

Western Australia

Sentence Administration Act 1999

(No. 56 of 1999)

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Western Australia

Sentence Administration Act 1999

No. 56 of 1999

An Act to provide for the administration of sentences and other orders imposed on offenders.

[Assented to 16 December 1999]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Sentence Administration Act 1999*.

2. Commencement

This Act comes into operation on such day as is, or days as are respectively, fixed by proclamation.

3. This Act to be read with *Sentencing Act 1995*

This Act is to be read with the *Sentencing Act 1995*.

4. Interpretation and abbreviations

(1) If not defined in this Act words and expressions in this Act have the same definitions as in the *Sentencing Act 1995* and in particular, in Part 13 of that Act.

(2) In this Act —

“**Board**” means the Parole Board;

“**community corrections activities**” are activities approved as such under section 98;

“**community corrections centre**” means a place declared to be a community corrections centre under section 97;

“**community corrections officer**” (“CCO”) means a person who under section 111 is appointed as a CCO or as an honorary CCO and includes a person who under section 109 has been conferred with some or all of the functions of a CCO;

“**community order**” means a community based order, or an intensive supervision order, imposed under the *Sentencing Act 1995*;

“department” means the department principally assisting the Minister with the administration of this Act;

“departmental officer” means a person appointed under section 111(1)(a);

“departmental staff” means the people appointed or engaged under section 111 and the people authorized to work as unpaid volunteers under section 112;

“early release order” means —

- (a) a parole order;
- (b) a home detention order;
- (c) a work release order;

“home detention order” (“HDO”) means a home detention order made under Part 5;

“parole order” means an order made under Part 3 that a prisoner be released on parole;

“release” means release from custody;

“work and development order” (“WDO”) means a work and development order made under Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*;

“work release order” (“WRO”) means a work release order made under Part 4.

- (3) In this Act these abbreviations are used —
- “CCO”** for community corrections officer;
 - “CEO”** for chief executive officer;
 - “HDO”** for home detention order;
 - “RPO”** for release programme order;
 - “WDO”** for work and development order;
 - “WRO”** for work release order.

Part 2 — General matters about people in custody

Division 1 — Preliminary

5. Interpretation and calculations

In this Part words and expressions have the same definitions, and calculations are to be made in the same way, as in Part 13 of the *Sentencing Act 1995*.

Division 2 — Matters affecting the service of terms

6. When a term begins

- (1) Unless this section provides otherwise or an order is made under section 87(d) or 88(3) of the *Sentencing Act 1995*, a term, other than indefinite imprisonment, begins on the day it is imposed, or if the prisoner is not then in custody, on the day he or she is arrested under a warrant issued in respect of the sentence.
- (2) If a term is cumulative on one or more other terms then that term begins on the earliest date on which the prisoner could be released in relation to the last to be served of those other terms, whether or not the release would otherwise be under —
 - (a) a parole order; or
 - (b) a recognizance release order, or a parole order, made under the *Crimes Act 1914* of the Commonwealth.

7. Order of service of fixed terms

- (1) A prisoner sentenced to serve 2 or more fixed terms is to serve those terms in this order —
 - (a) firstly, those that are not parole terms are to be served according to whether they are concurrent, partly concurrent or cumulative with one another;

- (b) secondly, subject to section 94 of the *Sentencing Act 1995* and subsection (2), the non-parole periods of those that are parole terms are to be served according to whether those parole terms are concurrent, partly concurrent or cumulative with one another;
 - (c) thirdly, subject to section 94 of the *Sentencing Act 1995* and subsection (2), unless and until released on parole, the balance of any parole terms after the end of any non-parole periods are to be served —
 - (i) cumulatively if the terms are cumulative;
 - (ii) concurrently if the terms are concurrent or partly concurrent.
- (2) If after the commencement of Part 2 of the *Sentencing Legislation Amendment and Repeal Act 1999* a prisoner who is serving, or has yet to serve, a parole term imposed before the commencement of that Part is sentenced to serve another parole term, then —
- (a) the non-parole periods of the terms are to be served according to whether the parole terms are concurrent, partly concurrent or cumulative with one another; and
 - (b) the balance of the parole terms after the end of any non-parole periods are to be served concurrently irrespective of whether the parole terms are concurrent, partly concurrent or cumulative with one another.
- (3) If while serving a fixed term a prisoner is sentenced to serve another fixed term, other than a fixed term ordered to be served partly concurrently with another term, service of the former is suspended if necessary so that the terms can then be served in the order required by subsection (1).

(4) In this section —

“**fixed term**” includes a period of imprisonment ordered under section 58, 59 or 119A of the *Sentencing Act 1995*;

“**non-parole period**”, in relation to a parole term, means the period that under section 93(1) of the *Sentencing Act 1995* the prisoner has to serve before he or she is eligible to be released on parole.

8. Effect of not being in custody

(1) A term does not elapse while a prisoner is at large, having escaped lawful custody while serving it.

(2) A prisoner who is returned to lawful custody after having escaped from it while serving a fixed term, must serve —

(a) the part of the term he or she had yet to serve at the time of escaping; plus

(b) one third of the lesser of —

(i) the period during which he or she was absent from lawful custody; or

(ii) the period beginning on the date of escape and ending on the date when, but for the escape, the fixed term would have ended,

in addition to any term imposed for escaping lawful custody.

(3) A term does not elapse while a prisoner is not in lawful custody unless this Act or another written law provides otherwise.

9. Effect of time before an appeal

(1) Any period that a prisoner spends on bail while he or she is appealing against a conviction or a sentence does not count as time served in respect of any term that the prisoner is liable to serve.

- (2) Any period that a prisoner spends in custody while he or she is appealing against a conviction or a sentence counts as time served in respect of any term that he or she is then serving, but not in respect of any other term that he or she is liable to serve.

10. No release if prisoner in custody for another matter

Despite this Act and the *Sentencing Act 1995*, a prisoner must not be released (whether under an early release order or otherwise) in respect of a term if at the time the release could be ordered he or she is by law required to be kept in custody in respect of another matter.

Division 3 — Reports about certain people in custody

11. Report to Minister about the place of custody for a person in custody during Governor's pleasure

- (1) At any time the Minister, in writing, may request the CEO to provide a report of the kind mentioned in subsection (2).
- (2) Whenever the CEO gets a written request to do so from the Minister, or whenever the CEO thinks there are special circumstances which justify doing so, the CEO must give the Minister a written report on the place or places where a person who is ordered to be detained in strict custody under section 282 of *The Criminal Code* is or should be detained in safe custody.

12. Report to Minister about a person in custody

- (1) In this section —
- “person in custody”** means —
- (a) a prisoner sentenced to a fixed term, whether a parole term or not;
 - (b) a prisoner sentenced to a life term;
 - (c) a prisoner sentenced to indefinite imprisonment;

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Part 2 General matters about people in custody

Division 3 Reports about certain people in custody

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- (d) a person in strict or safe custody by virtue of an order made under section 282 of *The Criminal Code*.
- (2) At any time the Minister, in writing, may request the Board to report about a person in custody.
- (3) The Board must give the Minister a written report about a person in custody —
- (a) whenever it gets a written request to do so from the Minister;
 - (b) whenever it thinks there are special circumstances which justify doing so; and
 - (c) in any event, in the case of a person referred to in subsection (1)(d), at least once in every year.
- (4) A report —
- (a) must, if given under subsection (3)(a); and
 - (b) may, if given under subsection (3)(b) or (c),
- recommend whether or not the Governor should be advised to exercise any power vested in the Governor to release the person in custody and, if release is recommended, the requirements or conditions (if any) that should apply to the person's release.
- (5) If a report under subsection (3) about a person in custody recommends that the person be released, the report must, in addition to any other matters the Board thinks fit, report —
- (a) on the nature and circumstances of the offence that gave rise to the person being in custody; and
 - (b) if parole is recommended —
 - (i) on the parole considerations (as defined in section 15) relating to the person;
 - (ii) on the period for which the person should be on parole; and

- (iii) on the additional requirements (if any) to which the person should be subject while on parole.

