable offence or not.
- (5) A court must not make a PSO in respect of an offender unless it has received a pre-sentence report about the offender.
- (6) If a pre-sentence report says that the offender is suitable to be the subject of a PSO, but the court decides not to make a PSO in respect of the offender, the court must give written reasons for its decision.
- (7) In subsection (6) —  
“**written reasons**” includes reasons given orally and subsequently transcribed.

**33B. PSO: nature**

- (1) A PSO is an order that —
  - (a) the offender must appear before the court at the time and place specified in the PSO (the

“**sentencing day**”) to be sentenced for the offence or offences to which the PSO applies; and

- (b) while the PSO is in force the offender must comply with —
  - (i) the standard obligations in section 33D; and
  - (ii) such of the primary requirements in section 33E as the court imposes.
- (2) The sentencing day must not be more than 2 years after the date on which the PSO is made.
- (3) A PSO —
  - (a) comes into force on the day it is made; and
  - (b) ceases to be in force on the sentencing day or when a court cancels it, whichever happens first.

**33C. Making a PSO**

- (1) If a court makes a PSO in respect of an offender, the court must adjourn the sentencing of the offender to the sentencing day.
- (2) When adjourning the sentencing under subsection (1) the court may also order that the offender reappear before the court prior to the sentencing day —
  - (a) at a time and place fixed by the court; or
  - (b) if and when summonsed by the court,so that the court can ascertain whether the offender is complying with the PSO.
- (3) An order may be made under subsection (2) on any reappearance of the offender pursuant to a previous order made under subsection (2).

- (4) If an offender does not reappear before a court at the time and place fixed or in response to a summons issued by the court, the court may issue a warrant to have the offender arrested and brought before the court.
- (5) On the reappearance of an offender, section 33N applies.
- (6) If a court makes a PSO in respect of an offender, it may grant the offender bail.

**33D. PSO: standard obligations**

The standard obligations of a PSO are that the offender —

- (a) must report to a community corrections centre within 72 hours after being released by the court, or as otherwise ordered by a speciality court or a CCO;
- (b) must notify a CCO of any change of address or place of employment within 2 clear working days after the change, or as otherwise ordered by a speciality court;
- (c) must not leave Western Australia except with, and in accordance with, the permission of a speciality court or the CEO; and
- (d) must comply with section 76 of the *Sentence Administration Act 2003*.

**33E. PSO: primary requirements**

Every PSO must contain at least one of these primary requirements —

- (a) a supervision requirement under section 33F;
- (b) a programme requirement under section 33G;
- (c) a curfew requirement under section 33H.

**33F. Supervision requirement**

- (1) The purpose of a supervision requirement is to allow for the offender to be regularly monitored in the community, and to receive regular counselling, in a way and to an extent decided by a CCO, for the purpose of either or both —
  - (a) rehabilitating the offender;
  - (b) ensuring the offender complies with any direction given by the court when imposing the requirement.
- (2) The supervision requirement is a requirement that the offender must contact a CCO, or receive visits from a CCO, as ordered by a CCO.
- (3) When imposing a supervision requirement, a court may give any directions it decides are necessary to secure the good behaviour of the offender but the court is not to make a direction —
  - (a) the effect of which could be achieved by imposing a programme requirement; or
  - (b) that requires the offender to pay compensation or make restitution to any person or to perform any community or other work.
- (4) Unless a CCO orders otherwise, an offender subject to a supervision requirement must contact a CCO at least once in any period of 8 weeks.
- (5) If an offender does not comply with subsection (4), he or she is to be taken to have breached the supervision requirement.
- (6) A supervision requirement ceases to be in force when the PSO ceases to be in force.



**33G. Programme requirement**

- (1) The purpose of a programme requirement is —
  - (a) to allow for any personal factors which contributed to the offender's criminal behaviour to be assessed; and
  - (b) to provide an opportunity for the offender to recognise, to take steps to control and, if necessary, to receive appropriate treatment for those factors.
- (2) The programme requirement is a requirement that the offender must obey the orders of a speciality court or a CCO as to —
  - (a) undergoing assessment by a medical practitioner, a psychiatrist, a psychologist or a social worker, or more than one of them and, if necessary, appropriate treatment;
  - (b) undergoing assessment and, if necessary, appropriate treatment in relation to the abuse of alcohol, drugs or other substances;
  - (c) attending educational, vocational, or personal development programmes or courses;
  - (d) residing at a specified place for the purposes of any of the matters in paragraph (a), (b) or (c);
  - (e) more than one of the above.
- (3) A speciality court or a CCO must not order an offender to undergo treatment of any sort unless a person qualified to recommend or administer the treatment has recommended that the offender undergo such treatment.
- (4) A person is not to administer treatment of any sort mentioned in subsection (2) to an offender without the informed consent of the offender.

- (5) The requirements of a programme requirement imposed as part of a PSO are additional to the requirements of any other programme requirement applicable to the offender under another PSO or a community order.
- (6) A programme requirement ceases to be in force when a speciality court or a CCO gives the offender notice to that effect, or the PSO ceases to be in force, whichever happens first.
- (7) A CCO must not give notice unless satisfied that the offender has complied with the programme requirement.

**33H. Curfew requirement**

- (1) The purposes of the curfew requirement are —
  - (a) to allow for the movements of an offender to be restricted during periods when there is a high risk of the offender offending; and
  - (b) to subject the offender to short periods of detention at the place where the offender lives or at some other specified place.
- (2) The curfew requirement is a requirement that the offender —
  - (a) must remain at a specified place (the “**specified place**”), for specified periods, subject to subsection (8); and
  - (b) must submit to surveillance or monitoring as ordered by a speciality court or a CCO.
- (3) The term of a curfew requirement must be set by the court when it imposes the requirement; but the requirement must not be imposed so as to result in a curfew requirement being in force, whether under a

PSO or an ISO, for a continuous period that exceeds 6 months.

- (4) The term of a curfew is concurrent with the term of any other curfew requirement applicable to the offender under another PSO or an ISO unless the court orders otherwise.
- (5) At any one time the aggregate of the unexpired terms of curfew requirements applicable to the offender under PSOs or ISOs must not exceed 6 months.
- (6) The court may give directions as to the periods when the offender ought to be subject to a curfew.
- (7) The offender is not to be required by the curfew requirement to remain at a place for periods that amount to less than 2 or more than 12 hours in any one day.
- (8) The offender may only leave the specified place during a specified period —
  - (a) to obtain urgent medical or dental treatment for the offender;
  - (b) for the purpose of averting or minimising a serious risk of death or injury to the offender or to another person;
  - (c) to obey an order issued under a written law (such as a summons) requiring the offender's presence elsewhere;
  - (d) for a purpose approved of by a CCO; or
  - (e) on the order of a CCO.
- (9) The curfew requirement ceases to be in force when its term ends, or when the PSO ceases to be in force, whichever happens first.

**Sentencing Legislation Amendment and Repeal Act 2003**

**Part 2** Sentencing Act 1995 amended

**Division 2** Amendments about deferring sentencing

**s. 6**

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- (10) Without limiting the means by which the offender may be kept under surveillance or monitored, a speciality court or a CCO may, for the purposes of subsection (2)(b), order an offender —
- (a) to wear any device; or
  - (b) to permit the installation of any device or equipment at the place where the offender resides.
- (11) A CCO may give such reasonable directions to the offender as are necessary for the proper administration of the curfew requirement.
- (12) Without limiting subsection (11), if the offender is authorised under subsection (8) to leave the specified place, a CCO may give directions as to —
- (a) when the offender may leave;
  - (b) the period of the authorised absence;
  - (c) when the offender must return;
  - (d) the method of travel to be used by the offender during the absence; and
  - (e) the manner in which the offender must report his or her whereabouts.
- (13) To ascertain whether or not the offender is complying with the curfew requirement, a CCO may, at any time —
- (a) enter or telephone the specified place;
  - (b) enter or telephone the offender's place of employment or any other place where the offender is authorised or required to attend; or
  - (c) question any person at any place referred to in paragraph (a) or (b).

- (14) A person must not —
- (a) hinder a person exercising powers under subsection (13); or
  - (b) fail to answer a question put pursuant to subsection (13)(c) or give an answer that the person knows is false or misleading in a material particular.

Penalty: \$2 000 and imprisonment for 12 months.

- (15) In this section —
- “specified”** means specified by a speciality court or the CEO from time to time.

### **33I. Performance reports**

- (1) A CCO must give a court a performance report about an offender who is subject to a PSO —
  - (a) if required to do so by the court and in the form and at a forum directed by the speciality court; and
  - (b) in any event on or before the sentencing day.
- (2) A CCO may give a court a performance report at any time if the CCO considers it appropriate to do so.
- (3) A performance report must report —
  - (a) on the offender’s behaviour while subject to the PSO; and
  - (b) if the report is required for a hearing prior to the sentencing day, on whether the offender is suitable to continue to be the subject of a PSO.
- (4) A performance report may be made —
  - (a) by more than one person; and
  - (b) in writing or orally.

- (5) A written performance report must not be given to anyone other than the court and the CEO.
- (6) A court may make a performance report available to the prosecutor, the offender or to any other person, on such conditions as it thinks fit.

**33J. Sentencing day: how offender to be dealt with**

- (1) When an offender appears before the court —
  - (a) on the sentencing day specified in the PSO; or
  - (b) as a result of a warrant issued under subsection (2),

the court is to sentence the offender.

- (2) If an offender does not appear on the sentencing day specified in the PSO, the court may issue a warrant to have the offender arrested and brought before it.

**33K. Sentencing an offender after a PSO**

- (1) A court sentencing an offender who has been subject to a PSO, whether on the sentencing day or on a day prior to that day—
  - (a) must take into account the offender's behaviour while subject to the PSO; and
  - (b) may use any sentencing option available under Part 5 to the court in respect of the offence concerned.
- (2) For the purposes of subsection (1), the court may adjourn the sentencing in order to obtain a performance report made under section 33I or any other information relevant to the offender's behaviour while subject to the PSO.

- (3) The court referred to in subsection (1) need not be constituted by the same judicial officer as constituted the court when the PSO was made.
- (4) Nothing in this Part prevents a court from sentencing an offender who was subject to a PSO more than 2 years after the PSO was made.

### **Division 2 — Amending and enforcing PSOs**

#### **33L. Interpretation**

- (1) In this Division —  
“**requirement**”, in relation to a PSO, means the standard obligations and primary requirements of the PSO and any direction of the court that imposed the order.
- (2) Section 125(3), with any necessary changes, applies in respect of references in this Division to the court that made a PSO in the same way as it applies in Part 18 to the court that imposed an order.

#### **33M. Application to amend or cancel**

- (1) An application to amend or cancel a PSO may be made only by the offender or a CCO.
- (2) The application must be made —
  - (a) if the Children’s Court made the PSO, to that court;
  - (b) if a court of petty sessions made the PSO, to any court of petty sessions; or
  - (c) if a superior court made the PSO, to that court.
- (3) The application must be made in accordance with the regulations.
- (4) On an application made under this section, section 33N applies.

