

OFFENDERS PROBATION AND PAROLE (No.2).

No. 118 of 1985.

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

[Assented to 17 December 1985.]

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

1. (1) This Act may be cited as the *Offenders Probation and Parole Amendment Act (No. 2) 1985*.

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

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

Short title
and
principal Act.
Reprinted as
approved
11 June 1984
and
amended by
Acts Nos. 52
of 1984 and
24 of 1985.

Commence-
ment.

Section 21
amended.

3. Section 21 of the principal Act is amended by repealing subsections (2), (2a), (2b) and (3) and substituting the following subsections—

“ (2) The Board shall consist of 7 members, namely—

(a) a judicial member appointed by the Governor on the recommendation of the Minister;

(b) the Director of Prisons;

(c) the Director;

(d) a member of the Police Force nominated by the Commissioner of Police; and

(e) 3 other persons appointed by the Governor.

(3) References in this Act to an appointed member shall be construed as references to a man or a woman appointed by the Governor under subsection (2) (e), as the case requires. ”.

Section 23
amended.

4. Section 23 of the principal Act is amended—

(a) by repealing subsection (2a);

(b) in subsection (3), by deleting “Prisons,” at the end of paragraph (b) and substituting the following—

“ Prisons;

(c) in paragraph (c) of that subsection, ceases to hold the office of Director; or

(d) in paragraph (d) of that subsection, ceases to be a member of the Police Force nominated by the Commissioner of Police, ”; and

(c) by repealing subsections (6) and (7) and substituting the following subsections—

“ (6) The Governor may, at any time, remove an appointed member from office.

(7) If an appointed member is incapacitated by illness, absence, or other sufficient cause, from performing the duties of a member, the Governor may appoint a person to be an acting member to act for that appointed member during the period of incapacity and a person when so acting has all the powers and functions of and shall be deemed to be a member. ”

5. After section 23 of the principal Act, the following section is inserted—

Section 23A
inserted.

“ 23A. (1) The Director of Prisons and the Director may each nominate an officer of his Department to be his deputy and, at any meeting of the Board when the Director of Prisons or the Director is not present, his deputy, if any, may attend and while so attending may exercise all the powers and perform all the functions of a member.

Deputy
members.

(2) The member of the Police Force nominated by the Commissioner of Police under section 21 (2) (d) may nominate another member of the Police Force to be the deputy of that member and, at any meeting of the Board when that member is not present, his deputy, if any, may attend and while so attending may exercise all the powers and perform all the functions of a member. ”.

person or any of those things considered together renders the fixing of a minimum term appropriate, may fix ”; and

- (d) by deleting subsections (5) and (6) and substituting the following subsections—

“ (5) Where a person is convicted of one or more offences by a court of petty sessions and is sentenced by the court to a term of imprisonment for the offence or offences and the circumstances are such that subsection (4) applies to empower the court in its discretion to fix a minimum term, the court, if it does not fix a minimum term pursuant to that subsection, shall endorse the appropriate court record accordingly.

(6) Where a court of petty sessions fails to comply with a requirement imposed on it by subsection (5), the court shall be deemed to have fixed a minimum term of one-half of the aggregate period of imprisonment referred to in subsection (4).

(7) This section, as amended by the Offenders Probation and Parole Amendment Act (No. 2) 1985, applies to persons who, whenever convicted, are sentenced to imprisonment after the coming into operation of that Act. ”.

7. Section 40 of the principal Act is amended— Section 40
amended.

- (a) by repealing subsection (1) and substituting the following subsection—

“ (1) A term or terms of imprisonment imposed after the coming into operation of the Offenders Probation and Parole Amendment Act (No. 2) 1985 is

or are not invalidated by the purported fixation by the court of a minimum term not in accordance with this Part. ”; and

(b) in subsection (2), by deleting “such a failure or”.

Transitional.

8. Notwithstanding the repeal and substitution of section 21 (2) of the principal Act by section 3 of this Act, every person who holds office as an appointed member immediately before this Act comes into operation shall, subject to this Act, continue to hold office as an appointed member for the unexpired portion of the term for which he or she was appointed.