Division 4 — Releasing people in custody during the Governor's pleasure

13. Operation of this Division

The powers in this Division are in addition to the power of the Governor to at any time release people who are in custody during the Governor's pleasure.

14. Release may be by parole order

- (1) The release by the Governor of a person in strict or safe custody by virtue of an order made under section 282 of *The Criminal Code* may, if the Governor thinks fit, be by means of a parole order made by the Governor.
- (2) The parole order may not be made unless a report about the person has been given by the Board to the Minister under section 12.
- (3) The release date is that set by the Governor.
- (4) The parole period in the order is to be set by the Governor and must be at least 6 months and not more than 5 years.
- (5) The Minister must cause a copy of every parole order made in respect of a person described in subsection (1) and a written explanation of the circumstances giving rise to it to be tabled in each House of Parliament within 15 sitting days of that House after it is made.

Part 3 — Parole

Division 1 — Preliminary

15. Interpretation

- (1) In this Part —
 - “**parole considerations**” has the meaning given by section 16;
 - “**parole order**” means a parole order (supervised) or a parole order (unsupervised);
 - “**parole order (supervised)**” means a parole order to which Division 7 applies;
 - “**parole order (unsupervised)**” means a parole order to which Division 6 applies.
- (2) In this Part words and expressions have the same definitions, and calculations are to be made in the same way, as in Part 13 of the *Sentencing Act 1995*.

16. Release on parole, matters to be considered

In this Part a reference to parole considerations in relation to a sentence of imprisonment that a prisoner is serving or has yet to serve and in respect of which the prisoner may be released on parole is a reference to these considerations:

- (a) the circumstances of the commission of, and the seriousness of, the offence for which the sentence was imposed;
- (b) the behaviour of the prisoner when in custody serving the sentence in so far as it may be relevant to determining how the prisoner is likely to behave if released on parole;

- (c) whether the prisoner has participated in programmes available to him or her when in custody and if not the reasons for not doing so;
- (d) the prisoner's performance when participating in any such programme;
- (e) the behaviour of the prisoner when subject to any release order (as defined in section 89 of the *Sentencing Act 1995*) made previously;
- (f) the likelihood of the prisoner offending when he or she is on parole;
- (g) the likelihood of the prisoner complying with the standard obligations and any additional requirements of a parole order (supervised);
- (h) the degree of risk that the release of the prisoner would appear to present to the personal safety of people in the community or of any individual in the community;
- (i) any other consideration that is or may be relevant to whether the prisoner should be released on parole;
- (j) any remarks by a court that has sentenced the offender to imprisonment that are relevant to any of the above matters.

Division 2 — Reports about certain people eligible for parole

17. Parole term, CEO to report to Board about prisoner

- (1) In the case of a prisoner serving a parole term of at least 12 months the CEO must give the Board a written report on the parole considerations relating to the prisoner.
- (2) The report must be given to the Board a reasonable time before the date when the prisoner concerned is eligible to be released on parole.

18. Life term or indefinite imprisonment, Board to report periodically to Minister about prisoner

(1) In this section —

“prisoner” means a person serving a sentence described in column 1 of the Table to this section.

(2) The Board must give the Minister a written report about a prisoner at the times stated in columns 2 and 3 of the Table to this section, whether or not it has given the Minister a report about the prisoner under section 12.

(3) If a report under subsection (2) recommends that the prisoner be released, the report must, in addition to any other matters the Board thinks fit, report on —

- (a) the parole considerations relating to the prisoner;
- (b) the period for which the prisoner should be on parole;
and
- (c) the additional requirements (if any) to which the prisoner should be subject while on parole.

(4) A report under subsection (2) may recommend whether or not the Governor should be advised to exercise any power vested in the Governor to release the prisoner, and, if release is recommended, the requirements or conditions (if any) that should apply to the prisoner’s release.

Division 3 — Parole where term is less than 12 months

19. Interpretation

In this Division —

“prisoner” means a prisoner serving a parole term of less than 12 months.

20. Board to parole prisoner

- (1) The Board must make a parole order (unsupervised) in respect of a prisoner.
- (2) The release date in the order must be the day when, under section 93(1) of the *Sentencing Act 1995*, the prisoner is eligible to be released on parole.
- (3) The parole period in the order is the period that begins on the day when the prisoner is released and ends when the parole term ends.

Division 4 — Parole where term is at least 12 months

21. Interpretation

In this Division —

“prisoner” means a prisoner serving a parole term of at least 12 months.

22. Board may parole prisoner

- (1) Prior to the day when, under section 93(1) of the *Sentencing Act 1995*, a prisoner is eligible to be released on parole, the Board must consider whether the prisoner should be released on parole.

- (2) If the Board, having regard to —
- (a) the parole considerations relating to a prisoner;
 - (b) any report made by the CEO under section 17; and
 - (c) any other information about the prisoner brought to its attention,

decides that it is appropriate to release the prisoner on parole, it must make a parole order in respect of the prisoner.

- (3) The release date in the order is that set by the Board; but it must not be earlier than the day when, under section 93(1) of the *Sentencing Act 1995*, the prisoner is eligible to be released on parole.
- (4) The parole period in the order is the period that begins on the day when the prisoner is released and ends when the parole term ends.
- (5) If the period beginning on the date when, under section 93(1) of the *Sentencing Act 1995*, the prisoner is eligible to be released on parole and ending on the date when the parole term ends —
- (a) is less than 6 months, then the parole order must be a parole order (unsupervised);
 - (b) is at least 6 months, then the parole order must be a parole order (supervised).
- (6) If the Board decides it is not appropriate to release a prisoner on parole, it is not precluded from subsequently reconsidering whether the prisoner should be released on parole.

23. Prisoner to be notified of postponement or refusal of parole

- (1) If under section 22 the Board does not make a parole order in which the release date is the day when, under section 93(1) of the *Sentencing Act 1995*, the prisoner is eligible to be released

on parole, written notice of the decision must be given to the prisoner as soon as practicable.

- (2) The written notice must —
 - (a) subject to section 127, include the reasons for the decision; and
 - (b) inform the prisoner of his or her right to make submissions under subsection (3).
- (3) The prisoner may make written submissions to the Board about the Board's decision and reasons (if any are supplied).

Division 5 — Parole in case of life term or indefinite imprisonment

24. Life imprisonment, Governor may parole prisoner

- (1) The Governor may make a parole order in respect of a prisoner serving life imprisonment but only if —
 - (a) the prisoner has served the minimum period set by the court under section 90 of the *Sentencing Act 1995*; and
 - (b) a report about the prisoner has been given by the Board to the Minister under section 12 or 18.
- (2) The release date in the order is that set by the Governor.
- (3) The parole period in the order is to be set by the Governor and must be at least 6 months and not more than 5 years.
- (4) The parole order must be a parole order (supervised).

25. Strict security life imprisonment, Governor may parole prisoner

- (1) Unless a court has made an order under section 91(3) of the *Sentencing Act 1995*, the Governor may make a parole order in

respect of a prisoner serving strict security life imprisonment but only if —

- (a) the prisoner has served the minimum period set by the court under section 91(1) of that Act; and
 - (b) a report about the prisoner has been given by the Board to the Minister under section 12 or 18.
- (2) The release date in the order is that set by the Governor.
 - (3) The parole period in the order is to be set by the Governor and must be at least 6 months and not more than 5 years.
 - (4) The parole order must be a parole order (supervised).
 - (5) The Minister must cause a copy of every parole order made under subsection (1) and a written explanation of the circumstances giving rise to it to be tabled in each House of Parliament within 15 sitting days of that House after it is made.

26. Indefinite imprisonment, Governor may parole prisoner

- (1) The Governor may make a parole order in respect of a prisoner sentenced to be imprisoned indefinitely but only if a report about the prisoner has been given by the Board to the Minister under section 12 or 18.
- (2) The release date in the parole order is that set by the Governor.
- (3) The parole period in the parole order is to be set by the Governor and must be at least 6 months and not more than 5 years.
- (4) The parole order must be a parole order (supervised).

