

WESTERN AUSTRALIA

PRISONERS (RELEASE FOR DEPORTATION) AMENDMENT ACT

No. 17 of 1991

AN ACT to amend the *Prisoners (Release for Deportation) Act 1989*.

[Assented to 21 June 1991.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Prisoners (Release for Deportation) Amendment Act 1991*.

Commencement

2. This Act shall come into operation on the day on which the principal Act comes into operation.

Principal Act

3. In this Act the *Prisoners (Release for Deportation) Act 1989** is referred to as the principal Act.

[*Act No. 15 of 1989.]

Section 3 amended

4. Section 3 of the principal Act is amended in subsection (1)—

- (a) in the definition of “deportation order” by deleting “5” and substituting the following—

“ 4 ”;

- (b) in the definition of “order for release” by deleting “4 (1)” and substituting the following—

“ 4 (4) ”; and

- (c) by deleting the definition of “the Parole Act” and substituting the following definition—

“ “the Parole Board” means the Parole Board established under the *Offenders Community Corrections Act 1963*. ”.

**Section 4 repealed and
a section substituted**

5. Section 4 of the principal Act is repealed and the following section is substituted—

Release for deportation

- “ 4. (1) Where a deportation order is made in respect of a prisoner, the Parole Board shall, subject to subsection (2), furnish a written report to the Minister containing a recommendation as to whether or not an order for release should be made in respect of the prisoner.

(2) The Parole Board shall not furnish a report under subsection (1) in respect of a prisoner (within the meaning of paragraph (a) of the definition of that term in section 3 (1)) unless the circumstances are such that the prisoner could be released from prison on parole under an order made under the *Offenders Community Corrections Act 1963*.

(3) In a report furnished under subsection (1) the Parole Board shall give express attention to whether, if a deportation order had not been made in respect of the prisoner, the prisoner would have been considered suitable for release from prison, having regard to—

- (a) the nature and circumstances of the offence in respect of which the prisoner is serving a term of imprisonment or is being detained during the Governor's pleasure;
- (b) the degree of risk that the release of the prisoner would have appeared to present to the community or to any individual in the community; and
- (c) such other matters as the Parole Board thinks fit.

(4) Where a report furnished under subsection (1) contains a recommendation that an order for release be made in respect of a prisoner, the Governor may by order in writing direct that the prisoner be released from prison into the custody of a person or persons specified in the order for the purpose of deportation, and the prisoner shall be released accordingly.

(5) An order for release—

- (a) shall specify the period of time within which the prisoner is to be deported; and
- (b) is subject to such conditions, if any, as are specified in the order.

(6) Notwithstanding section 40A (1) of the *Offenders Community Corrections Act 1963*, the Parole Board is not required to make an order directing that a prisoner be released from prison on parole if an order for release is in force in respect of that prisoner. ”.

Section 5 amended

6. Section 5 of the principal Act is amended in subsections (1), (2) (a) and (5) by deleting “4 (1)” and substituting in each case the following—

“ 4 (4) ”.

Section 6 amended

7. Section 6 of the principal Act is amended by deleting “4 (1)” and substituting the following—

“ 4 (4) ”.