**33N. Court may confirm, amend or cancel PSO**

- (1) If on a reappearance ordered under section 33C(2) or compelled under section 33C(2) or (4) or on an application made under section 33M, a court is satisfied that the circumstances of the offender —
- (a) were wrongly or inaccurately presented to the court when it made the PSO; or
  - (b) have so altered since the court made the PSO that —
    - (i) the offender will not be able to comply with the requirements of the PSO; or
    - (ii) it is no longer appropriate for the offender to be subject to the PSO,
- and that it is just to do so, or if the offender requests, the court may make an order under subsection (2) but otherwise it must confirm the PSO.
- (2) If a court may make an order under this subsection, it may either —
- (a) amend the PSO —
    - (i) by amending or cancelling the primary requirements of the PSO or any direction given by the court that made the PSO;
    - (ii) by adding a primary requirement or giving a direction that could have been given by the court that made the PSO;
    - (iii) subject to section 33B(2), by changing the sentencing day; or
    - (iv) by a combination of those;
- or
- (b) cancel the PSO and sentence the offender.



- (3) A court that under subsection (2)(a) may amend a PSO that applies to an offender who is subject to one or more curfew requirements under PSOs or ISOs of 6 months may, despite sections 33H(3) and (5) and 75(3) and (5), amend any curfew requirement in the PSO by extending its term by not more than one month at a time or add a curfew requirement the term of which is not more than one month.
- (4) If the court decides to cancel the last remaining requirement of a PSO, the court must cancel the PSO and sentence the offender.
- (5) On a reappearance ordered under section 33C(2) or compelled under section 33C(2) or (4) or on an application made under section 33M in respect of a PSO, the court need not be constituted by the same judicial officer as constituted the court when the PSO was made.

**330. Re-offending while subject to a PSO**

- (1) This section applies if —
  - (a) a court convicts a person of an offence the statutory penalty for which is or includes imprisonment; and
  - (b) the offence was committed while the person was subject to a PSO made in relation to another offence.
- (2) The court —
  - (a) if it is the Children's Court, may deal with the person under subsection (5) unless the PSO was made by a superior court in which case it must commit the person to that court and that court may deal with the person under subsection (5);

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- (b) if it is a court of petty sessions, may deal with the person under subsection (5) unless the PSO was made —
    - (i) by the Children’s Court for an indictable offence; or
    - (ii) by a superior court,  
in which case the court must commit the person to the court that made the PSO and that court may deal with the person under subsection (5);
  - (c) if it is the District Court, may deal with the person under subsection (5) unless the PSO was made by the Children’s Court or the Supreme Court for an offence which the District Court would not have jurisdiction to deal with if it were committed by an adult, in which case the Court must commit the person to the court that made the PSO and that court may deal with the person under subsection (5);
  - (d) if it is the Supreme Court, may deal with the person under subsection (5).
- (3) A court that under subsection (2) commits a person to another court must certify that the person has been convicted of an offence committed while subject to a PSO.
- (4) Subsection (2) does not affect the powers of the court that convicts a person of the offence committed while the person was subject to a PSO to deal with the person for that offence.
- (5) A court that may deal with an offender under this subsection may —
- (a) if the PSO is in force —
    - (i) confirm the PSO;

- (ii) amend the PSO in any of the ways described in section 33N(2)(a); or
- (iii) cancel the PSO and sentence the offender.
- (b) if the PSO is not in force and the offender has been sentenced for the offence or offences to which the PSO applied, recall the order imposing the sentence and impose a sentence that takes account of —
  - (i) the fact that the offender committed an offence while subject to the PSO; and
  - (ii) the extent to which the offender has complied with any orders made under the sentence imposed for the offence or offences to which the PSO applied.

**33P. Breach etc. of PSO, powers of CEO and court**

- (1) If —
  - (a) an offender is subject to a PSO; and
  - (b) the CEO, has reasonable grounds to believe that the offender has been, is, or is likely to be, in breach of any requirement of the PSO,the CEO may issue a warrant to have the offender arrested and brought before —
  - (a) the court that made the PSO, if the Children’s Court or a superior court made the PSO;
  - (b) a court of petty sessions, if the PSO was made by such a court.
- (2) The warrant must be in the prescribed form.
- (3) If the court before which the offender is brought is satisfied that the offender has been, is, or is likely to

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be, in breach of any requirement of the PSO, the court may —

- (a) amend the PSO in any of the ways described in section 33N(2)(a); or
- (b) cancel the PSO and sentence the offender,

but otherwise must confirm the PSO.

- (4) Proceedings under this section may be dealt with simultaneously with any proceedings under section 55 of the *Bail Act 1982*.

**33Q. Facilitation of proof**

- (1) This section applies only in relation to proceedings under this Part.
- (2) A copy of a PSO certified by the court that made it is, in the absence of evidence to the contrary, evidence of its contents.
- (3) A copy of an order amending a PSO certified by the court that made it is, in the absence of evidence to the contrary, evidence of its contents.
- (4) A certificate of a court under section 33O(3) is, in the absence of evidence to the contrary, evidence of its contents.
- (5) In proceedings before a court under section 33P, evidence of an alleged breach of a requirement of a PSO may be given by tendering a certificate signed by the CEO stating the particulars of the alleged breach.
- (6) Section 134(6) applies to a certificate referred to in subsection (5).

”.

**7. Section 66 amended**

Section 66(5) is amended by deleting “imposed as part of any other community order.” and inserting instead —

“

applicable to the offender under a community order or a PSO.

”.

**8. Section 73 amended**

Section 73(5) is amended by deleting “imposed as part of any other community order.” and inserting instead —

“

applicable to the offender under a community order or a PSO.

”.

**Division 3 — Amendments about sentencing options**

**9. Section 9 amended**

(1) Section 9(4) is repealed.

(2) Section 9(5) is amended by deleting “Subsection (4) does not prevent a court” and inserting instead —

“

The fact that a court is required to impose a mandatory penalty or a minimum penalty does not prevent it

”.

**10. Section 41 amended**

(1) Section 41(1) is amended by deleting “imprisonment only” and inserting instead —

“ such that imprisonment but not a fine may be imposed ”.

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**Part 2** Sentencing Act 1995 amended

**Division 3** Amendments about sentencing options

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(2) After section 41(2) the following subsection is inserted —

“

- (2a) If the statutory penalty for the offence is such that imprisonment must be imposed, then despite subsection (2) the court must impose a term of imprisonment in accordance with the statutory penalty, unless the written law creating the offence provides otherwise.

”.

**11. Section 42 amended**

After section 42(2) the following subsection is inserted —

“

- (2a) If the statutory penalty for the offence is such that both a minimum fine and imprisonment may be imposed, then despite subsection (2) the court must impose one or both of the following —
- (a) a fine that is at least the minimum fine and not more than any maximum fine for the offence;
  - (b) a sentencing option in section 39(2) that is listed after section 39(2)(c),

unless the written law creating the offence provides otherwise.

”.

**12. Section 43 amended**

After section 43(2) the following subsection is inserted —

“

- (2a) If the statutory penalty for the offence is such that either a minimum fine or imprisonment may be

imposed, then despite subsection (2) the court must impose one of the following but not both —

- (a) a fine that is at least the minimum fine and not more than any maximum fine for the offence;
- (b) a sentencing option in section 39(2) that is listed after section 39(2)(c),

unless the written law creating the offence provides otherwise.

”.

**13. Section 44 amended**

(1) Section 44 is amended as follows:

- (a) by inserting before “If the statutory” the subsection designation “(1)”;
- (b) by deleting “a fine only” and inserting instead —

“

such that a fine but not imprisonment may be imposed

”.

(2) At the end of section 44 the following subsection is inserted —

“

- (2) If the statutory penalty for an offence is such that a minimum fine must be imposed, then despite subsection (1) the court must impose a fine that is at least the minimum fine and not more than any maximum fine for the offence, unless the written law creating the offence provides otherwise.

”.

**Division 4 — Amendments about imprisonment**

**14. Section 4 amended**

Section 4(1) is amended by deleting the definition of “parole order”.

**15. Section 76 amended**

- (1) Section 76(3)(a) is amended by deleting “(as defined in Part 13)”.
- (2) After section 76(3) the following subsection is inserted —  
“
  - (4) In subsection (3)(a) —  
“**early release order**” means —
    - (a) a parole order, home detention order, or work release order, made under the *Sentence Administration Act 1995*; or
    - (b) a parole order, or re-entry release order, made under the *Sentence Administration Act 2003*.”.

**16. Section 85 amended**

- (1) Section 85(1) is amended by deleting the definition of “early release order”.
- (2) Section 85(1) is amended by inserting in the appropriate alphabetical position the following definition —  
“  
“**parole order**” means an order made under Part 3 of the *Sentence Administration Act 2003* that a prisoner be released on parole and includes a parole order made for the purposes of section 72 or 73 of that Act;  
”.
- (3) Section 85(1) is amended in the definition of “prescribed term” by deleting paragraph (a).



- (4) Section 85(2), (3) and (4) are repealed and the following subsections are inserted instead —

“

- (2) For the purposes of this Part and Part 11 and for the purposes of the *Sentence Administration Act 2003*, the aggregate of 2 or more fixed terms is the total effective period of imprisonment imposed on the offender having regard to whether the fixed terms are to be served concurrently or partly concurrently or cumulatively.
- (3) For the purposes of this Part and of the *Sentence Administration Act 2003*, to calculate the length in days of one-half of a fixed term —
- (a) determine the dates on which the term as imposed by the court will begin and end and then express the term as a number of days (“**T**”); and
- (b) then divide T by 2 and disregard any remainder.
- (4) In this Part and in the *Sentence Administration Act 2003*, a fixed term ends when the term as imposed by the court ends, and it does not matter if the prisoner has been released before then.

”.

**17. Section 88 amended**

- (1) Section 88(3)(d) is deleted and the following paragraph is inserted instead —

“

- (d) the fixed term is to be served partly concurrently with the other fixed term.

”.

- (2) Section 88(4) is repealed and the following subsection is inserted instead —

“

- (4) If under subsection (3)(d) a court orders that a term is to be served partly concurrently with another fixed term, the court must specify the period of the other fixed term that is to be served before the partly concurrent term is to begin, but that period must not extend beyond the earliest date on which the offender could be released (whether on parole or not) in relation to the other fixed term.

”

**18. Section 89 replaced**

Section 89 is repealed and the following section is inserted instead —

“

**89. Offender may be made eligible for parole**

- (1) A court sentencing an offender to a fixed term may order that the offender be eligible for parole in respect of that term by making a parole eligibility order.
- (2) A parole eligibility order must not be made if the fixed term or the aggregate of the fixed terms is less than 12 months, except where the offender, at the date of the sentence, is serving or has yet to serve a parole term imposed previously.
- (3) A parole eligibility order must not be made in respect of a prescribed term.
- (4) A court may decide not to make a parole eligibility order in respect of a fixed term imposed on an offender if the court considers that the offender should not be eligible for parole because of at least 2 of the following 4 factors —
- (a) the offence is serious;

- (b) the offender has a significant criminal record;
  - (c) the offender, when released from custody under a release order made previously, did not comply with the order;
  - (d) any other reason the court considers relevant.
- (5) If a court decides that an offender is to be eligible for parole in respect of 2 or more of the fixed terms it imposes, it is to make a single parole eligibility order in respect of those terms.
- (6) The effect of a parole eligibility order made in respect of 2 or more fixed terms is subject to section 94.
- (7) This section does not affect the operation of Part 3 Division 4 of the *Sentence Administration Act 2003* in relation to the release on parole of a prisoner to whom that Division applies.
- (8) In subsection (4) —
- “release order”** means an order made (in this State or elsewhere in Australia) in respect of an offender who is subject to a sentence of imprisonment that releases the offender on conditions before the end of the sentence, and includes such an order made under a written law before the commencement of the *Sentencing Legislation Amendment and Repeal Act 2003*.