Division 6 — Parole orders (unsupervised)

27. Parole order (unsupervised), nature of

A parole order (unsupervised) is an order that on a release date specified in the order a prisoner is to be released on parole for a parole period specified in the order if he or she acknowledges in writing that he or she understands the general effect of Divisions 2, 3 and 4 of Part 6 should the parole order be cancelled.

Division 7 — Parole orders (supervised)

28. Parole order (supervised), nature of

- (1) A parole order (supervised) is an order that on a release date specified in the order a prisoner is to be released on parole for a parole period specified in the order if he or she —
 - (a) acknowledges in writing that he or she understands the general effect of Divisions 2, 3 and 4 of Part 6 should the order be cancelled; and
 - (b) gives a written undertaking that during the supervised period specified in the order he or she will comply with —
 - (i) the standard obligations in section 29; and
 - (ii) any of the additional requirements in section 30 that are specified in the parole order.
- (2) The supervised period for a parole order (supervised) made in respect of a parole term is to be determined from the Table to this subsection according to the length of the parole term and the parole period specified in the order.

Table

| Parole term | Parole period | Supervised period = |
|-----------------------------|-------------------|---------------------|
| ≤ 18 months | ≤ 6 months | parole period |
| | > 6 months | 6 months |
| > 18 months and ≤ 72 months | ≤ 1/3 parole term | parole period |
| | > 1/3 parole term | 1/3 parole term |
| > 72 months | ≤ 24 months | parole period |
| | > 24 months | 24 months |

Note: ≤ signifies less than or equal to
> signifies greater than

- (3) The supervised period for a parole order (supervised) that is not made in respect of a parole term is the whole of the parole period.
- (4) For the purposes of this section, to calculate the length in days of one third of a parole 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 3 and disregard any remainder.

29. Parole order (supervised), standard obligations

The standard obligations of a parole order (supervised) are that the prisoner —

- (a) must report to a community corrections centre within 72 hours after being released, or as otherwise directed by a CCO;
- (b) must notify a CCO of any change of address or place of employment within 2 clear working days after the change; and
- (c) must comply with section 89.

30. Parole order (supervised), additional requirements

A parole order (supervised) may contain such of these additional requirements as the Board or the Governor (as the case may be) thinks fit:

- (a) a requirement as to where the prisoner must reside;
- (b) requirements to protect any victim of an offence committed by the prisoner from coming into contact with the prisoner;
- (c) a requirement that the prisoner wear any device for monitoring purposes;
- (d) a requirement that the prisoner permit the installation of any device or equipment at the place where the prisoner resides for monitoring purposes;
- (e) a requirement that, if the CEO so directs, the prisoner —
 - (i) wear any device for monitoring purposes;
 - (ii) permit the installation of any device or equipment at the place where the prisoner resides for monitoring purposes;
- (f) a requirement that the prisoner must not leave Western Australia except with and in accordance with the written permission of the CEO;
- (g) requirements to facilitate the prisoner's rehabilitation;
- (h) a requirement that the prisoner must, in each period of 7 days, do the prescribed number of hours of community corrections activities;
- (i) a requirement that the prisoner must —
 - (i) seek or engage in gainful employment or in vocational training; or
 - (ii) engage in gratuitous work for an organization approved by the CEO;

(j) prescribed requirements.

31. CEO to ensure parolee is supervised

- (1) The CEO must ensure that during the supervised period of a parole order (supervised) a CCO is assigned to supervise the prisoner.
- (2) However, if at any time the CEO is satisfied that —
 - (a) the prisoner is complying with his or her undertaking in a satisfactory manner; and
 - (b) the risk of the prisoner re-offending if not subject to supervision by a CCO is minimal,

the CEO may recommend to the Board that the prisoner no longer be supervised by a CCO.

- (3) If the CEO makes such a recommendation, the Board may direct the CEO that the prisoner need no longer be supervised during the supervised period and the CEO may cease the supervision of the prisoner.
- (4) If the CEO ceases the supervision of a prisoner, the CEO is to inform the prisoner.
- (5) The fact that a prisoner ceases to be under supervision does not affect the prisoner's duty to obey the requirements of his or her undertaking during the supervision period.
- (6) The Board at any time may cancel a direction given to the CEO under subsection (3).

Division 8 — Parole orders, general provisions

32. Parole order may relate to more than one parole term

A parole order may relate to more than one parole term.

33. Prisoner may refuse to be released on parole

- (1) A parole order is not to be made in respect of a prisoner if the prisoner has given written notice that he or she does not want to be released on parole.
- (2) The prisoner may subsequently give written notice that he or she does want to be released on parole.
- (3) The written notice must be given to the Board which, if the parole order is to be made by the Governor, must forward it to the Minister.

34. Prisoner's acknowledgment or undertaking

A prisoner must give the written acknowledgment or undertaking required by a parole order, or both, on or before the release date specified in it and if he or she does not, the parole order is to be taken as having been cancelled.

35. Making parole order after refusal by prisoner

- (1) If—
 - (a) a parole order was not made in respect of a prisoner because the prisoner gave notice under section 33(1); or
 - (b) a parole order was cancelled by the operation of section 34,

and the prisoner subsequently gives the Board written notice that he or she wants to be released on parole and is prepared to give the written acknowledgment or undertaking or both, the Board or the Governor (as the case may be) may then make a parole order.

- (2) The release date in a parole order made under subsection (1) is that set by the Board or the Governor (as the case may be).

- (3) If the parole order is to be made in respect of a parole term, then section 22(4) and (5) apply.

Division 9 — Amendment of parole orders (supervised)

36. Amending before release

A parole order (supervised) may be amended after it is made and before the prisoner concerned is released under it —

- (a) by the Board, if it was made by the Board; or
- (b) by the Governor or the Board, if it was made by the Governor.

37. Board may amend parole order during supervised period

- (1) The Board may, at any time during the supervised period of a parole order (supervised), amend the order.
- (2) If the Board amends a parole order (supervised), the amended order applies accordingly.
- (3) Written notice of the decision to amend the order is to be given by the Board to the prisoner as soon as practicable.

Division 10 — Suspension of parole orders (supervised)

38. Suspension by CEO during supervised period

- (1) The CEO may, at any time during the supervised period of a parole order (supervised), suspend the parole order, irrespective of whether it was made by the Board or by the Governor.
- (2) Written notice of the decision to suspend is to be given by the CEO to the Board within 3 working days after the decision and in any event before the end of the supervised period.
- (3) The written notice must include reasons for the decision.

39. Suspension by Board during supervised period

The Board may, at any time during the supervised period of a parole order (supervised), suspend the parole order, irrespective of whether it was made by the Board or by the Governor.

40. Period of suspension

- (1) If under section 38 the CEO, or under section 39 the Board, suspends a parole order (supervised), the Board is to set the period of suspension.
- (2) The period of suspension may be for a fixed or indefinite period, as the Board thinks fit.
- (3) The Board may cancel the suspension of a parole order (supervised) at any time before the suspension period ends.

41. Suspension, effect on other parole orders

When a parole order (supervised) is suspended any parole order applicable to the prisoner when the order is suspended, including a parole order (unsupervised), is suspended by virtue of this section, irrespective of whether it had taken effect or not.

42. Prisoner to be notified

- (1) If under this Division a parole order (supervised) is suspended, written notice of the decision to suspend is to be given by the Board to the prisoner as soon as practicable after he or she is returned to custody.
- (2) The written notice must —
 - (a) subject to section 127, include the reasons for the decision; and
 - (b) inform the prisoner of his or her right to make submissions under subsection (3).

- (3) A prisoner whose parole order has been suspended may make written submissions to the Board about the decision and reasons (if any are supplied).

Division 11 — Cancellation of parole orders

43. Cancellation before release

A parole order (supervised) may be cancelled after it is made and before the prisoner concerned is released under it —

- (a) by the Board, if it was made by the Board; or
- (b) by the Governor or the Board, if it was made by the Governor.

44. Cancellation by Board

- (1) The Board, at any time during the supervised period of a parole order (supervised), may cancel the order.
- (2) Without limiting subsection (1) or affecting the operation of section 73 the Board may cancel a parole order if, during the parole period, the prisoner is charged with or is convicted of an offence.
- (3) The power to cancel may be exercised by the Board irrespective of whether the parole order was made by the Board or by the Governor.

