

OFFENDERS PROBATION AND PAROLE.

No. 89 of 1982.

AN ACT to amend the Offenders Probation and Parole Act 1963-1981.

[Assented to 17 November 1982.]

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 1982*. Short title and citation.

(2) In this Act the Offenders Probation and Parole Act 1963-1981 is referred to as the principal Act. Reprinted as approved 11 November 1977; amended by Acts Nos. 96 of 1980 and 116 of 1981.

(3) The principal Act as amended by this Act may be cited as the Offenders Probation and Parole Act 1963-1982.

Commence-
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation.

Section 3
repealed.

3. Section 3 of the principal Act is repealed.

Section 4
amended.

4. Section 4 of the principal Act is amended—

(a) by deleting the definition of “Director” and substituting the following definition—

“ “Director” means the Director, Probation and Parole Services referred to in section 5A of this Act;

“Director of Prisons” means the Director of the Western Australia Prisons Department referred to in section 6 of the Prisons Act 1981; ” ;

(b) in the definition of “parole officer” by deleting “Chief Parole Officer” and substituting the following—

“ Director and Deputy Director, Probation and Parole Services ” ; and

(c) in the definition of “probation officer” by deleting “Chief Probation Officer” and substituting the following—

“ Director and Deputy Director, Probation and Parole Services ” .

Section 5A
inserted.

5. The principal Act is amended by inserting after section 5 the following section—

Director and
Deputy
Director.

“ 5A. (1) Under and subject to the Public Service Act 1978 the Governor may appoint, for the purposes of this Act—

(a) a person to be Director, Probation and Parole Services; and

- (b) a person to be Deputy Director, Probation and Parole Services, who during the absence from duty of the Director on account of illness, leave of absence or other cause or during any vacancy in the office of Director, has the duties, powers and authorities of Director.

(2) The functions, powers and duties of the Director shall be as prescribed by or under this Act and by rules made in that behalf by the judges. ” .

6. Section 6 of the principal Act is amended— Section 6 amended.

(a) in subsection (1)—

(i) by deleting “Act, 1904” and substituting the following—

“ Act 1978 ” ; and

(ii) by deleting paragraphs (a) and (b);

(b) in subsection (3) by deleting “Subject to subsection (4) of this section, the” and inserting the following—

“ The ” ; and

(c) in subsection (6) by deleting “the Chief Probation Officer and”.

7. Section 9 of the principal Act is amended in subsection (1) by deleting “one year” and substituting the following— Section 9 amended.

“ six months ” .

Section 16
amended.

8. Section 16 of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

“ (2) If at any time during the probation period it appears on complaint in writing to a justice that a probationer has failed to comply with an express or implied requirement of a probation order, the justice may issue a summons requiring the probationer to appear at a court of petty sessions at the time and place specified in the summons, or may, if the complaint is in writing and on oath, issue a warrant for his arrest directing that he be brought before a court of petty sessions at the place specified as soon as practicable after his arrest. ” .

Section 17
amended.

9. Section 17 of the principal Act is amended—

(a) in subsection (2) by deleting paragraphs (a), (b) and (c) and substituting the following paragraphs—

“ (a) a court of petty sessions, if the probation order was made by a children’s court or a court of petty sessions; or

(b) the court by which the probation order was made, if the order was made by the Supreme Court or the District Court. ” ;

(b) in subsection (3) by deleting paragraphs (a), (b) and (c) and substituting the following paragraphs—

“ (a) a court of petty sessions, if the probation order was made by a children’s court or a court of petty sessions; or

- (b) the court by which the probation order was made, if the order was made by the Supreme Court or the District Court, ” ;

and

- (c) by repealing subsection (6) and substituting the following subsection—

“ (6) Where—

- (a) a probationer is convicted of and dealt with in respect of an offence, other than an offence against section 16 of this Act or against a law of another State or Territory corresponding to section 50G of this Act, committed during the probation period, by a court of the same jurisdiction as the court by which the probation order was made; or

- (b) it is proved to the satisfaction of—

- (i) a court of petty sessions, if the probation order was made by a children’s court or a court of petty sessions; or

- (ii) the court by which the probation order was made, if the order was made by the Supreme Court or the District Court,

that the probationer has been convicted of and dealt with in respect of an offence, other than an offence against section 16 of this Act or against

a law of another State or Territory corresponding to section 50G of this Act, committed in this State or elsewhere during the probation period,

such court may deal with a probationer for the offence for which the order was made in any manner in which the court by which the order was made could deal with him if he had just been convicted by or before that court of that offence. ” .

Section 20B
amended.