”.

## **19. Section 92 repealed**

Section 92 is repealed.

**20. Sections 93 to 95 replaced**

Sections 93, 94 and 95 are repealed and the following sections are inserted instead —

“

**93. Release from parole term**

- (1) Subject to section 94, a prisoner serving a parole term is eligible to be released on parole —
  - (a) if the term served is four years or less — when he or she has served one-half of the term; or
  - (b) if the term served is more than four years — when he or she has served 2 years less than the term.
- (2) Any order for the release on parole of a prisoner to whom subsection (1) applies must be made in accordance with Part 3 of the *Sentence Administration Act 2003*.
- (3) If a prisoner serving a parole term has not been released on parole before the term ends, the prisoner is discharged from that sentence when the term ends and, subject to Part 2 Division 2 of the *Sentence Administration Act 2003*, must be released then.

**94. Aggregation of parole terms for certain purposes**

- (1) In the case of a prisoner serving 2 or more parole terms —
  - (a) the time when he or she is eligible to be released on parole; and
  - (b) the parole period for such a prisoner,are to be calculated by reference to the aggregate of those terms, but only if under subsection (3) or (4) those terms are to be aggregated.

- (2) If under this section the matters referred to in subsection (1) are not to be calculated by reference to the aggregate of 2 or more parole terms, the matters are to be calculated in respect of each of the 2 or more parole terms separately.
- (3) A parole term imposed at the same time as another parole term is to be aggregated with that other term for the purposes of subsection (1) unless it is to be served partly concurrently with that other term.
- (4) A parole term imposed at a different time to another parole term is to be aggregated with that other term for the purposes of subsection (1) unless —
  - (a) it is to be served concurrently with that other term or partly concurrently with it; or
  - (b) the other term was imposed before the commencement of Part 2 Division 4 of the *Sentencing Legislation Amendment and Repeal Act 2003*.
- (5) Subject to this section, a parole term, or an aggregate of parole terms, may be aggregated with the aggregate of 2 or more other parole terms, but a parole term, or an aggregate of parole terms, imposed before the commencement of Part 2 Division 4 of the *Sentencing Legislation Amendment and Repeal Act 2003* is not to be aggregated with a parole term, or aggregate of parole terms, imposed after that commencement.
- (6) For the purposes of applying this section a reference in this Part or in the *Sentence Administration Act 2003* to a prisoner serving a parole term is, where necessary, to be taken as including a reference to a prisoner serving more than one parole term and in such a case, if under this section the terms can be aggregated, the reference to the term is to be taken as being a reference to the aggregate of the terms.

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**Table showing some examples of the operation of this section and sections 88 and 93, and section 7 of the *Sentence Administration Act 2003***

<b>Parole term 1</b>	<b>Parole term 2</b>	<b>Whether concurrent etc.</b>	<b>Effect</b>
4 years	6 years	Concurrent	Aggregation of terms permitted for parole calculations. Aggregate = 6 years. Non-parole period = 3 years. (Calculated on aggregate). If not paroled, serve 6 years.
4 years	6 years	Cumulative	Aggregation of terms permitted for parole calculations. Aggregate = 10 years. Non-parole period = 5 years. (Calculated on aggregate). If not paroled, serve 10 years.
4 years	6 years	Partly concurrent: 1 year of term 1 to be served before term 2 begins. (See s. 88(4))	Aggregation of terms not permitted for parole calculations. Serve 1 year of term 1. Then begin serving term 2 concurrently with rest of term 1. Non-parole period on term 2 = 3 years. Result: serve 4 years before eligible for parole. If not paroled, serve 7 years.

**95. Release from fixed term that is not parole term**

A prisoner serving a fixed term that is not a parole term is discharged from that sentence at the end of the term and, subject to Part 2 Division 2 of the *Sentence Administration Act 2003*, must be released then.

”.

**21. Section 100 amended**

Section 100 is amended by deleting “an early release order (as defined in Part 13)” and inserting instead —

“

a parole order or a re-entry release order made under the *Sentence Administration Act 2003*

”.

**22. Transitional provisions**

Schedule 1 has effect in relation to the amendments effected by this Division.

**Division 5 — General amendments**

**23. Section 4 amended**

- (1) Section 4(1) is amended by inserting in the appropriate alphabetical position the following definition —

“

“**spent conviction order**” has the meaning given by section 45(2);

”.

- (2) After section 4(2) the following subsection is inserted —

“

- (3) Examples in this Act are provided to assist understanding and do not form part of the Act.

”.

**24. Section 34 amended**

- (1) Section 34 is amended by inserting before “A” the subsection designation “(1)”.

- (2) At the end of section 34 the following subsections are inserted —

“

- (2) If a court sentencing an offender imposes a fixed term (as defined in section 85), the court is to state in open court the minimum period that the offender, as a result of the sentence and the operation of this Act, will serve in custody in respect of the term or, if more than one term is imposed, in respect of the aggregate of the terms.

- (3) In complying with subsection (2) a court need not take account of any other sentence of imprisonment imposed previously on the offender which the offender is serving or has yet to serve.

”.

**25. Section 75 amended**

- (1) Section 75(1) is amended by inserting after paragraph (a) —

“ and ”.

- (2) Section 75(2)(a) and “and” after it are deleted and the following is inserted instead —

“

- (a) must remain at a specified place (the “**specified place**”), for specified periods, subject to subsection (8); and

”.

- (3) Section 75(3) to (9) are repealed and the following subsections are inserted instead —

“

- (3) The term of a curfew requirement must be set by the court when it imposes the requirement; but the requirement must not be imposed so as to result in a curfew requirement being in force, whether under an ISO or a PSO, for a continuous period that exceeds 6 months.
- (4) The term of a curfew is concurrent with the term of any other curfew requirement applicable to the offender under another ISO or a PSO, unless the court orders otherwise.
- (5) At any one time the aggregate of the unexpired terms of curfew requirements applicable to the offender under ISOs or PSOs must not exceed 6 months.



- (6) The court may give directions as to the periods when the offender ought to be subject to a curfew.
- (7) The offender is not to be required by the curfew requirement to remain at a place for periods that amount to less than 2 or more than 12 hours in any one day.
- (8) The offender may only leave the specified place during a specified period —
  - (a) to do community corrections activities as required under this Act or the *Sentence Administration Act 2003*;
  - (b) to obtain urgent medical or dental treatment for the offender;
  - (c) for the purpose of averting or minimising a serious risk of death or injury to the offender or to another person;
  - (d) to obey an order issued under a written law (such as a summons) requiring the offender's presence elsewhere;
  - (e) for a purpose approved of by a CCO; or
  - (f) on the order of a CCO.
- (9) The curfew requirement ceases to be in force when its term ends, or when the ISO ceases to be in force, whichever happens first.
- (10) Without limiting the means by which the offender may be kept under surveillance or monitored, a CCO may, for the purposes of subsection (2)(b), order the offender —
  - (a) to wear any device; or
  - (b) to permit the installation of any device or equipment at the place where the offender resides.

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- (11) A CCO may give such reasonable directions to the offender as are necessary for the proper administration of the curfew requirement.
- (12) Without limiting subsection (11), if the offender is authorised under subsection (8) to leave the specified place, a CCO may give directions as to —
- (a) when the offender may leave;
  - (b) the period of the authorised absence;
  - (c) when the offender must return;
  - (d) the method of travel to be used by the offender during the absence; and
  - (e) the manner in which the offender must report his or her whereabouts.
- (13) To ascertain whether or not the offender is complying with the curfew requirement, a CCO may, at any time —
- (a) enter or telephone the specified place;
  - (b) enter or telephone the offender's place of employment or any other place where the offender is authorised or required to attend; or
  - (c) question any person at any place referred to in paragraph (a) or (b).
- (14) A person must not —
- (a) hinder a person exercising powers under subsection (13); or
  - (b) fail to answer a question put pursuant to subsection (13)(c) or give an answer that the person knows is false or misleading in a material particular.

Penalty: \$2 000 and imprisonment for 12 months.

(15) In this section —

“**specified**” means specified by the CEO from time to time.

”.

**26. Section 137 replaced**

Section 137 is repealed and the following section is inserted instead —

“

**137. Royal Prerogative of Mercy not affected**

Neither this Act nor the *Sentence Administration Act 2003* affects the Royal Prerogative of Mercy or limits any exercise of it.

”.

**Part 3 — Road Traffic Act 1974 amended**

**27. The Act amended by this Part**

The amendment in this Part is to the *Road Traffic Act 1974*\*.

[\* *Reprinted as at 19 October 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 329-30 and Acts Nos. 4, 5 and 7 of 2002 and Gazette 17 May 2002 p. 2558-60.]*

**28. Section 106 replaced by sections 106 and 106A**

Section 106 is repealed and the following sections are inserted instead —

“

**106. Sentencing for certain offences**

(1) In this section —

“**minimum fine**” means a pecuniary penalty provided for or in relation to an offence that is expressed to be a minimum penalty, whether by the use of the expression “minimum penalty” or “not less than” or another like expression.

(2) Without limiting the *Sentencing Act 1995*, and despite any other written law, a minimum fine in this Act is irreducible in mitigation.

(3) A court sentencing a person who has been convicted of —

- (a) a first offence against section 63 or 67; or
- (b) an offence against section 64 or 67A,

may, instead of imposing a fine —

- (c) order the release of the person and impose a community based order under Part 9 of the *Sentencing Act 1995* with at least the

community service requirement as a primary requirement of the order; or

- (d) if the offender is a young person under the *Young Offenders Act 1994*, subject to sections 50, 50A and 50B of that Act, make a youth community based order under that Act imposing at least community work conditions on the offender.

- (4) If a court sentencing a person who has been convicted of —

- (a) an offence against section 49 committed in the circumstances mentioned in section 49(2); or
- (b) a second or subsequent offence against section 63 or 67,

orders the release of the offender and imposes a community based order or an intensive supervision order under the *Sentencing Act 1995*, the court must impose at least the community service requirement as a primary requirement of the order.

- (5) If a court sentencing a person who has been convicted of —

- (a) an offence against section 49 committed in the circumstances mentioned in section 49(2); or
- (b) a second or subsequent offence against section 63 or 67,

orders the release of the offender and imposes a youth community based order or an intensive youth supervision order under the *Young Offenders Act 1994*, the court must impose community work conditions on the offender as part of the order.