45. Cancellation, prisoner to be notified

- (1) If under section 43 or 44 a parole order (supervised) is cancelled, written notice of the decision to cancel is to be given by the Board to the prisoner as soon as practicable.
- (2) The written notice must —
 - (a) subject to section 127, include the reasons for the decision; and

(b) inform the prisoner of his or her right to make submissions under subsection (3).

(3) A prisoner whose parole order has been cancelled may make written submissions to the Board about the decision and reasons (if any are supplied).

46. Cancellation, effect on other parole orders

If under section 43 or 44 a parole order (supervised) is cancelled, any parole order applicable to the prisoner when the order is cancelled, including a parole order (unsupervised), is cancelled by virtue of this section, irrespective of whether it had taken effect or not.

Division 12 — Miscellaneous

47. Parole ordered by Governor, Minister to be advised of amendment, suspension or cancellation

(1) If in respect of a prisoner subject to a parole order (supervised) made by the Governor —

(a) under section 31 the Board —

(i) directs the CEO that the prisoner need no longer be supervised during the supervised period; or

(ii) cancels such a direction;

(b) under section 36 or 37 the order is amended; or

(c) under Division 10 the order is suspended and the suspension is not cancelled by the Board within 30 days afterwards; or

- (d) under Division 11 the order is cancelled,
the Board must give the Minister as soon as practicable —
 - (e) written notice of and reasons for the decision and a summary of any submissions made by the prisoner under section 42 or 45; and
 - (f) if the parole order has been cancelled, a report containing a recommendation as to whether or not the Governor should be advised to again exercise the power to release the prisoner on parole.
- (2) The Governor may cancel a decision referred to in subsection (1).

48. Resolution of doubtful cases

- (1) If a doubt or difficulty arises to which this section applies and neither this Act nor the *Sentencing Act 1995* nor the *Sentencing Legislation Amendment and Repeal Act 1999* makes adequate provision for it, the CEO may apply in a summary way to a Judge of the Supreme Court for an order resolving the doubt or difficulty.
- (2) On such an application the Judge may make any order he or she considers just and for that purpose may make a declaration as to —
 - (a) the length of any term, any part of a term, or any parole period;
 - (b) any date relevant to a sentence of imprisonment or to the parole or release of a prisoner; or
 - (c) the manner in which the Board is to determine such matters.

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- (3) This section applies to doubts or difficulties as to —
- (a) the effect of any sentence of imprisonment, including the date it commences, how it is served in relation to other such sentences, when it ends, and when it has been or has been deemed to have been served;
 - (b) any matter relating to parole, including the date when a prisoner is eligible to be released on parole, the parole period applicable in any case, the supervision period applicable in any case and the effect of the cancellation of parole; or
 - (c) the term to be served by a prisoner who escapes from lawful custody,

irrespective of when the sentence was imposed.

Part 4 — Work release order

49. Certain prisoners may apply to Board for WRO

A prisoner may apply to the Board to be released under a work release order (“WRO”) if —

- (a) he or she is at least 17 years old;
- (b) he or she is not serving a life term or indefinite imprisonment;
- (c) he or she is not a person referred to in section 14(1);
- (d) at the release date that would be specified in the WRO if it were made, he or she will have been in custody under sentence for a continuous period of at least 12 months; and
- (e) within 6 months after the release date that would be specified in the WRO if it were made, he or she would in any event be eligible for release (whether under a parole order or not).

50. CEO to report to Board about WRO applicants

- (1) The CEO must report to the Board about every prisoner who applies to be released under a WRO.
- (2) A report by the CEO under subsection (1) must be given to the Board as soon as practicable after a prisoner applies to be released under a WRO.
- (3) A report by the CEO under subsection (1) must report about the risk that the release of the prisoner under a WRO will or may pose to the personal safety of people in the community or of any individual in the community.

51. Board may make WRO

- (1) The Board must consider the case of every prisoner who applies to be released under a WRO and may, in respect of such a prisoner —
 - (a) make a WRO;
 - (b) defer the making of a WRO; or
 - (c) refuse to make a WRO.
- (2) The Board must not make a WRO in respect of a prisoner unless satisfied that the prisoner is a person whose release would pose a low risk to the personal safety of people in the community or of any individual in the community.
- (3) Except with the prior approval of the Governor, a WRO must not be made in respect of a prisoner serving a fixed term, or an aggregate of fixed terms, of more than 15 years.
- (4) A WRO may relate to more than one term.
- (5) The fact that an RPO may be made in respect of a prisoner does not prevent a WRO being made in respect of the prisoner.

52. Prisoner to be notified of refusal to make WRO

- (1) If the Board refuses to make a WRO, written notice of the decision is to be given by the Board to the prisoner as soon as practicable.
- (2) The written notice must —
 - (a) subject to section 127, include the reasons for the decision; and
 - (b) inform the prisoner of his or her right to make submissions under subsection (3).

- (3) A prisoner whose release on a WRO has been refused may make written submissions to the Board about the Board's decision and the reasons for it (if any are supplied).
- (4) The Board must consider the submissions and may make a further decision under section 51.

53. WRO, nature of

- (1) A WRO is an order that on a release date specified in the order a prisoner is to be released if he or she —
 - (a) acknowledges in writing that he or she understands the general effect of Divisions 2, 3 and 4 of Part 6 should the order be cancelled;
 - (b) gives a written undertaking that while the WRO is in force he or she will comply with —
 - (i) the standard obligations in section 54; and
 - (ii) any additional requirements imposed by the Board under section 55.
- (2) A WRO ceases to be in force when the period of the WRO ends, or when it is cancelled, whichever happens first.
- (3) The period of a WRO is the period —
 - (a) beginning on the day when the prisoner is released under the WRO; and
 - (b) ending on the first to occur of —
 - (i) the release date in a parole order made in respect of the prisoner;
 - (ii) the date when under section 93 or 95 of the *Sentencing Act 1995*, the prisoner must be released.

- (4) A prisoner who is released under a WRO is nevertheless still subject to the sentence or sentences of imprisonment to which the WRO relates.

54. WRO, standard obligations

The standard obligations of a WRO are that the prisoner —

- (a) must, in each period of 7 days, do the prescribed number of hours of community corrections activities;
- (b) must —
 - (i) seek or engage in gainful employment or in vocational training; or
 - (ii) engage in gratuitous work for an organization approved by the CEO;
- (c) must not leave the State;
- (d) must not change address or place of employment without the prior permission of a CCO; and
- (e) must comply with section 89.

55. WRO, additional requirements

- (1) The Board may impose such additional requirements as it thinks fit on a WRO.
- (2) Without limiting the generality of subsection (1), additional requirements may include —
 - (a) requiring the prisoner to wear any device for monitoring purposes;
 - (b) requiring the prisoner to permit the installation of any device or equipment at the place where the prisoner resides for monitoring purposes.

56. Prisoner's undertaking

- (1) A prisoner must give the written acknowledgment and undertaking required by section 53 on or before the release date specified in the WRO and if he or she does not, the WRO is to be taken as having been cancelled.
- (2) If a WRO is cancelled by the operation of subsection (1) and the prisoner subsequently gives the Board written notice that he or she is prepared to give the required written acknowledgment and undertaking, the Board, if it thinks fit, may then make a WRO.

57. Prisoner may be paroled or returned to custody after WRO

- (1) The making of a WRO does not affect the operation of Part 3, and in particular Division 4 of that Part.
- (2) If under Division 4 of Part 3 the Board refuses to make a parole order, or if a prisoner subject to a WRO refuses to be released on parole or to give the written acknowledgment or undertaking, or both, required by a parole order, the Board may cancel the WRO.