10. Section 20B of the principal Act is amended by inserting after subsection (6) the following subsections—

“ (6a) Subject to section 20D (1a) of this Act, a community service order may require the offender to attend such educational programme as the Director directs.

(6b) Where a community service order contains a requirement under subsection (6a) of this section—

(a) the Director shall direct the offender to attend such educational programme as the Director considers suitable for such number of hours (being in the aggregate not more than one-quarter of the number of hours of work that the offender is required to perform under the order) as the Director thinks fit; and

(b) hours during which the offender attends an educational programme in accordance with the requirement and section 20F (1) (ca) of this Act shall for the purposes of sections 20F and 20G of this Act, be regarded as hours for which the offender has performed approved work. ” .

11. Section 20D of the principal Act is amended— Section 20D
amended.

(a) by inserting after subsection (1) the following subsection—

“ (1a) A court shall not include a requirement under section 20B (6a) of this Act in a community service order made in respect of a person unless the court—

(a) has been notified by a probation officer that arrangements exist for persons who reside in the area in which that person intends to reside to attend an educational programme of a suitable nature; and

(b) is satisfied, after considering a report from a probation officer about the person and his circumstances, and, if the court thinks necessary, hearing a probation officer,—

(i) that the person is a suitable person to attend an educational programme; and

(ii) that, if such a requirement is made, an educational programme of a suitable nature can be provided for the person under the arrangements mentioned in paragraph (a) of this subsection. ” ; and

(b) in subsection (2) by inserting after “(1)” the following—

“ or (1a) ” .

Section 20F
amended.

12. Section 20F of the principal Act is amended—

(a) in subsection (1) by inserting after paragraph (c) the following paragraph—

“ (ca) if the order contains a requirement under section 20B (6a) of this Act, attend such educational programme for such number of hours as is directed by the Director at such times as the relevant officer directs; ” ; and

(b) in subsection (3) by inserting before “during” the following—

“ , and, if the order contains a requirement under section 20B (6a) of this Act, attend an educational programme for the number of hours directed by the Director, ” .

Section 20G
amended.

13. Section 20G of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph—

“ (a) the offender has—

(i) performed approved work in accordance with section 20F of this Act for the number of hours specified in the order; and

(ii) if the order contains a requirement under section 20B (6a) of this Act, attended such educational programme as the Director has directed for the number of hours the Director has directed; ” .

14. Section 20H of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

Section 20H
amended.

“ (2) If at any time while a community service order is in force it appears on complaint in writing to a justice that the offender has failed to comply with the order or with any prescribed requirement, the justice may issue a summons requiring the offender to appear at a court of petty sessions at the time and place specified in the summons, or may, if the complaint is in writing and on oath, issue a warrant for his arrest directing that he be brought before a court of petty sessions as soon as practicable after his arrest. ” .

15. Section 20S of the principal Act is amended in paragraph (e) by inserting after “performing work” the following—

Section 20S
amended.

“ or attending educational programmes ” .

16. Section 21 of the principal Act is amended—

Section 21
amended.

(a) in paragraph (b) of subsection (2) by inserting after “Director” the following—

“ of Prisons ” ; and

(b) in paragraph (b) of subsection (2a) by inserting after “Director” the following—

“ of Prisons ” .

17. Section 22 of the principal Act is amended by repealing subsection (2) and substituting the following subsections—

Section 22
amended.

“ (2) The Chairman, or in his absence the longest-serving appointed member of the Board present, shall preside at all meetings of the Board.

(3) Where more than one member is eligible to preside at a meeting of the Board in the absence of the Chairman, the other members shall appoint one of the eligible members to preside. ” .

Section 23
amended.

18. Section 23 of the principal Act is amended—

(a) by inserting after subsection (2) the following subsection—

“ (2a) If the Director of Prisons is unable to attend a meeting of the Board he may nominate an officer of his Department to attend that meeting on his behalf, and that officer while so attending has all the powers and functions of, and shall be deemed to be, a member. ” ; and

(b) in paragraph (b) of subsection (3) by inserting after “Director” the following—

“ of Prisons ” .

Section 25
amended.

19. Section 25 of the principal Act is amended by inserting after “acting members” the following—

“ , except a member who is a judge, ” .

Section 28
amended.

20. Section 28 of the principal Act is amended in subsection (2)—

(a) in paragraph (a) by inserting after “the Chairman” the following—

“ or member presiding ” ; and

(b) in paragraph (c) by inserting after “the Chairman” the following—

“ or member presiding ” .

21. Section 35 of the principal Act is amended— Section 35 amended.

(a) in subsection (1)—

(i) by deleting “Act, 1904” and substituting the following—

“ Act 1978 ” ; and

(ii) by deleting paragraphs (a) and (b);

(b) in subsection (3) by deleting “Subject to subsection (4) of this section, the” and substituting the following—

“ The ” ; and

(c) in subsection (6) by deleting “the Chief Parole Officer and”.