**106A. Mandatory disqualification**

- (1) If this Act requires a court to disqualify an offender from holding or obtaining a driver's licence —
- (a) for a specific period provided in relation to the offence concerned (including permanent disqualification);
  - (b) for a period not less than a minimum period provided in relation to the offence concerned; or
  - (c) for a period not less than a minimum period, and not more than a maximum period, provided in relation to the offence concerned,

the requirement is irreducible in mitigation and, irrespective of any sentence the court imposes on the offender, the court must disqualify the offender —

- (d) for that period;
  - (e) for a period not less than that minimum period; or
  - (f) for a period not less than that minimum period and not more than that maximum period.
- (2) Subsection (1) has effect despite any other written law.

”.

## **Part 4 — Repeal of sentencing legislation**

**29. *Sentence Administration Act 1995* repealed and consequential amendments**

- (1) The *Sentence Administration Act 1995* is repealed.
- (2) Schedule 1 has effect in relation to the repeal effected by subsection (1).
- (3) Schedule 2 has effect.

**30. *Sentence Administration Act 1999* repealed**

The *Sentence Administration Act 1999* is repealed.

**31. *Sentencing Legislation Amendment and Repeal Act 1999* repealed**

The *Sentencing Legislation Amendment and Repeal Act 1999* is repealed.

**32. *Sentencing Amendment Act 2000* repealed**

The *Sentencing Amendment Act 2000* is repealed.

**Part 5 — Amendments about short sentences**

**33. Sentencing Act 1995 amended**

- (1) The amendments in this section are to the *Sentencing Act 1995*\*.

[\* *Reprinted as at 4 May 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 339-40, and Acts Nos. 24 of 2001 and 7 of 2002.]*

- (2) Section 44(a) is deleted and the following paragraph is inserted instead —

“

- (a) if the offender is a natural person —

- (i) use any one of the sentencing options in section 39(2)(a), (b) and (c); or
- (ii) in the case of an offence prescribed for the purposes of this section, use any one of the sentencing options in section 39(2)(a), (b), (c) and (d);

”.

- (3) Section 86 is amended by deleting “3 months” in both places where it occurs and in each place inserting instead —

“ 6 months ”.

**34. Aboriginal Affairs Planning Authority Act 1972 amended**

- (1) The amendments in this section are to the *Aboriginal Affairs Planning Authority Act 1972*\*.

[\* *Reprinted as at 5 February 1999.*]

- (2) Section 49(1) is amended by deleting “for a period of 6 months or more”.



- (3) Section 50 is repealed and the following section is inserted instead —

“

**50. Penalties**

A person who commits an offence against this Act for which no penalty is specifically provided is liable on conviction to —

- (a) for a first offence, \$1 000 or imprisonment for 9 months;
- (b) for a second or subsequent offence, \$5 000 or imprisonment for 12 months.

”.

- (4) Section 51(3) is repealed and the following subsection is inserted instead —

“

- (3) Regulations may create offences and provide, in respect of an offence so created, for the imposition of a penalty of —

- (a) for a first offence, \$1 000 and imprisonment for 9 months;
- (b) for a second or subsequent offence, \$5 000 and imprisonment for 12 months.

”.

**35. *Aboriginal Heritage Act 1972* amended**

- (1) The amendments in this section are to the *Aboriginal Heritage Act 1972*\*.

[\* *Reprinted as at 16 February 2001.*]

- (2) Section 57(1) is repealed and the following subsection is inserted instead —

“

- (1) A person who commits an offence against this Act for which no penalty is specifically provided is liable, on summary conviction —
- (a) in the case of an individual, to —
    - (i) for a first offence, \$20 000 and imprisonment for 9 months; and
    - (ii) for a second or subsequent offence, \$40 000 and imprisonment for 2 years, and in any case, to a daily penalty of \$400; and
  - (b) in the case of a body corporate, to —
    - (i) for a first offence, \$50 000; and
    - (ii) for a second or subsequent offence, \$100 000, and in any case, to a daily penalty of \$1 000.

”.

**36. *Aerial Spraying Control Act 1966* amended**

- (1) The amendments in this section are to the *Aerial Spraying Control Act 1966*\*.

[\* *Reprinted as approved 28 August 1983.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 7.]*

- (2) Sections 6 and 9(4) are each amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$2 000. ”.

- (3) Section 19(1)(m) is amended by deleting “or imprisonment for six months, or both,”.

**37. *Bail Act 1982* amended**

- (1) The amendments in this section are to the *Bail Act 1982*\*.

[\* *Reprinted as at 27 August 1999.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 27 and Act No. 6 of 2002.]*

- (2) Section 20(4) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$1 000. ”.

- (3) Section 50C(3) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$2 000 and imprisonment for 12 months. ”.

- (4) Section 50D(2) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$2 000. ”.

- (5) Section 60 is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$1 000. ”.

**38. *Biological Control Act 1986* amended**

- (1) The amendments in this section are to the *Biological Control Act 1986*\*.

[\* *Act No. 106 of 1986.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 33.]*

- (2) Sections 41 and 43 are each amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$1 000. ”.

**39. *Botanic Gardens and Parks Authority Act 1998* amended**

- (1) The amendments in this section are to the *Botanic Gardens and Parks Authority Act 1998*\*.

[\* *Act No. 53 of 1998.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 34.]*

- (2) Section 30 is amended by deleting the penalty clause and inserting the following penalty clause —

“ Penalty: \$5 000. ”.

**40. *Boxing Control Act 1987* amended**

- (1) The amendments in this section are to the *Boxing Control Act 1987*\*.

[\* *Act No. 2 of 1987.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 34.]*

- (2) Section 24 is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$1 000 and imprisonment for 9 months. ”.

- (3) Section 38 is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$1 000. ”.

**41. *Business Names Act 1962* amended**

- (1) The amendments in this section are to the *Business Names Act 1962*\*.

[\* *Reprinted as at 16 February 2001.*]

- (2) Section 5A(2) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$400. ”.

**42. Cattle Industry Compensation Act 1965 amended**

- (1) The amendments in this section are to the *Cattle Industry Compensation Act 1965*\*.

[\* Reprinted as at 20 August 1999.]

- (2) Section 37(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$3 000. ”.

**43. Cemeteries Act 1986 amended**

- (1) The amendments in this section are to the *Cemeteries Act 1986*\*.

[\* Reprinted as at 3 April 2002.]

- (2) Section 62 is amended by deleting “and is liable to a fine of \$1 000 or imprisonment for 6 months, or both” and inserting the following penalty clause at the end of the section —

“ Penalty: \$1 000. ”.

**44. Child Welfare Act 1947 amended**

- (1) The amendments in this section are to the *Child Welfare Act 1947*\*.

[\* Reprinted as at 12 July 1995.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 50.]*

- (2) Sections 130A(5) and 138A are each amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$400. ”.

**45. Community Services Act 1972 amended**

- (1) The amendments in this section are to the *Community Services Act 1972*\*.

[\* Reprinted as at 5 April 2002.]

- (2) Section 17A(3) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“

Penalty: For a first offence, \$2 000 and a daily penalty of \$200.

For a subsequent offence, \$4 000 and a daily penalty of \$400.

”.

**46. Companies (Co-operative) Act 1943 amended**

- (1) The amendments in this section are to the *Companies (Co-operative) Act 1943*\*.

[\* Reprinted as at 14 January 2000.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 60.]*

- (2) Sections 280(1) and 425 are each amended by deleting “6 months” and inserting instead —

“ 9 months ”.

**47. Conservation and Land Management Act 1984 amended**

- (1) The amendments in this section are to the *Conservation and Land Management Act 1984*\*.

[\* Reprinted as at 26 March 1999.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 62 and Act No. 6 of 2002.]*

- (2) Sections 105(1) and 106 are each amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$4 000. ”.

**48. *Conspiracy and Protection of Property Act 1900* amended**

- (1) The amendment in this section is to the *Conspiracy and Protection of Property Act 1900*\*.

[\* *Reprinted as approved 7 April 1971.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 62.]*

- (2) Section 6 is amended by deleting “or to be imprisoned for a term not exceeding six months”.

**49. *Co-operative and Provident Societies Act 1903* amended**

- (1) The amendments in this section are to the *Co-operative and Provident Societies Act 1903*\*.

[\* *Reprinted as at 7 September 2001.*]

- (2) Section 36 is amended by deleting “, or to be imprisoned for any term not exceeding 3 months”.
- (3) Section 51 is amended by deleting “, and in default of such delivery or repayment, or of the payment of such penalty and costs aforesaid, to be imprisoned for any time not exceeding 3 months”.
- (4) Section 55 is amended by deleting “, or to imprisonment not exceeding 3 months”.

**50. *Credit (Administration) Act 1984* amended**

- (1) The amendments in this section are to the *Credit (Administration) Act 1984*\*.

[\* *Reprinted as at 5 May 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 84.]*

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- (2) Sections 37, 38 and 39(4) and (6) are each amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$6 000. ”.

**51. *The Criminal Code* amended**

- (1) The amendments in this section are to *The Criminal Code*\*.

[\* *Reprinted as at 9 February 2001 as the Schedule to the Criminal Code Act 1913 appearing in Appendix B to the Criminal Code Compilation Act 1913.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 89 and Acts Nos. 3 and 6 of 2002.]*

- (2) Sections 77 and 78 are each amended by deleting the summary conviction penalty clause and inserting the following penalty clause instead —

“

Summary conviction penalty: imprisonment for 12 months.

”.

- (3) Section 95 is amended by deleting “, and is liable to imprisonment for 6 months” and inserting the following penalty clause at the end of the section —

“ Penalty: \$6 000. ”.

- (4) Section 97 is amended by deleting “, and is liable to imprisonment for 6 months, or to a fine of \$100” and inserting the following penalty clause at the end of the section —

“ Penalty: \$6 000. ”.



- (5) Section 105 is amended by deleting “, and is liable to imprisonment for 6 months or to a fine of \$50” and inserting the following penalty clause at the end of the section —
- “ Penalty: \$6 000. ”.
- (6) Section 106 is amended by deleting “, and is liable to imprisonment for 6 months” and inserting the following penalty clause at the end of the section —
- “ Penalty: \$6 000. ”.
- (7) Section 108 is amended by deleting “, and is liable to imprisonment for 6 months” and inserting the following penalty clause instead —
- “ Penalty: \$6 000. ”.
- (8) Section 110 is amended by deleting “, and is liable to imprisonment for 6 months” and inserting the following penalty clause at the end of the section —
- “ Penalty: \$6 000. ”.
- (9) Section 111 is amended by deleting “, and is liable to imprisonment for 6 months” and inserting the following penalty clause at the end of the section —
- “ Penalty: \$6 000. ”.
- (10) Section 151 is amended by deleting the summary conviction penalty clause and inserting the following penalty clause instead —
- “ Summary conviction penalty: \$2 000. ”.
- (11) Section 208 is amended by deleting “; or he may be summarily convicted, in which case he is liable to imprisonment for 6 months” and inserting the following penalty clause instead —
- “ Summary conviction penalty: \$6 000. ”.