58. Suspension by Board or CEO

- (1) The Board or the CEO may suspend a WRO at any time during the period of the order.
- (2) The period of suspension may be for a fixed or indefinite period as the Board or the CEO (as the case may be) thinks fit.
- (3) Without limiting subsection (1), if a prisoner subject to a WRO is charged with or convicted of an offence, or if the CEO is satisfied that a prisoner has failed to comply with a requirement of a WRO, the CEO may do either or both of the following —
 - (a) suspend the WRO;

- (b) refer the prisoner's case to the Board for consideration.
- (4) If the CEO suspends the WRO of a prisoner who is charged with an offence the CEO must, when the charge has been determined —
 - (a) if the prisoner is not convicted of the charge — lift the suspension; or
 - (b) if the prisoner is convicted of the charge —
 - (i) cancel the suspension;
 - (ii) suspend the order for a further period; or
 - (iii) refer the prisoner's case to the Board for consideration.
- (5) If the CEO suspends a WRO for a fixed period of one month or more, or if an indefinite suspension extends for a month, the CEO must refer the prisoner's case to the Board to consider.
- (6) If the CEO suspends a WRO and the prisoner's case is not referred to the Board, the CEO may cancel the suspension of the WRO at any time before the suspension ends.
- (7) If the Board suspends a WRO, it may cancel the suspension at any time before the suspension ends.
- (8) If the case of a prisoner is referred to the Board, the Board may vary the suspension period of or cancel the CEO's suspension order, or cancel the WRO.

59. Suspension, prisoner to be notified

Written notice of a decision to suspend a WRO is to be given by the Board or the CEO (as the case may be) to the prisoner as soon as practicable.

60. Cancellation by Board

- (1) The Board may cancel a WRO at any time during the period of the order.
- (2) Without limiting subsection (1) or affecting the operation of section 73 the Board may cancel a WRO if, during the period of the order, the prisoner is charged with or is convicted of an offence.

61. Cancellation, prisoner to be notified

- (1) If a WRO is cancelled, written notice of the decision to cancel is to be given by the Board to the prisoner as soon as practicable.
- (2) The written notice must, subject to section 127, include the reasons for the decision.

Part 5 — Home detention order

62. Certain prisoners may apply to CEO for HDO

- (1) A prisoner may apply to the CEO to be released under a home detention order (“HDO”) if —
 - (a) the term or terms that he or she is serving or is yet to serve are not parole terms;
 - (b) the term, or aggregate of terms, that he or she is serving or is yet to serve is not more than 12 months; and
 - (c) at the release date that would be specified in the HDO if it were made —
 - (i) he or she would have served two thirds of the term or the aggregate of terms (as the case may be); and
 - (ii) there would be at least one month of the term or the aggregate of terms (as the case may be) left to be served.
- (2) For the purposes of this section, to calculate the length in days of two thirds of a 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”);
 - (b) then divide T by 3 and disregard any remainder; and
 - (c) then subtract that result from T.

63. CEO may make HDO

- (1) The CEO must consider the case of every prisoner who applies to be released under an HDO and may, in respect of such a prisoner —
 - (a) make an HDO; or

- (b) refuse to make an HDO.
- (2) In deciding whether to make an HDO, the CEO must have regard to —
 - (a) the nature and circumstances of the offence for which the prisoner is imprisoned;
 - (b) the degree of risk that the release of the prisoner appears to present to the personal safety of people in the community or of any individual in the community; and
 - (c) the views of other people residing at the place where it is proposed the prisoner will remain while subject to the HDO.
- (3) Subsection (2) is a directory provision only and a breach of that subsection does not affect any issue relating to the lawfulness of the release of a prisoner under an HDO.
- (4) An HDO may relate to more than one term.
- (5) The fact that an RPO may be made in respect of a prisoner does not prevent an HDO being made in respect of the prisoner.

64. HDO, nature of

- (1) An HDO is an order that on a release date specified in the order a prisoner is to be released if he or she —
 - (a) acknowledges in writing that he or she understands the general effect of Divisions 2, 3 and 4 of Part 6 should the order be cancelled;
 - (b) gives a written undertaking that while the HDO is in force he or she will comply with —
 - (i) the standard obligations in section 65; and
 - (ii) any additional requirements imposed by the CEO under section 66.

- (2) An HDO ceases to be in force when the period of the HDO ends, or when it is cancelled, whichever happens first.
- (3) The period of an HDO is the period —
 - (a) beginning on the day when the prisoner is released under the HDO; and
 - (b) ending on the day when the prisoner would have been released under section 93 or 95 of the *Sentencing Act 1995* had he or she not been released under the HDO.
- (4) A prisoner who is released under an HDO is nevertheless still subject to the sentence or sentences of imprisonment to which the HDO relates.

65. HDO, standard obligations

- (1) The standard obligations of an HDO are that the prisoner —
 - (a) must remain at and not leave the place specified in the HDO except as provided by subsection (2);
 - (b) must, in each period of 7 days, do the prescribed number of hours of community corrections activities;
 - (c) must not leave the State; and
 - (d) must comply with section 89.
- (2) A prisoner may only leave the place specified in an HDO —
 - (a) to do the community corrections activities referred to in subsection (1);
 - (b) to work in gainful employment approved by a CCO;
 - (c) with the approval of a CCO, to engage in vocational training;
 - (d) with the approval of a CCO, to seek gainful employment;

- (e) to obtain urgent medical or dental treatment for the prisoner;
- (f) for the purpose of averting or minimizing a serious risk of death or injury to the prisoner or to another person;
- (g) to obey an order issued under a written law (such as a summons) requiring the prisoner's presence elsewhere;
- (h) for a purpose approved of by a CCO; or
- (i) on the order of a CCO.

66. HDO, additional requirements

- (1) The CEO may impose such additional requirements as he or she thinks fit on an HDO.
- (2) Without limiting the generality of subsection (1), additional requirements may include —
 - (a) requiring the prisoner to wear any device for monitoring purposes;
 - (b) requiring the prisoner to permit the installation of any device or equipment at the place where the prisoner is required by the HDO to remain for monitoring purposes.

67. CCO's powers in relation to home detention

- (1) A CCO may give such reasonable directions to a prisoner subject to an HDO as are necessary for the proper administration of the order including, without limiting the generality of the foregoing, directions as to —
 - (a) when the prisoner may leave the place where he or she is required by the order to remain;
 - (b) the period of any authorized absence from the place where he or she is required by the order to remain;

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- (c) when the prisoner must return to the place where he or she is required by the order to remain;
 - (d) the method of travel to be used by the prisoner during any absence from the place where he or she is required by the order to remain; and
 - (e) the manner in which the prisoner must report his or her whereabouts.
- (2) To ascertain whether or not a prisoner is complying with an HDO, a CCO may, at any time —
- (a) enter or telephone the place where the prisoner is required by the order to remain;
 - (b) enter or telephone the prisoner's place of employment or any other place where the prisoner is permitted or required to attend; or
 - (c) question any person at any place referred to in paragraph (a) or (b).
- (3) A person must not —
- (a) hinder a person exercising powers under subsection (2); or
 - (b) fail to answer a question put pursuant to subsection (2)(c) or give an answer that the person knows is false or misleading in a material particular.

Penalty: \$12 000 or imprisonment for 12 months or both.

68. Amendment by CEO

- (1) The CEO may amend an HDO at any time by —
- (a) substituting a different place for the place where a prisoner is required by the HDO to remain;
 - (b) amending or revoking any of the additional requirements imposed on the HDO; or

(c) imposing additional requirements or further additional requirements on the HDO.

(2) Written notice of a decision to amend an HDO is to be given by the CEO to the prisoner as soon as practicable.

69. Suspension by CEO

(1) The CEO may suspend an HDO at any time during the period of the order.

(2) The period of suspension may be for a fixed or indefinite period as the CEO thinks fit.

(3) Written notice of a decision to suspend an HDO is to be given by the CEO to the prisoner as soon as practicable.

(4) The CEO may cancel the suspension of an HDO at any time before the suspension ends.

70. Cancellation by CEO

(1) The CEO may cancel an HDO at any time during the period of the order.

(2) Without limiting subsection (1) or affecting the operation of section 73 the CEO may cancel an HDO if, during the period of the order, the prisoner is charged with or is convicted of an offence.

(3) Written notice of the decision to cancel is to be given by the CEO to the prisoner as soon as practicable.

(4) Subject to section 127, the written notice must include reasons for the decision.