22. Section 36 of the principal Act is amended Section 36 amended. by deleting “Chief Parole Officer and other parole officers” and substituting the following—

“ Director and parole officers ” .

23. Section 50W of the principal Act is amended Section 50W amended. in subsection (1) by deleting “the Chief Probation Officer or the Chief Parole Officer, as the case may be” and substituting the following—

“ the Director ” .

24. (1) Section 9 of the principal Act, as amended Transitional. by section 7 of this Act, applies to a person who, having been convicted of an offence referred to in section 9 (1) before the date of the coming into operation of section 7 of this Act, has not been sentenced for that offence before that date.

(2) Section 20B of the principal Act, as amended by section 10 of this Act, applies to a person who, having been convicted of an offence referred to in section 20B (1) before the date of the coming into operation of section 10 of this Act, has neither been sentenced for that offence nor dealt with under section 9 or section 20B of the principal Act before that date.

(3) The person holding office as Chief Probation Officer immediately before the coming into operation of this Act shall continue in office and be deemed to have been appointed to the office of Director, Probation and Parole Services referred to in section 5A of the principal Act.

(4) The person holding office as Deputy Chief Probation Officer immediately before the coming into operation of this Act shall continue in office and be deemed to have been appointed to the office of Deputy Director, Probation and Parole Services referred to in section 5A of the principal Act.

References
in other Acts
etc.

25. (1) A reference in any law of the State to the Chief Probation Officer shall, unless the context otherwise requires, be read and construed as a reference to the Director, Probation and Parole Services and on a reprint of an Act or regulation pursuant to statutory authority the reference may be altered accordingly.

(2) A reference in any law of the State to the Chief Parole Officer shall, unless the context otherwise requires, be read and construed as a reference to the Director, Probation and Parole Services and on a reprint of an Act or regulation pursuant to statutory authority the reference may be altered accordingly.

(3) For the purposes of this section the term "law of the State" means—

(a) an Act;

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- (b) any regulation or rule having effect by virtue of an Act; or
- (c) any instrument having effect by virtue of an Act or of any regulation or rule referred to in paragraph (b).

26. The principal Act is amended—

Miscellaneous
amendments.

- (a) by deleting “Chief Probation Officer” wherever it occurs in the provisions referred to in Part I of the Schedule to this Act and substituting in each case the following—

“ Director ” ; and

- (b) by deleting “Chief Parole Officer” wherever it occurs in the provisions referred to in Part II of the Schedule to this Act and substituting in each case the following—

“ Director ” .

SCHEDULE.

PART I.

Section 7

Section 8

Section 9 (1a)

Section 9 (7b)

Section 9 (7c)

Section 9 (9)

Section 9 (9a)

Section 9 (10)

Section 20B (7) (b)

Section 20B (8)

Section 51A (1) (a)

Section 51A (1) (b)

PART II.

- Section 34A (2) (a)
 - Section 41 (3b)
 - Section 41 (3c)
 - Section 41 (3d)
 - Section 41 (3e)
 - Section 41 (3f)
 - Section 41 (4)
 - Section 41A (7)
 - Section 50C (1)
 - Section 50D (1) (a)
 - Section 50D (1) (b)
 - Section 50D (2)
 - Section 50D (3)
 - Section 50N (3)
 - Section 50P (1) (a)
 - Section 50P (1) (b)
 - Section 50P (2)
 - Section 50P (3)
 - Section 50Q (5)
 - Section 50R (10).
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AERIAL SPRAYING CONTROL.

No. 90 of 1982.

AN ACT to amend the Aerial Spraying Control Act 1966-1978.

[Assented to 17 November 1982.]

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 *Aerial Spraying Control Amendment Act 1982*.

Short title
and citation.

(2) In this Act the Aerial Spraying Control Act 1966-1978 is referred to as the principal Act.

Reprinted as
approved
2 June 1971
and
amended by
Acts Nos. 94
of 1972
(as amended
by No. 19 of
1973), 57 of
1973 and
16 of 1978.

(3) The principal Act as amended by this Act may be cited as the Aerial Spraying Control Act 1966-1982.

Commence-
ment.

2. This Act shall come into operation on the twenty-eighth day after the day on which it is assented to by the Governor.

Section 10
amended.

3. Section 10 of the principal Act is amended in subsection (1) by deleting "A person who is licensed pursuant to the Air Navigation Regulations of the Commonwealth to use an aircraft for agricultural operations for hire or reward" and substituting the following—

“ The owner of any aircraft that has been modified to carry out aerial spraying ” .