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- (12) Sections 426(4), 426A(3) and 429 are each amended by deleting “imprisonment for 6 months or to”.
- (13) Section 430 is amended by deleting “imprisonment for 6 months or to a fine of \$500” and inserting instead —  
“ a fine of \$6 000 ”.
- (14) Section 431 is amended by deleting “imprisonment for 6 months or to a fine of \$500” and inserting instead —  
“ a fine of \$6 000 ”.
- (15) Section 434 is amended by deleting “imprisonment for 6 months, or to a fine of an amount equal to the value of the thing so found, and \$40 in addition” and inserting instead —  
“ a fine of \$6 000 plus the value of the thing found ”.
- (16) Section 435 is amended by deleting “imprisonment for 6 months, or to a fine of an amount equal to the value of the thing in question, and \$40 in addition” and inserting instead —  
“ a fine of \$6 000 plus the value of the thing in question ”.

**52. *Criminal Investigation (Extra-Territorial Offences) Act 1987* amended**

- (1) The amendments in this section are to the *Criminal Investigation (Extra-Territorial Offences) Act 1987\**.

[\* *Act No. 67 of 1987.*]

- (2) Section 6 is amended by deleting the penalty clause and inserting the following penalty clause instead —  
“ Penalty: \$2 000. ”.

**53. Curriculum Council Act 1997 amended**

- (1) The amendments in this section are to the *Curriculum Council Act 1997*\*.

[\* *Act No. 17 of 1997.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 91.]*

- (2) Schedule 1 clause 16(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$1 000. ”.

**54. Dangerous Goods (Transport) Act 1998 amended**

- (1) The amendments in this section are to the *Dangerous Goods (Transport) Act 1998*\*.

[\* *Act No. 50 of 1998.*]

- (2) Sections 19 and 29(6) are each amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$10 000. ”.

**55. Debt Collectors Licensing Act 1964 amended**

- (1) The amendments in this section are to the *Debt Collectors Licensing Act 1964*\*.

[\* *Reprinted as approved 2 February 1972.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 96.]*

- (2) Section 5(2) is amended by deleting “against this Act and is liable, in the case of a corporation, to a penalty of four hundred dollars and, in the case of a natural person, to a penalty of two

hundred dollars or six months imprisonment” and inserting the following penalty clause at the end of the subsection —

“

Penalty: For an individual, \$200.  
For a body corporate, \$400.

”.

**56. Electoral Act 1907 amended**

- (1) The amendments in this section are to the *Electoral Act 1907*\*.

[\* *Reprinted as at 15 December 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 111.]*

- (2) Section 77(4) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$200. ”.

- (3) Section 188(2) is amended by deleting “, or by imprisonment not exceeding 6 months”.

- (4) The Table to section 190 is amended as follows:

- (a) by deleting “Imprisonment not exceeding 6 months.” in the first, second and third places where it occurs and inserting instead —

“ Penalty not exceeding \$6 000. ”;

- (b) by deleting “6 months” in the fourth place where it occurs and inserting instead —

“ 9 months ”.

- (5) Section 191A is amended as follows:

- (a) after subsection (1) by inserting the following penalty clause —

“ Penalty: \$1 000. ”;

(b) after subsection (2) by deleting the penalty clause and inserting the following penalty clause instead —  
“ Penalty: \$1 000. ”.

(6) Section 199A(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —  
“ Penalty: \$1 000. ”.

**57. *Electricity Corporation Act 1994* amended**

(1) The amendments in this section are to the *Electricity Corporation Act 1994*\*.

[\* Reprinted as at 4 January 2000.  
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 113.]

(2) Schedule 2 clause 12(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —  
“ Penalty: \$6 000. ”.

**58. *Energy Operators (Powers) Act 1979* amended**

(1) The amendments in this section are to the *Energy Operators (Powers) Act 1979*\*.

[\* Reprinted as at 15 September 2000.  
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 115-6.]

(2) Section 67(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —  
“ Penalty: \$2 000 and imprisonment for 9 months. ”.

**59. Explosives and Dangerous Goods Act 1961 amended**

- (1) The amendments in this section are to the *Explosives and Dangerous Goods Act 1961*\*.

[\* Reprinted as at 25 February 2000.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 123.]

- (2) Section 54A(6) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$50 000. ”.

**60. Family Court Act 1997 amended**

- (1) The amendment in this section is to the *Family Court Act 1997*\*.

[\* Act No. 40 of 1997.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 124 and Act No. 3 of 2002.]

- (2) Section 243(6) is amended in paragraph (b) of the penalty clause by deleting “and imprisonment for 6 months”.

**61. Fire Brigades Act 1942 amended**

- (1) The amendments in this section are to the *Fire Brigades Act 1942*\*.

[\* Reprinted as at 18 February 2000.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 138 and Gazette 28 March 2002.]

- (2) Section 33A(12) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“

Penalty: \$50 000.

Daily penalty: \$1 000.

”.

- (3) Section 59 is amended by deleting “or to be imprisoned for any period not exceeding 6 months”.

**62. *Firearms Act 1973* amended**

- (1) The amendments in this section are to the *Firearms Act 1973*\*.

[\* *Reprinted as at 11 August 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 139.]*

- (2) Section 19(1) and (2) are each amended in the penalty clause by deleting “6 months or a fine of \$2 000” and inserting instead —

“ 12 months or a fine of \$4 000 ”.

- (3) Section 23(5)(e) is amended by deleting “6 months or a fine of \$2 000” and inserting instead —

“ 12 months or a fine of \$4 000 ”.

**63. *Fish Resources Management Act 1994* amended**

- (1) The amendments in this section are to the *Fish Resources Management Act 1994*\*.

[\* *Reprinted as at 28 April 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 141, and Act No. 2 of 2002.]*

- (2) Section 49 is amended by deleting the penalty clause and inserting the following penalty clause instead —

“

Penalty: In the case of an individual, \$25 000.

In the case of a body corporate, \$50 000.

”.

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- (3) Section 170(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“

Penalty: In the case of an individual, \$25 000 and imprisonment for 12 months.  
In the case of a body corporate, \$50 000.

”.

- (4) Section 171(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“

Penalty: In the case of an individual, \$10 000.  
In the case of a body corporate, \$20 000.

”.

- (5) Sections 172 and 176 are each amended by deleting the penalty clause and inserting the following penalty clause instead —

“

Penalty: In the case of an individual, \$25 000 and imprisonment for 12 months.  
In the case of a body corporate, \$50 000.

”.

- (6) Section 196(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“

Penalty: In the case of an individual, \$10 000.  
In the case of a body corporate, \$20 000.

”.

- (7) Section 225(4) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$20 000 and imprisonment for 12 months. ”.



**64. *Freedom of Information Act 1992* amended**

- (1) The amendments in this section are to the *Freedom of Information Act 1992*\*.

[\* *Reprinted as at 3 March 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 144.]*

- (2) Section 82(2) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$6 000. ”.

- (3) Sections 83 and 109 are each amended in the penalty clause by deleting paragraph (a) and inserting the following paragraph instead —

“ (a) for an individual, \$6 000; ”.

- (4) Section 110 is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$6 000. ”.

**65. *Fuel, Energy and Power Resources Act 1972* amended**

- (1) The amendments in this section are to the *Fuel, Energy and Power Resources Act 1972*\*.

[\* *Reprinted as at 13 July 2001.*]

- (2) Section 49(3)(a) is deleted and the following paragraph is inserted instead —

“ (a) in the case of an individual, a fine of \$10 000; ”.

**66. Gaming Commission Act 1987 amended**

- (1) The amendments in this section are to the *Gaming Commission Act 1987*\*.

[\* *Reprinted as at 30 October 1998.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 147.]*

- (2) Section 20(3) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$2 500. ”.

- (3) Section 35 is repealed and the following section is inserted instead —

“

**35. General penalty**

The penalty for an offence under this Act for which no penalty is specifically provided is a fine of \$1 000.

”.

- (4) Sections 42(4), 45(3) and (4) and 58(4) are each amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$2 500. ”.

**67. Gender Reassignment Act 2000 amended**

- (1) The amendments in this section are to the *Gender Reassignment Act 2000*\*.

[\* *Act No. 2 of 2000.*]

- (2) Sections 22(2) and 23 are each amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$2 000. ”.

**68. Government Railways Act 1904 amended**

- (1) The amendments in this section are to the *Government Railways Act 1904*\*.  
[\* Reprinted as at 7 September 2001.  
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 154 and Act No. 7 of 2002.]
- (2) Section 34(1) is amended by deleting “to imprisonment for any term not exceeding 6 months, or”.
- (3) Sections 45 and 51(2) are each amended by deleting “to imprisonment for any period not exceeding 6 months, or”.

**69. Growers Charge Act 1940 amended**

- (1) The amendments in this section are to the *Growers Charge Act 1940*\*.  
[\* Act No. 54 of 1940.  
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 156.]
- (2) Section 6 is amended by deleting the penalty clause and inserting the following penalty clause instead —  
“ Penalty: \$1 000. ”.

**70. Guardianship and Administration Act 1990 amended**

- (1) The amendments in this section are to the *Guardianship and Administration Act 1990*\*.  
[\* Reprinted as at 21 April 1997.  
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 156-7 and Act No. 3 of 2002.]
- (2) Section 49(4) is amended by deleting the penalty clause and inserting the following penalty clause instead —  
“ Penalty: \$1 000. ”.

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- (3) Section 112(3) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$2 000 or imprisonment for 9 months. ”.

- (4) Section 113(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$5 000. ”.

- (5) Schedule 1 Part B clauses 7(3), 8(3), 10 and 11(4) are each amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$5 000 or imprisonment for 9 months. ”.

- (6) Schedule 1 Part B clause 12(6) is amended by deleting paragraphs (a) and (b) and inserting the following paragraphs instead —

“

(a) in the case of a body corporate, to a fine of \$10 000;  
or

(b) in the case of an individual, to a fine of \$2 500.

”.

**71. Health Act 1911 amended**

- (1) The amendments in this section are to the *Health Act 1911*\*.

[\* *Reprinted as at 31 March 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 163.]*

- (2) Section 360(1) is amended as follows:

(a) in paragraph (e)(i) by deleting “or imprisonment for a period of 4 months”;

(b) in paragraph (f)(i) by deleting “or imprisonment for a period of 6 months”.

**72. *Housing Societies Act 1976* amended**

- (1) The amendments in this section are to the *Housing Societies Act 1976*\*.

[\* *Reprinted as at 9 November 2001.*]

- (2) Section 29D(9) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$1 000. ”.

- (3) Section 79(a) is amended by deleting “or imprisonment for 6 months”.

**73. *Juries Act 1957* amended**

- (1) The amendments in this section are to the *Juries Act 1957*\*.

[\* *Reprinted as at 3 July 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 188.*]

- (2) Sections 56B(1), 56C(1) and 56D(1) are each amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$5 000. ”.

**74. *Justices Act 1902* amended**

- (1) The amendments in this section are to the *Justices Act 1902*\*.

[\* *Reprinted as at 8 October 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 192.*]

- (2) Section 57(3) is amended by deleting “imprisonment not exceeding 6 months” and inserting instead —

“ a fine of \$6 000 ”.

**75. Land Drainage Act 1925 amended**

- (1) The amendments in this section are to the *Land Drainage Act 1925*\*.