Part 6 — Provisions applicable to early release orders

Division 1 — General

71. Period of early release order counts as time served

(1) If during the period of an early release order, other than a parole order (unsupervised) —

- (a) the prisoner does not commit an offence (in this State or elsewhere) for which he or she is sentenced to imprisonment (whether the sentence is imposed during or after that period); and
- (b) the early release order is not cancelled,

then the period of the early release order is to be taken as time served in respect of the term or terms to which the early release order relates.

(2) If during the parole period of a parole order (unsupervised) the prisoner does not commit an offence (in this State or elsewhere) for which he or she is sentenced to imprisonment (whether the sentence is imposed during or after that period), then the parole period of the parole order is to be taken as time served in respect of the term or terms to which the parole order relates.

72. Prisoner under sentence until discharged

(1) Subject to this Part, a person sentenced to imprisonment and released under an early release order remains under and subject to that sentence until discharged from it.

(2) Subject to this Part, a person sentenced to imprisonment is discharged from the sentence —

- (a) if released under a parole order — at the end of the parole period;

- (b) if released under a WRO — at the end of the period of the WRO unless the sentence is a parole term;
 - (c) if released under an HDO — at the end of the period of the HDO.
- (3) Subsections (1) and (2) do not affect the operation of section 71 and Divisions 2 and 3.

Division 2 — Automatic cancellation

73. Cancellation automatic if prisoner imprisoned for offence committed on early release order

- (1) If a prisoner, while subject to an early release order, commits an offence (in this State or elsewhere) and is sentenced to imprisonment for that offence —
- (a) any early release order applicable to the prisoner when the offence was committed is cancelled by virtue of this section; and
 - (b) any early release order made in respect of the prisoner on or after the date on which the offence was committed and before the sentence of imprisonment was imposed is cancelled by virtue of this section, irrespective of whether it had taken effect or not.
- (2) For the purposes of subsection (1) it does not matter if the sentence of imprisonment for the offence committed while subject to the early release order is imposed on the prisoner —
- (a) after the period of the order; or
 - (b) after the date when, but for the cancellation of the order by virtue of subsection (1), the prisoner would have served or be taken to have served the term to which the order relates.

Division 3 — Consequences of suspension and cancellation

74. Suspension, effect of

- (1) If an early release order in respect of a prisoner serving a fixed term is suspended, the prisoner is then liable to resume serving the fixed term in custody and, unless the suspension ceases or the early release order is cancelled, is not entitled to be released until he or she has served the whole of that term, despite, in the case of a parole term, section 93(1) of the *Sentencing Act 1995*.
- (2) If an early release order in respect of a prisoner serving a life term is suspended, the prisoner is then liable to resume serving the life term in custody.
- (3) The suspension of an early release order ceases at the end of the suspension period or when before then the suspension is cancelled.
- (4) When the suspension of an early release order ceases, the early release order and any other early release order taken to be suspended again have effect unless during the period of suspension the early release order was itself cancelled.
- (5) Nothing in this section prevents another early release order being made under this Act in respect of a prisoner.

75. Cancellation, effect of

- (1) If an early release order in respect of a prisoner serving a fixed term is cancelled after the prisoner is released under the order, the prisoner is then liable to resume serving the fixed term in custody and is not entitled to be released until he or she has served the whole of that term, despite, in the case of a parole term, section 93(1) of the *Sentencing Act 1995*.

- (2) If a parole order in respect of a prisoner serving a life term is cancelled after the prisoner is released under the order, the prisoner is then liable to resume serving the life term in custody.
- (3) If a parole order in respect of a prisoner serving indefinite imprisonment is cancelled after the prisoner is released under the order, the prisoner is then liable to resume serving the indefinite imprisonment in custody.
- (4) If a parole order in respect of a person referred to in section 14(1) is cancelled after the person is released under the order, the person is liable to be again kept in strict or safe custody at the Governor's pleasure.
- (5) Subject to Division 4, this section does not prevent another early release order being made in respect of a prisoner.

76. Returning prisoner to custody

- (1) When an early release order is suspended or cancelled, the warrant of commitment that relates to the sentence of imprisonment to which the early release order relates is again in force and the prisoner may be arrested and kept in custody under that warrant.
- (2) Despite subsection (1), if an early release order is suspended or cancelled as mentioned in subsection (1), a warrant to have the prisoner arrested and returned to custody may be issued, whenever necessary —
 - (a) by a Supreme Court Judge or a District Court Judge;
 - (b) by the Board if it suspended or cancelled the order; or
 - (c) by the CEO if the CEO suspended or cancelled the order.

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- (3) Notwithstanding section 71 or 80, a warrant under subsection (2) may be issued, and the prisoner may be arrested, whether under that warrant or under the warrant of commitment referred to in subsection (1) at any time —
 - (a) during or after the period of the early release order; or
 - (b) after the date when, but for the suspension or cancellation of the early release order, the prisoner would have served or be taken to have served the term or terms to which the order relates.

77. Clean street time counts as time served

- (1) Subject to subsection (2), if an early release order in respect of a prisoner serving a fixed term is cancelled after the prisoner is released under the order —
 - (a) the period beginning on the day when the prisoner was released under the order and ending on the day when the order is cancelled counts as time served in respect of the fixed term; and
 - (b) the period (if any) beginning on the day when the order is cancelled and ending on the day when the prisoner concerned is returned to custody does not count as time served in respect of the fixed term.
- (2) If an early release order in respect of a prisoner serving a fixed term is suspended and, without the suspension ceasing, is subsequently cancelled, then —
 - (a) the period beginning on the day when the prisoner was released under the order and ending on the day when the order is suspended counts as time served in respect of the fixed term;

- (b) the period (if any) beginning on the day when the order is suspended and ending on the day when the prisoner is returned to custody does not count as time served in respect of the fixed term.
- (3) For the purposes of subsection (1), the day when an early release order is cancelled is —
 - (a) if it is cancelled by a decision of the Board or the CEO (as the case may be) — the day of the decision; or
 - (b) if it is cancelled by virtue of section 73 —
 - (i) the day when the offence that resulted in the cancellation was committed; or
 - (ii) if the CEO cannot ascertain the day when that offence was committed — the latest day on which that offence could have been committed, as determined by the CEO.
- (4) For the purposes of subsection (2), the day when an early release order is suspended is the day of the decision to suspend the order.

Division 4 — Re-release after cancellation

78. Re-release after cancellation of order made by Board or CEO

- (1) If —
 - (a) an early release order made by the Board or the CEO is cancelled by virtue of section 73; and
 - (b) the offence referred to in that section for which the prisoner was sentenced to imprisonment was a crime tried on indictment,

the Board or the CEO, as the case may be, must not make another early release order in respect of the prisoner in relation

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to the term to which the cancelled order related unless satisfied there are exceptional reasons for making another order.

- (2) If an early release order made by the Board or the CEO —
- (a) is cancelled under section 43, 44, 60 or 70; or
 - (b) is cancelled by virtue of section 73 in circumstances where subsection (1) does not apply,

then the Board or the CEO, as the case may be, may, subject to Parts 3, 4 and 5, subsequently make another early release order in respect of the prisoner.

- (3) If the early release order that was cancelled was a parole order (supervised) any subsequent parole order may be a parole order (supervised) or a parole order (unsupervised) as the Board decides.
- (4) The parole period in the subsequent parole order is the period that begins on the day when the prisoner is released and ends when the parole term ends.
- (5) If the subsequent parole order is a parole order (supervised) the supervised period is to be such period as the Board decides; but it must not —
- (a) end after the parole term ends; or
 - (b) be longer than 24 months.

79. Re-release after cancellation of parole order made by Governor

- (1) If a parole order (supervised) made by the Governor is cancelled under section 43 or 44 or by virtue of section 73, the Governor may subsequently make another parole order in respect of the prisoner.

- (2) If a parole order (unsupervised) made by the Governor is cancelled by virtue of section 73 the Governor may subsequently make another parole order in respect of the prisoner.
- (3) The subsequent parole order may be a parole order (supervised) or a parole order (unsupervised) as the Governor decides.
- (4) The parole period in the subsequent parole order is to be set by the Governor and must be at least 6 months, not more than 5 years, and not longer than the parole period of the cancelled parole order.
- (5) If the subsequent parole order is a parole order (supervised) the supervised period is to be such period as the Governor decides.

