

Western Australia

**Sentencing Amendment (Adjustment of
Sentences) Act 2000**

As at 07 Dec 2000

No. 62 of 2000

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Sentencing Amendment (Adjustment of Sentences) Act 2000

CONTENTS

1.	Short title	1
2.	Commencement	2
3.	The Act amended	2
4.	Section 15 amended	2
5.	Section 24A inserted	3
	24A. Offenders serving sentences of imprisonment imposed before 4 November 1996	3
6.	Section 25 amended	7

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Sentencing Amendment (Adjustment of Sentences) Act 2000

No. 62 of 2000

An Act to amend the *Sentencing Legislation Amendment and Repeal Act 1999*.

[Assented to 7 December 2000]

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Sentencing Amendment (Adjustment of Sentences) Act 2000*.

s. 2

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

3. The Act amended

The amendments in this Act are to the *Sentencing Legislation Amendment and Repeal Act 1999**.

[* *Act No. 57 of 1999.*]

4. Section 15 amended

- (1) Section 15(1) is amended by deleting “consider whether the sentence it proposes would, by reason only of the new provisions, result in the offender spending more time in custody than he or she would have spent” and inserting instead —

“

impose a fixed term that is two thirds of the fixed term that it would have imposed

”.

- (2) Section 15(2) and (3) are repealed and the following subsections are inserted instead —

“

- (2) For the purposes of subsection (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 subsection (1), if the sentence required by that subsection would contravene section 86 of the *Sentencing Act 1995*, the court must use one of the sentencing options in section 39(2)(a) to (e) of that Act instead of sentencing the offender to imprisonment.

”.

- (3) Section 15(5) is amended as follows:

- (a) by deleting “or” after paragraph (b);
- (b) by deleting the full stop after paragraph (c) and inserting instead a semicolon;
- (c) by inserting the following paragraphs —
 - “
 - (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*.

”.

5. Section 24A inserted

After section 24 the following section is inserted —

“

24A. Offenders serving sentences of imprisonment imposed before 4 November 1996

- (1) In this section —

“**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) section 20 of this Act 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 (supervised) made under Part 3 Division 7 of the *Sentence Administration Act 1999*; and
 - (b) Part 3 Divisions 8 to 12 and Parts 4, 6 and 8 to 12 of the *Sentence Administration Act 1999* apply to and in respect of the person and the parole order (supervised).
- (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) sections 18(2) and 20 of this Act apply to the person.
- (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 (supervised) made by the Governor under Part 3 Division 7 of the *Sentence Administration Act 1999*;
 - (b) the parole period for the parole order (supervised) is that provided by section 24(3) of the *Sentence Administration Act 1999*; and
 - (c) Part 3 Divisions 8 to 12 and Parts 4, 6 and 8 to 12 of the *Sentence Administration Act 1999* apply to and in respect of the person and the parole order (supervised).
- (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 (supervised) made by the Governor under Part 3 Division 7 of the *Sentence Administration Act 1999*;
 - (b) the parole period for the parole order (supervised) is that provided by section 25(3) of the *Sentence Administration Act 1999*; and
 - (c) Part 3 Divisions 8 to 12 and Parts 4, 6 and 8 to 12 of the *Sentence Administration Act 1999* apply to and in respect of the person and the parole order (supervised).
- (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 1999*.

- (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 1999*.
- (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 (supervised) made by the Governor under Part 3 Division 7 of the *Sentence Administration Act 1999*;
 - (b) the parole period for the parole order (supervised) is that provided by section 26(3) of the *Sentence Administration Act 1999*; and
 - (c) Part 3 Divisions 8 to 12 and Parts 4, 6 and 8 to 12 of the *Sentence Administration Act 1999* apply to and in respect of the person and the parole order (supervised).

”.

6. Section 25 amended

After section 25(3) the following subsection is inserted —

“

- (4) The Governor may make any regulations that are necessary or convenient for preventing any doubt or difficulty from arising as to the application or operation of section 15 or for resolving any doubt or difficulty that may have arisen in that regard.

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