[\* *Reprinted as at 15 July 1996.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 198.]*

- (2) Section 155 is amended by deleting “, and shall be liable to a penalty not exceeding \$2 000 and to be imprisoned for any period not exceeding six months” and inserting the following penalty clause at the end of the section —

“ Penalty: \$2 000. ”.

**76. Local Courts Act 1904 amended**

- (1) The amendments in this section are to the *Local Courts Act 1904*\*.

[\* *Reprinted as at 12 January 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 214.]*

- (2) Section 44(2) is amended by deleting “imprisonment for any period not exceeding 6 months” and inserting instead —

“ a fine of \$6 000 ”.

**77. Local Government (Miscellaneous Provisions) Act 1960 amended**

- (1) The amendments in this section are to the *Local Government (Miscellaneous Provisions) Act 1960*\*.

[\* *Reprinted as at 28 July 1999.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 221.]*

- (2) Section 474(7) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$200. ”.

- (3) Section 482(3) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$400. ”.

**78. *Maritime Archaeology Act 1973* amended**

- (1) The amendments in this section are to the *Maritime Archaeology Act 1973*\*.

[\* *Act No. 66 of 1973.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 226.]*

- (2) Section 9(6) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$1 000. ”.

**79. *Medical Act 1894* amended**

- (1) The amendments in this section are to the *Medical Act 1894*\*.

[\* *Reprinted as at 25 February 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 230.]*

- (2) Section 16A(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“

Penalty: For a first offence, \$500.

For a subsequent offence, \$1 000.

”.

- (3) Section 19 is amended by deleting the penalty clause and inserting the following penalty clause instead —

“

Penalty: For a first offence, \$1 000.

For a subsequent offence, \$5 000.

”.

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- (4) Section 21A(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$1 000. ”.

**80. *Mental Health Act 1996* amended**

- (1) The amendments in this section are to the *Mental Health Act 1996*\*.

[\* *Act No. 68 of 1996.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 231.]*

- (2) Section 206(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$2 000. ”.

- (3) Schedule 2 clauses 13(5) and 16 are each amended by deleting “or imprisonment for 6 months”.

**81. *Nuclear Activities Regulation Act 1978* amended**

- (1) The amendments in this section are to the *Nuclear Activities Regulation Act 1978*\*.

[\* *Act No. 104 of 1978.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 259.]*

- (2) Section 9(7) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$1 000. ”.

**82. *Optometrists Act 1940* amended**

- (1) The amendments in this section are to the *Optometrists Act 1940*\*.

[\* *Reprinted as approved 8 May 1980.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 263.]*



- (2) Section 42 is amended by deleting “Penalty: One hundred dollars, or imprisonment for six months.” and inserting the following penalty clause instead —

“ Penalty: \$100. ”.

**83. *Plant Diseases Act 1914* amended**

- (1) The amendment in this section is to the *Plant Diseases Act 1914*\*.

[\* *Reprinted as at 21 December 2001.*]

- (2) Section 34(1)(a)(ii) is amended by deleting “or imprisonment for a period of 6 months or both”.

**84. *Poisons Act 1964* amended**

- (1) The amendment in this section is to the *Poisons Act 1964*\*.

[\* *Reprinted as at 22 January 1999.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 290.*]

- (2) Section 49(2) is amended by deleting “or to imprisonment for a term not exceeding 6 months”.

**85. *Police Act 1892* amended**

- (1) The amendments in this section are to the *Police Act 1892*\*.

[\* *Reprinted as at 12 January 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 294 and Act No. 6 of 2002.*]

- (2) Section 15 is amended as follows:

- (a) by deleting “\$500” and inserting instead —

“ \$4 000 ”;

- (b) by deleting “6 months” and inserting instead —

“ 12 months ”.

- (3) Section 16(1) is amended as follows:
  - (a) by deleting “\$500” and inserting instead —  
“ \$4 000 ”;
  - (b) by deleting “6 months” and inserting instead —  
“ 12 months ”.
- (4) Section 16A(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —  
“ Penalty: \$2 500. ”.
- (5) Section 20 is amended by deleting “6 months” and inserting instead —  
“ 9 months ”.
- (6) Section 31 is amended by deleting “\$500, or imprisonment for a term not exceeding 6 months, or both” and inserting instead —  
“ \$2 500 ”.
- (7) Section 41(1) and (7) are each amended as follows:
  - (a) by deleting “\$500” and inserting instead —  
“ \$4 000 ”;
  - (b) by deleting “6 months” and inserting instead —  
“ 12 months ”.
- (8) Section 54 is amended by deleting “\$500 for every such offence, or to imprisonment for any term not exceeding 6 calendar months, or to both fine and imprisonment” and inserting instead —  
“ \$2 500 ”.
- (9) Section 54A(3) is amended by deleting the penalty clause and inserting the following penalty clause instead —  
“ Penalty: \$2 500. ”.

- (10) Section 58A is amended by deleting the penalty clause and inserting the following penalty clause instead —
- “ Penalty: \$4 000 and imprisonment for 12 months. ”.
- (11) Section 59 is amended by deleting “\$300, or may be committed to gaol for any period not exceeding 6 calendar months” and inserting instead —
- “ \$2 500 ”.
- (12) Section 64A(1) is amended by deleting paragraphs (c) and (d) and “conviction —” before them and inserting instead —
- “
- conviction to a fine of \$4 000 or imprisonment for 12 months,
- ”.
- (13) Section 65 is amended by deleting “\$500 or to imprisonment for any term not exceeding 6 calendar months” and inserting instead —
- “ \$2 500 ”.
- (14) Section 66 is amended by deleting “\$1 000” and inserting instead —
- “ \$4 000 ”.
- (15) Section 67 is amended by deleting “\$1 500” and inserting instead —
- “ \$6 000 ”.
- (16) Section 67A is amended as follows:
- (a) by deleting “\$500” and inserting instead —
- “ \$1 000 ”;
- (b) by deleting “6 months” and inserting instead —
- “ 9 months ”.

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- (17) Section 76F(3)(a) is amended by deleting “, or imprisonment not exceeding 6 months”.
- (18) Section 80(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —  
“  
Penalty: Subject to section 80A, \$4 000 and imprisonment for 12 months.  
”.
- (19) Section 82B(1) and (3) are each amended by deleting the penalty clause and inserting the following penalty clause instead —  
“ Penalty: \$2 500. ”.
- (20) Section 90A(5) is amended as follows:  
(a) by deleting “\$500” and inserting instead —  
“ \$4 000 ”;  
(b) by deleting “6 months” and inserting instead —  
“ 12 months ”.
- (21) Section 97 is amended by deleting “\$500 or to imprisonment for a term not exceeding 6 months” and inserting instead —  
“ \$ 4 000 ”.
- (22) Section 107 is amended by deleting “or be liable to imprisonment for a term not exceeding 6 months”.
- (23) Section 124 is amended by deleting “\$300 or to be imprisoned for any term not exceeding 6 calendar months in any gaol of the said State” and inserting instead —  
“ \$2 500 ”.
- (24) Section 125 is amended by deleting “, or imprisonment for a term not exceeding 6 months”.
- (25) Section 128 is amended by deleting “, or to order that the informer be imprisoned for a term not exceeding 6 months”.

**86. Prisons Act 1981 amended**

- (1) The amendments in this section are to the *Prisons Act 1981*\*.  
[\* Reprinted as at 22 December 2000.]
- (2) Section 49(2) is amended by deleting the penalty clause and inserting the following penalty clause instead —  
“ Penalty: \$1 000. ”.

**87. Prostitution Act 2000 amended**

- (1) The amendments in this section are to the *Prostitution Act 2000*\*.  
[\* Act No. 17 of 2000.]
- (2) Section 12 is amended by deleting the penalty clause and inserting the following penalty clause instead —  
“  
Penalty: For a first offence, \$6 000.  
For a subsequent offence, imprisonment for one year.  
”.
- (3) Section 15 is amended in the penalty clause by deleting “6 months” and inserting instead —  
“ 9 months ”.
- (4) Section 19(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —  
“ Penalty: \$6 000. ”.

**88. Real Estate and Business Agents Act 1978 amended**

- (1) The amendments in this section are to the *Real Estate and Business Agents Act 1978*\*.  
[\* Reprinted as at 9 March 2001.  
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 317.]

**s. 89**

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- (2) Section 64(1) and (2) are each amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$5 000. ”.

**89. Referendums Act 1983 amended**

- (1) The amendments in this section are to the *Referendums Act 1983*\*.

[\* Reprinted as at 21 January 2000.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 319.]*

- (2) Section 45(1) is amended by deleting “, and shall be liable to a penalty not exceeding \$200 or imprisonment for 6 months” and inserting the following penalty clause at the end of the subsection —

“ Penalty: \$200. ”.

- (3) Section 48(2) and (3) are each amended by deleting “and shall be liable to a penalty not exceeding \$200 or imprisonment for 6 months” and inserting the following penalty clause at the end of the subsection —

“ Penalty: \$200. ”.

**90. Restraining Orders Act 1997 amended**

- (1) The amendments in this section are to the *Restraining Orders Act 1997*\*.

[\* Reprinted as at 6 October 2000.]

- (2) Section 61(1) is amended in paragraph (a) of the penalty clause by deleting “6 months” and inserting instead —

“ 9 months ”.

- (3) Section 71(3) is amended in the penalty clause by deleting “6 months” and inserting instead —  
“ 9 months ”.

**91. *Rights in Water and Irrigation Act 1914* amended**

- (1) The amendments in this section are to the *Rights in Water and Irrigation Act 1914*\*.

[\* *Reprinted as at 10 January 2001.*]

- (2) Section 71 is amended by deleting “and shall be liable to a penalty not exceeding \$10 000 and to be imprisoned for any period not exceeding 6 months” and inserting the following penalty clause at the end of the section —

“ Penalty: \$10 000. ”.

**92. *Road Traffic Act 1974* amended**

- (1) The amendments in this section are to the *Road Traffic Act 1974*\*.

[\* *Reprinted as at 19 October 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 329-30 and Acts Nos. 4, 5 and 7 of 2002 and Gazette 17 May 2002 p. 2558-60.]*

- (2) Sections 59A(3)(a), 60(3)(a) and (b), 61(3)(b), 63(2)(b) and (67)(3)(b) are each amended by deleting “for 6 months” and inserting instead —

“ for 9 months ”.

- (3) Section 90 is amended in the penalty clause by deleting “or imprisonment for 6 months”.

**93. *Rottnest Island Authority Act 1987* amended**

- (1) The amendments in this section are to the *Rottnest Island Authority Act 1987*\*.

[\* *Reprinted as at 4 January 2000.*]

**s. 94**

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- (2) Section 32 is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$1 000. ”.

**94. *School Education Act 1999* amended**

- (1) The amendments in this section are to the *School Education Act 1999*\*.

[\* *Act No. 36 of 1999.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 337.]*

- (2) Sections 15, 35, 120(2), 240(3) and 242(1) are each amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$5 000. ”.

**95. *Stock Diseases (Regulations) Act 1968* amended**

- (1) The amendments in this section are to the *Stock Diseases (Regulations) Act 1968*\*.