80. Parole period under new parole order deemed to be time served

If —

- (a) under section 78 or 79 a parole order is made in respect of a prisoner;
- (b) in the case of a parole order (supervised), the Board does not cancel the parole order under Division 11 of Part 3; and
- (c) the prisoner does not commit an offence (in this State or elsewhere) during the parole period for which he or she is sentenced to imprisonment (whether the sentence is imposed during or after the parole period),

then the prisoner is taken to have served the term, or the aggregate of terms, to which the parole order relates.

Part 7 — Release programme orders

Division 1 — General

81. RPO, nature of

- (1) A release programme order (“**RPO**”) is an order that an offender, after he or she is released or, if the offender is subject to a WRO or HDO, after the end of the period of the order —
 - (a) must comply with the programme requirement in section 85; and
 - (b) while the programme requirement is in force must comply with the standard obligations in section 84.
- (2) An RPO ceases to be in force 6 months after the offender is released in respect of the term or terms.

82. Certain prisoners to be made subject to RPO

- (1) If under section 89A of the *Sentencing Act 1995* a court has made a programme assessment order in respect of an offender, the CEO must make an RPO in respect of the prisoner unless —
 - (a) the CEO considers that such an order is not warranted for the offender; or
 - (b) when the prisoner is released, he or she will be subject to a parole order made in respect of another term.
- (2) If —
 - (a) an offender is serving a fixed term, or an aggregate of fixed terms, of at least 24 months; and
 - (b) none of the terms is a parole term,the CEO must make an RPO in respect of the offender unless —
 - (c) the CEO considers that such an order is not warranted for the offender;

- (d) when the prisoner is released, he or she will be subject to a parole order made in respect of another term.
- (3) An RPO made by the CEO must be served personally on the offender before he or she is released.

83. Preparation for RPO before release

- (1) Not later than 12 months before the CEO is required by section 82(2) to make a determination whether the making of an RPO is warranted for an offender, the CEO must consider whether, to help achieve the purposes mentioned in section 85(1), the offender should before his or her release be started on a programme (“**a pre-release programme**”) consisting of —
 - (a) the assessment described in paragraph (a) or (b) of section 85(2), and any necessary treatment;
 - (b) attendance at any programme or course of the kind described in section 85(2)(c); or
 - (c) more than one of the above.
- (2) If the CEO determines that the offender should be started on a pre-release programme before his or her release, the CEO is to take the steps necessary to provide the programme under section 95 of the *Prisons Act 1981* and to ensure the offender completes it before being released.
- (3) Sections 85(3) and (4) apply for the purposes of this section in the same way as they apply in the carrying out of an RPO.

84. RPO, standard obligations

The standard obligations of an RPO are that the offender —

- (a) must report to a community corrections centre within 72 hours after being released, or as otherwise directed by a CCO;

- (b) must notify a CCO of any change of address or place of employment within 2 clear working days after the change;
- (c) must not leave Western Australia except with, and in accordance with, the permission of the CEO; and
- (d) must comply with section 89.

85. RPO, programme requirement

- (1) The purpose of the programme requirement is —
 - (a) to allow for any personal factors which contributed to the offender's criminal behaviour to be assessed;
 - (b) to provide an opportunity for the offender to recognize, to take steps to control and, if necessary, to receive appropriate treatment for those factors; and
 - (c) to facilitate the offender's re-integration to the community.
- (2) The programme requirement is a requirement that the offender must obey the orders of 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 paragraphs (a), (b) or (c);
 - (e) more than one of the above.

- (3) 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 the programme requirement are additional to the requirements of any other programme requirement imposed as part of a community order.
- (6) The programme requirement ceases to be in force when a CCO gives the offender notice to that effect, or the RPO 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.

Division 2 — Enforcement

86. Breach of RPO, offence

- (1) A person who breaches an RPO without reasonable excuse, proof of which is on the person, commits an offence.
Penalty: \$3 000.
- (2) A complaint alleging an offence under subsection (1) may be made only by the CEO.
- (3) The complaint may be made at any time up until one year after the RPO ceases to be in force.
- (4) In this section —
“**breach**”, in relation to an RPO, means to contravene any requirement or obligation of the order.

87. Facilitation of proof

- (1) This section applies only in relation to proceedings under this Division.
- (2) A copy of an RPO certified by the CEO is, in the absence of evidence to the contrary, evidence of its contents.
- (3) In proceedings for an offence under section 86(1) in relation to an alleged breach of an RPO, evidence of the alleged breach may be given by tendering a certificate signed by the CEO stating the particulars of the alleged breach.
- (4) Unless the contrary is proved, it is to be presumed that a certificate purporting to have been signed by the CEO was signed by a person who at the time was the CEO.

Part 8 — Provisions applicable to offenders on community corrections orders

88. Interpretation

In this Part —

“**centre**” means a community corrections centre;

“**community corrections order**” means a community order, an early release order, an RPO or a WDO;

“**offender**” means an offender who is subject to a community corrections order.

89. Offender’s obligations

- (1) An offender must comply with the lawful orders or directions of any CCO.
- (2) An offender who under a community corrections order is required —
 - (a) to do community work —
 - (i) must do such community work as the supervisor of a centre determines and directs; and
 - (ii) must do that work to the satisfaction of the person supervising the work;
 - (b) to do community corrections activities —
 - (i) must do such community corrections activities as the supervisor of a centre determines and directs; and
 - (ii) must do those activities to the satisfaction of the person supervising them.

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- (3) An offender who under a community corrections order is at a centre, or is doing community work or community corrections activities, or is performing any requirement of a programme requirement under a community order or an RPO —
- (a) must not be in possession of, use, or be under the influence of alcohol, a drug (other than a drug prescribed for him or her), glue, petrol or any other substance capable of adversely affecting a person;
 - (b) must, if so directed by the supervisor of a centre, submit to testing for any substance referred to in paragraph (a);
 - (c) must not disturb or interfere with another offender doing anything under a community corrections order;
 - (d) must not commit any act or omission of insubordination or misconduct that is subversive of the good order or management of a centre or of the conduct of anything required to be done under a community corrections order;
 - (e) must not assault, threaten, insult or use abusive language to a member of the departmental staff;
 - (f) must comply with any prescribed obligations; and
 - (g) must comply with any written instructions issued by the CEO under section 99.
- (4) A CCO is to ensure, so far as is practicable, that orders given to an offender do not —
- (a) conflict with the offender's religious or cultural beliefs;
or
 - (b) result in interference with the times, if any, when the offender normally works or attends an educational or vocational training establishment.

90. Consequences of contravening the obligations

If an offender contravenes any requirement of section 89, the supervisor of a centre may reprimand the offender or —

- (a) if the offender is subject to a community order, report the matter to the CEO and recommend that the offender be charged with an offence under section 131 of the *Sentencing Act 1995*;
- (b) if the offender is subject to a parole order or a WRO —
 - (i) report the matter to the CEO; or
 - (ii) report the matter to the Board,and recommend that the order be suspended or cancelled under Part 3 or 4 (as the case may be);
- (c) if the offender is subject to an HDO, report the matter to the CEO and recommend that the order be suspended or cancelled under Part 5;
- (d) if the offender is subject to an RPO, report the matter to the CEO and recommend that the offender be charged with an offence under section 86; or
- (e) if the offender is subject to a WDO, report the matter to the CEO and recommend that the order be cancelled under section 52 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

91. CEO may suspend requirements in case of illness etc.

- (1) If the CEO is satisfied that an offender is ill or that there are other exceptional circumstances, the CEO —
 - (a) if the offender is subject to a community order — may permit the offender not to comply with all or any of the requirements of any primary requirement of the order for such period or periods as the CEO thinks fit; but they must not total more than 12 weeks;

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- (b) if the offender is subject to a community service requirement in a community order — may, in relation to the minimum hours requirement, permit the offender to do less than 12 hours community work in a 7 day period; the actual number of hours to be decided by the CEO but it must be at least 6 hours;
 - (c) if the offender is subject to an early release order — permit the offender not to comply with the minimum hours requirement for such period or periods as the CEO thinks fit;
 - (d) if the offender is subject to an RPO — may permit the offender not to comply with all or any of the requirements of the programme requirement of the order for such period or periods as the CEO thinks fit; but they must not total more than 12 weeks;
 - (e) if the offender is subject to a WDO — permit the offender not to comply with the minimum hours requirement for such period or periods as the CEO thinks fit; but they must not total more than 12 weeks.
- (2) A decision made under subsection (1) does not affect the term of a community order, the period of an early release order, or the period for which an RPO is in force.
- (3) An offender's duty under a community service requirement in a community order to do unpaid community work for a number of hours set by the court is not affected by a decision made under subsection (1).
- (4) An offender's duty under section 50(1)(a) of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* to do community corrections activities for the required hours is not affected by a decision made under subsection (1).