[\* *Reprinted as at 12 November 1999.*]

- (2) Section 16(3) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$2 000. ”.

**96. *Street Collections (Regulation) Act 1940* amended**

- (1) The amendments in this section are to the *Street Collections (Regulation) Act 1940*\*.

[\* *Act No. 55 of 1940.*]

- (2) Section 8 is amended by deleting “and liable on summary conviction to imprisonment for a term not exceeding six months



or to a fine not exceeding fifty pounds” and inserting instead the following penalty clause at the end of the section —

“ Penalty: On summary conviction, \$2 000. ”.

**97. *Sunday Entertainments Act 1979* amended**

- (1) The amendments in this section are to the *Sunday Entertainments Act 1979*\*.

[\* *Act No. 17 of 1979.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 364.]*

- (2) Section 3(1) is amended by deleting “and liable, on summary conviction, to a penalty not exceeding five hundred dollars or to imprisonment for a term not exceeding six months” and inserting the following penalty clause at the end of the subsection —

“ Penalty: On summary conviction, \$500. ”.

**98. *Swan River Trust Act 1988* amended**

- (1) The amendments in this section are to the *Swan River Trust Act 1988*\*.

[\* *Reprinted as at 1 December 2000.*]

- (2) Section 64(6) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$1 000. ”.

**99. *Transport Co-ordination Act 1966* amended**

- (1) The amendments in this section are to the *Transport Co-ordination Act 1966*\*.

[\* *Reprinted as at 11 May 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 387 and Act No. 7 of 2002.]*

**s. 100**

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- (2) Section 49(3) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$400. ”.

**100. *Travel Agents Act 1985* amended**

- (1) The amendments in this section are to the *Travel Agents Act 1985*\*.

[\* *Reprinted as at 22 April 1997.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 388.]*

- (2) Section 7(3) is amended in the penalty clause by deleting “6 months’ ” and inserting instead —

“ 9 months’ ”.

- (3) Section 41(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$1 000. ”.

**101. *Unclaimed Money Act 1990* amended**

- (1) The amendments in this section are to the *Unclaimed Money Act 1990*\*.

[\* *Reprinted as at 5 November 1999.*

- (2) Section 22(2) is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$2 500. ”.

**102. *Water and Rivers Commission Act 1995* amended**

- (1) The amendments in this section are to the *Water and Rivers Commission Act 1995*\*.

[\* *Act No. 71 of 1995.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 401.]*

- (2) Schedule 1 clause 17(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —
- “ Penalty: \$1 000. ”.

**103. *Water Corporation Act 1995* amended**

- (1) The amendments in this section are to the *Water Corporation Act 1995*\*.

[\* Reprinted as at 4 May 2001.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 403.]*

- (2) Schedule 2 clause 12(1) is amended by deleting the penalty clause and inserting the following penalty clause instead —
- “ Penalty: \$1 000. ”.

**104. *Young Offenders Act 1994* amended**

- (1) The amendments in this section are to the *Young Offenders Act 1994*\*.

[\* Reprinted as at 8 December 2000.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 423.]*

- (2) Section 118(2) is amended by deleting “3 months” and inserting instead —
- “ 6 months ”.

**105. *Zoological Parks Authority Act 2001* amended**

- (1) The amendments in this section are to the *Zoological Parks Authority Act 2001*\*.

[\* Act No. 24 of 2001.]

**s. 106**

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- (2) Section 31 is amended by deleting the penalty clause and inserting the following penalty clause instead —

“ Penalty: \$5 000. ”.

**106. Power to amend subsidiary legislation**

- (1) The Governor, on the recommendation of the Minister, may make regulations amending —
- (a) regulations made by the Governor in the exercise of a power conferred by an Act; or
  - (b) by-laws made by the council of a community under the *Aboriginal Communities Act 1979*.
- (2) Regulations made under subsection (1)(b) operate as if they were by-laws made by the council of the community in accordance with the *Aboriginal Communities Act 1979*.
- (3) The Minister may make a recommendation under subsection (1) only if the Minister considers that each amendment proposed to be made by the regulations is consequential on —
- (a) the enactment of section 86 of the *Sentencing Act 1995*; or
  - (b) the amendment of section 86 of the *Sentencing Act 1995* effected by section 33(3) of this Act.
- (4) Regulations made under subsection (1) must be made within 6 months after the day on which section 33(3) commences.

## Part 6 — Review

### 107. Review

- (1) The Minister administering the *Sentencing Act 1995* is to carry out a review of the operation and effectiveness of —
  - (a) the *Sentencing Act 1995* to the extent that it is affected by the amendments made to it by Part 2 Divisions 2 and 4 and section 33(3); and
  - (b) Part 3 of the *Sentence Administration Act 2003*,as soon as practicable after the expiration of 4 years from the day on which this Act receives the Royal Assent.
- (2) The Minister is to prepare a report based on the review and cause it to be laid before each House of Parliament within 5 years after the day on which this Act receives the Royal Assent.

**Schedule 1 — Transitional provisions**

[s. 22 and 29(2)]

**1. Interpretation**

(1) In this Schedule —

**“commencement”** means the commencement of section 22;

**“new provisions”** means —

- (a) the *Sentencing Act 1995* as amended by the sentencing amendments; and
- (b) the *Sentence Administration Act 2003*;

**“old provisions”** means the *Sentencing Act 1995*, and the repealed Act, as they would have applied had the sentencing amendments not come into operation;

**“repealed Act”** means the *Sentence Administration Act 1995*;

**“sentencing amendments”** means the amendments to the *Sentencing Act 1995* effected by Part 2 Division 4 and the repeal of the *Sentence Administration Act 1995* effected by section 29(1).

(2) In this Schedule, words and expressions have the same meanings as they have in the *Sentencing Act 1995* and in particular, in Part 13 of that Act.

**2. Sentencing courts to take into account the effect of the sentencing amendments**

(1) If a court sentencing an offender to imprisonment proposes to impose a fixed term (with or without a parole eligibility order), it must impose a fixed term that is two thirds of the fixed term that it would have imposed had the old provisions been in operation at the time of sentencing.

(2) For the purposes of subclause (1) —

- (a) it does not matter that the court may be proposing to suspend the fixed term under Part 11 of the *Sentencing Act 1995*; and
- (b) a reference to imposing a fixed term includes a reference to dealing with an offender under section 80 of the *Sentencing*

*Act 1995* in respect of a sentence of suspended imprisonment imposed under the old provisions.

- (3) Despite subclause (1), if the sentence required by that subclause would contravene section 86 of the *Sentencing Act 1995*, if the court considers that a term of imprisonment is warranted in all the circumstances, the court may impose a term of more than 6 months.
- (4) A court does not have to apply this clause if, in sentencing an offender, the court follows the practice of the court as established in accordance with the new provisions and this clause.
- (5) This clause does not apply if —
  - (a) the statutory penalty for the offence for which the offender is being sentenced has been amended since the new provisions commenced;
  - (b) a guideline judgment given under section 143 of the *Sentencing Act 1995* since the new provisions commenced applies to the offender or the offence for which the offender is being sentenced;
  - (c) the application of this clause would be inconsistent with or contrary to any other judgment given since the new provisions commenced that binds the sentencing court;
  - (d) a court is imposing a term under section 401(4) of *The Criminal Code*; or
  - (e) a court is sentencing an offender to a term that, under the old provisions, would have been a prescribed term within the meaning of section 85 of the *Sentencing Act 1995*.

**3. Application of *Interpretation Act 1984* s. 36**

Section 36 of the *Interpretation Act 1984* applies as if the *Sentence Administration Act 1995* had been repealed and re-enacted by the *Sentence Administration Act 2003*.

**4. Community orders imposed before commencement**

If immediately before commencement —

- (a) a community based order, or an intensive supervision order, made under the *Sentencing Act 1995* is in force; or

**Schedule 1** Transitional provisions

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- (b) a WDO made under Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* is in force,

then on and after commencement —

- (c) the *Sentence Administration Act 2003* applies to and in respect of the order; and
- (d) the reference in the order to section 76 of the *Sentence Administration Act 1995* is to be taken to be a reference to section 76 of the *Sentence Administration Act 2003*.

**5. Sentences of imprisonment imposed before commencement**

- (1) If immediately before commencement a person is subject to a fixed term that is not a parole term and to which the old provisions apply, then on and after commencement the old provisions continue to apply to that term and to the release of the person in respect of that term.

- (2) If immediately before commencement a person is subject to a parole term to which the old provisions apply, then on and after commencement —

- (a) the old provisions apply for the purpose of calculating —
  - (i) when the person is eligible to be released on parole;
  - (ii) the parole period for the person; and
  - (iii) when the person is discharged from the sentence and must be released;
- (b) the new provisions apply for the purpose of determining whether the person is to be released on parole;
- (c) if the person is to be released on parole, the release is to be by means of a parole order made under Part 3 of the *Sentence Administration Act 2003* and for that purpose —
  - (i) the parole period in the order is to be the parole period calculated under the old provisions; and
  - (ii) the supervised period for the order is to be the same as the parole period;

and

- (d) if the person is released on parole, the *Sentence Administration Act 2003* applies to and in respect of the



person and the order except to the extent that paragraph (a) or (c) provides otherwise.

- (3) If immediately before commencement a person is in custody serving a life term to which the old provisions apply, then on and after commencement the new provisions apply to that term.
- (4) If immediately before commencement a person is in custody serving indefinite imprisonment, then on and after commencement the new provisions apply in respect of that person.
- (5) If immediately before commencement a person is detained in strict or safe custody during the Governor's pleasure under an order made under section 282 of *The Criminal Code*, then on and after commencement the new provisions apply in respect of that person.

**6. Early release orders made before commencement**

If immediately before commencement a person is subject to a parole order, a home detention order, or a work release order, made under the repealed Act, then on and after commencement the repealed Act continues to apply to and in respect of that order.

**7. WROs**

If immediately before commencement a person is subject to a sentence of imprisonment to which the old provisions apply, then on or after commencement —

- (a) subject to Part 4 of the repealed Act, a work release order may be made in respect of the person; and
- (b) Parts 4, 6, 7 and 8 of the repealed Act continue to operate for those purposes and in respect of any such order.

**8. HDOs**

If immediately before commencement a person is subject to a sentence of imprisonment of less than 12 months to which the old provisions apply, then on or after commencement —

- (a) subject to Part 5 of the repealed Act, a home detention order may be made in respect of the person; and

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- (b) Parts 5, 6, 7 and 8 of the repealed Act continue to operate for those purposes and in respect of any such order.

**9. Warrants in force at commencement**

A warrant issued under the repealed Act and in force immediately before commencement remains in force despite the repeal of the repealed Act.

**10. Community corrections centres**

- (1) If a place is a community corrections centre under section 84 of the repealed Act immediately before commencement, then on and after commencement the place continues as a community corrections centre as if it had been declared by a notice under section 84(1) of the *Sentence Administration Act 2003*.
- (2) An order under section 84(1) of the repealed Act may be amended or cancelled by the Minister.

**11. CEO's instructions for community corrections centres**

- (1) If rules made under section 86 of the repealed Act are in force immediately before commencement, then on and after commencement the rules are to be taken to be written instructions issued under section 86 of the *Sentence Administration Act 2003* until written instructions are issued under that section.
- (2) When written instructions are issued under section 86 of the *Sentence Administration Act 2003* a reference in the repealed Act to rules made under section 86 of the repealed Act is to be taken to be a reference to those written instructions.

**12. Parole Board's report**

The Board's annual report made under section 112 of the *Sentence Administration Act 2003* must report on the operation of the repealed Act to the extent that it continues to operate by virtue of this Schedule and the *Interpretation Act 1984*.

**13. Offenders serving imprisonment imposed before  
4 November 1996**

- (1) In this clause —  
“**1995 Act**” means the *Sentencing (Consequential Provisions) Act 1995*.
- (2) If immediately before commencement a person to whom section 82 of the 1995 Act applies is in custody subject to the sentence referred to in section 82, then on and after commencement section 82 continues to apply but —
- (a) the references to the *Sentencing Act 1995* and the *Sentence Administration Act 1995* are to be read as references to those Acts as they would have applied had the sentencing amendments not come into operation; and
  - (b) clause 7 of this Schedule applies to the person.
- (3) If immediately before commencement a person to whom section 83 of the 1995 Act applies is in custody subject to the sentence referred to in section 83, then on and after commencement section 83, other than paragraphs (a) and (c), continues to apply but —
- (a) any release of the person on parole in respect of the sentence is to be by means of a parole order made under Part 3 of the *Sentence Administration Act 2003*; and
  - (b) Part 3 Divisions 6 to 11 and Parts 4 to 10 of the *Sentence Administration Act 2003* apply to and in respect of the person and the parole order.
- (4) If immediately before commencement a person to whom section 84 of the 1995 Act applies is in custody subject to the sentence referred to in section 84, then on and after commencement section 84 continues to apply but —
- (a) the references to the *Sentencing Act 1995* and the *Sentence Administration Act 1995* are to be read as references to those Acts as they would have applied had the sentencing amendments not come into operation; and
  - (b) clauses 5(2) and 7 of this Schedule apply to the person.

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- (5) If immediately before commencement a person to whom section 86 of the 1995 Act applies is in custody subject to the sentence referred to in section 86, then on and after commencement section 86, other than paragraphs (a), (b) and (c), continues to apply but —
- (a) any release of the person on parole in respect of the sentence is to be by means of a parole order made by the Governor under Part 3 of the *Sentence Administration Act 2003*;
  - (b) the parole period for the parole order is that provided by section 25(3) of the *Sentence Administration Act 2003*; and
  - (c) Part 3 Divisions 6 to 11 and Parts 4 to 10 of the *Sentence Administration Act 2003* apply to and in respect of the person and the parole order.
- (6) If immediately before commencement a person to whom section 87 of the 1995 Act applies is in custody subject to the sentence referred to in section 87, then on and after commencement section 87, other than paragraphs (a), (b) and (c), continues to apply but —
- (a) any release of the person on parole in respect of the sentence is to be by means of a parole order made by the Governor under Part 3 of the *Sentence Administration Act 2003*;
  - (b) the parole period for the parole order is that provided by section 26(3) of the *Sentence Administration Act 2003*; and
  - (c) Part 3 Divisions 6 to 11 and Parts 4 to 10 of the *Sentence Administration Act 2003* apply to and in respect of the person and the parole order.
- (7) If immediately before commencement a person to whom section 88(1) of the 1995 Act applies is in custody subject to the order referred to in section 88(1), then on and after commencement section 88(1) continues to apply but the reference to the *Sentence Administration Act 1995* is to be read as a reference to the *Sentence Administration Act 2003*.
- (8) If immediately before commencement a person to whom section 90(1) of the 1995 Act applies is in custody subject to the order referred to in section 90(1), then on and after commencement section 90 continues to apply but the reference to the *Sentence Administration Act 1995* is to be read as a reference to the *Sentence Administration Act 2003*.

- (9) If immediately before commencement a person to whom section 91(1) of the 1995 Act applies is in custody subject to the direction or sentence referred to in section 91(1), then on and after commencement section 91, other than paragraphs (a), (b) and (c) of section 91(1), continues to apply but —
- (a) any release of the person on parole in respect of the sentence is to be by means of a parole order made by the Governor under Part 3 of the *Sentence Administration Act 2003*;
  - (b) the parole period for the parole order is that provided by section 27(3) of the *Sentence Administration Act 2003*; and
  - (c) Part 3 Divisions 6 to 11 and Parts 4 to 10 of the *Sentence Administration Act 2003* apply to and in respect of the person and the parole order.

**14. Transitional regulations**

- (1) If there is no sufficient provision in this Schedule or in the old provisions or in the new provisions to provide for matters in relation to —
- (a) the application of the old provisions to a sentence of imprisonment imposed before commencement;
  - (b) the effect after commencement of a sentence of imprisonment imposed before commencement;
  - (c) the imposition after commencement of sentences of imprisonment on offenders who are subject to sentences of imprisonment imposed before commencement;
  - (d) the combined effect of a sentence of imprisonment imposed before commencement and of a sentence of imprisonment imposed after commencement;
  - (e) the application of the *Sentence Administration Act 1995* or the *Sentence Administration Act 2003* to orders made under the old provisions or under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*,

the Governor may make regulations prescribing all matters that are required, necessary or convenient to be prescribed in relation to those matters.

**Schedule 1** Transitional provisions

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- (2) Regulations made under subclause (1) may provide that specific provisions of this Schedule, or of the old provisions, or of the new provisions —
- (a) do not apply; or
  - (b) apply with specific modifications,
- to or in relation to any matter.
- (3) Regulations made under subclause (1) must be made within 12 months after commencement.
- (4) The Governor may make any regulations that are necessary or convenient for preventing any doubt or difficulty arising as to the application or operation of clause 2 or for resolving any doubt or difficulty that may have arisen in that regard.
- (5) If regulations made under subclause (1) or (4) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than commencement, the regulations have effect according to their terms.
- (6) In subclause (5) —
- “specified”** means specified or described in the regulations.
- (7) If regulations contain a provision referred to in subclause (5), the provision does not operate so as —
- (a) to affect in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the date of publication of those regulations; or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of publication of those regulations.

**Schedule 2 — Consequential amendments**

[s. 29(3)]

**1. *Bail Act 1982***

s. 3(1)	In the definitions of “CEO (Justice)” and “community corrections officer” delete “ <i>Sentence Administration Act 1995</i> ” and insert instead —  “ <i>Sentence Administration Act 2003</i> ”.
s. 3(1)	Delete the definition of “early release order” and insert instead —  “  <b>“early release order”</b> means an early release order made under the <i>Sentence Administration Act 1995</i> or <i>Sentence Administration Act 2003</i> ;  ”.
s. 50K	Delete “section 117 of the <i>Sentence Administration Act 1995</i> ” and insert instead —  “ section 118 of the <i>Sentence Administration Act 2003</i> ”.

**2. *Constitution Acts Amendment Act 1899***

Schedule V Part 3	In the item dealing with the Parole Board delete “ <i>Sentence Administration Act 1995</i> ” and insert instead —  “ <i>Sentence Administration Act 2003</i> ”.
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**3. *Criminal Law (Mentally Impaired Defendants) Act 1996***

s. 42(1)(a)	Delete “section 103(1)(a) of the <i>Sentence Administration Act 1995</i> ” and insert instead —  “  section 103(1)(a) of the <i>Sentence Administration Act 2003</i>  ”.
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**6.      *Parole Orders (Transfer) Act 1984***

s. 3	In the definitions of “Parole Board” and “parole order” delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — “ <i>Sentence Administration Act 2003</i> ”.
s. 9(8)(a)	Delete “section 37 of the <i>Sentence Administration Act 1995</i> ” and insert instead — “ section 44 of the <i>Sentence Administration Act 2003</i> ”.
s. 9(8)(b)	Delete “section 70 of the <i>Sentence Administration Act 1995</i> ” and insert instead — “ section 67 of the <i>Sentence Administration Act 2003</i> ”.

**7.      *Prisoners (Release for Deportation) Act 1989***

s. 3(1)	In the definition of “the Parole Board” delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — “ <i>Sentence Administration Act 2003</i> ”.
s. 4(2)	Delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — “ <i>Sentence Administration Act 2003</i> ”.
s. 4(6)	Delete “section 21 of the <i>Sentence Administration Act 1995</i> , ” and insert instead — “ section 20 of the <i>Sentence Administration Act 2003</i> , ”.

**8.      *Prisons Act 1981***

s. 77(1)	Delete paragraph (c).
s. 78(1)	Delete paragraph (d).
s. 87(6)	After “work release order” insert — “ or re-entry release order ”.
s. 92(6)(b)	Delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — “ <i>Sentence Administration Act 2003</i> ”.

## Sentencing Legislation Amendment and Repeal Act 2003

### Schedule 2 Consequential amendments

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#### 9. Sentencing Act 1995

s. 4(1)	In the definitions of “community corrections centre” and “community corrections officer” delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — “ <i>Sentence Administration Act 2003</i> ”.
s. 23(3)	Delete “a home detention order or a work release order under the <i>Sentence Administration Act 1995</i> ” and insert instead — “ a re-entry release order made under the <i>Sentence Administration Act 2003</i> ”.
s. 63(d)	Delete “section 76 of the <i>Sentence Administration Act 1995</i> ” and insert instead — “ section 76 of the <i>Sentence Administration Act 2003</i> ”.
s. 67(2)(c)	Delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — “ <i>Sentence Administration Act 2003</i> ”.
s. 70(d)	Delete “section 76 of the <i>Sentence Administration Act 1995</i> ” and insert instead — “ section 76 of the <i>Sentence Administration Act 2003</i> ”.
s. 74(2)(c)	Delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — “ <i>Sentence Administration Act 2003</i> ”.
s. 96(4)	Delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — “ <i>Sentence Administration Act 2003</i> ”.
s. 97	Delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — “ <i>Sentence Administration Act 2003</i> ”.
s. 101	Delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — “ <i>Sentence Administration Act 2003</i> ”.
s. 141(5)	Delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — “ <i>Sentence Administration Act 2003</i> ”.

**10.      *Spent Convictions Act 1988***

s. 30(a)	Delete the paragraph and “or” after it and insert instead — <p align="center">“</p> <p align="center">(a) section 67 of the <i>Sentence Administration Act 2003</i>;</p> <p align="center">(ab) section 70 of the <i>Sentence Administration Act 1995</i>; or</p> <p align="right">”.</p>
Schedule 3 clause 1	In the Table, in item 1, delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — <p align="center">“ <i>Sentence Administration Act 2003</i> ”.</p>

**11.      *Young Offenders Act 1994***

s. 50A(6)	Delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — <p align="center">“ <i>Sentence Administration Act 2003</i> ”.</p>
s. 50B(2)	Delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — <p align="center">“ <i>Sentence Administration Act 2003</i> ”.</p>
s. 118(5)	Delete “ <i>Sentence Administration Act 1995</i> ” and insert instead — <p align="center">“ <i>Sentence Administration Act 2003</i> ”.</p>