(5) In subsection (1) —

“minimum hours requirement” —

- (a) in relation to a community service requirement in a community order — means the requirement that the offender do at least 12 hours unpaid community work in any 7 day period;
- (b) in relation to a parole order or a WRO — means any requirement in the order to do the prescribed number of hours of community corrections activities in each period of 7 days;
- (c) in relation to an HDO — means the requirement to do the prescribed number of hours of community corrections activities in each period of 7 days;
- (d) in relation to a WDO — means the requirement in section 50(1)(b) of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* to do the prescribed number of the required hours of community corrections activities in each period of 7 days.

92. Community service requirement, offender may be directed to do activities

- (1) This section applies in the case of an offender who is subject to a community service requirement in a community order but not subject to a programme requirement in the order.
- (2) The CEO may direct the offender to do community corrections activities for as many hours as the CEO directs; but the hours must not amount to more than a quarter of the hours of community work set by the court.

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- (3) Hours of community corrections activities done in compliance with such a direction count as hours of community work done under the community service requirement.

93. Programme requirement

- (1) This section applies in the case of an offender who is subject to a programme requirement in a community order.
- (2) If a CCO is satisfied that in respect of the offender there are personal factors which contributed to the offender's criminal behaviour that were not identified at the time the programme requirement was imposed, the CCO may give the offender such other directions as could be given under a programme requirement and as the CCO thinks fit, in addition to any specified by the court.

94. Compensation for injury

- (1) An offender, while doing community work or community corrections activities under a community corrections order is to be regarded for the purposes of the *Workers' Compensation and Rehabilitation Act 1981* as a worker employed by the Crown.
- (2) For the purposes of the *Workers' Compensation and Rehabilitation Act 1981* an offender's weekly earnings shall be taken to be the amount that the Minister considers reasonable in the circumstances.

95. Regulations

Regulations made for the purposes of this Part may —

- (a) prescribe obligations applicable to community corrections orders generally or to specific types of community corrections orders;

- (b) make provision for the authorization of absences from attendance at community work or community corrections activities;
- (c) regulate the consequences of injury and sickness with respect to community corrections orders;
- (d) prescribe forms.

Part 9 — Community corrections centres

Division 1 — Preliminary

96. Interpretation

In this Part —

“**centre**” means a community corrections centre;

“**community corrections order**” means a community order, an early release order, an RPO or a WDO;

“**offender**” means an offender who is subject to a community corrections order.

97. Community corrections centres

- (1) The Governor may by order declare any place to be a community corrections centre.
- (2) The Governor, by order, may amend or cancel an order made under subsection (1).

98. Community corrections activities

- (1) The CEO may approve activities as community corrections activities.
- (2) Activities that may be approved as community corrections activities include, but are not restricted to, any of these:
 - (a) charitable, community or voluntary work;
 - (b) programmes for the treatment of people who abuse alcohol, drugs or other substances or who are addicted to gambling;
 - (c) counselling;
 - (d) social and life skills courses;

- (e) educational, vocational and personal development courses.

Division 2 — Management

99. CEO may issue written instructions

- (1) With the approval of the Minister, the CEO may issue written instructions for the management, control and security of —
 - (a) centres generally or a specified centre; and
 - (b) offenders.
- (2) The instructions are to complement regulations made under section 106 and if there is an inconsistency between an instruction and a regulation, the instruction, to the extent of the inconsistency, is to be read and has effect subject to the regulation.
- (3) The instructions may confer a discretionary authority on any person or class of person.
- (4) Sections 41 and 42 of the *Interpretation Act 1984* do not apply to the instructions.
- (5) The CEO must ensure that relevant instructions are published in such a manner as to bring them to the attention of departmental staff, offenders, and people visiting centres.
- (6) The CEO must take reasonable steps to ensure that the instructions are made known to every offender —
 - (a) who is illiterate;
 - (b) who does not understand English, in a language the offender does understand.

100. Supervisors of centres

- (1) The CCO in control of a centre is, while in control, the supervisor of the centre.
- (2) The supervisor is responsible to the CEO for the management, security and good order of the centre.
- (3) For the purposes of this Part, a supervisor may give reasonable orders or directions to any person in a centre, including any member of the departmental staff.
- (4) A supervisor may not direct that a search of a person or a place be made except as provided by section 103.
- (5) A supervisor must advise an offender of his or her obligations under the community corrections order, and this obligation is to be taken as having been performed if a written statement of those obligations is attached to the order given to the offender.
- (6) A supervisor must report as soon as possible to the CEO on any use of force by the supervisor or any other person to compel —
 - (a) an offender to obey an order or direction; or
 - (b) a person to obey an order to leave the centre.

101. Functions of CCOs at centres

- (1) A CCO —
 - (a) subject to subsection (5), must comply with the reasonable directions of the supervisor of the centre at which the CCO is working;
 - (b) must maintain the good order of the centre at which the CCO is working; and
 - (c) must report immediately to the supervisor anything which might reasonably be thought to jeopardize the management, security or good order of the centre.

- (2) A CCO may give such reasonable orders or directions to offenders and other persons as are necessary for the management, security or good order of a centre.
- (3) A CCO may use reasonable force to compel an offender to obey an order or direction given to that offender if the CCO believes on reasonable grounds that the use of force is necessary —
 - (a) to prevent the offender or another person being killed or seriously injured; or
 - (b) to prevent serious damage to property.
- (4) A CCO may, if necessary, use reasonable force to compel a person to obey an order by a supervisor to leave a centre.
- (5) For the purpose of subsection (1)(a), a direction given by a supervisor is not reasonable if it is a direction —
 - (a) to use reasonable force to compel an offender to obey an order or direction given to that offender;
 - (b) to use reasonable force to compel a person to obey an order to leave a centre; or
 - (c) to search any person wishing to enter or remain in a centre or anything in the person's possession or under the person's control.

102. Access to centres

- (1) The supervisor of a centre may impose such conditions as he or she thinks fit on any person (including an offender) entering or remaining in the centre.
- (2) A person who is not an offender may be refused entry to a centre by the supervisor of it.

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Part 9 Community corrections centres

Division 2 Management

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- (3) An offender may be refused entry to a centre by the supervisor of it if the offender —
- (a) contravenes a condition imposed under subsection (1); or
 - (b) does anything which, in the supervisor's opinion, threatens the management, security or good order of the centre.
- (4) A person (including an offender) who is in a centre may be ordered by the supervisor to leave the centre immediately if the person, while in the centre —
- (a) contravenes this Act, the regulations or any written instructions issued under section 99;
 - (b) contravenes a direction given by the supervisor;
 - (c) contravenes a condition imposed under subsection (1); or
 - (d) does anything which, in the supervisor's opinion, threatens the management, security or good order of the centre.
- (5) A person who disobeys an order to leave a centre given under subsection (4) commits an offence.
- Penalty: \$1 000.

103. Searches

- (1) If the supervisor of a centre believes that it is necessary for the security or good order of a centre or the offenders in it, he or she may at any time —
- (a) cause a prescribed person to search the centre or any part of it or anything in it; or

- (b) order a person wishing to enter or remain in a centre, or anything in the person's possession or under the person's control, to be searched by a prescribed person.
- (2) If a person refuses to submit to such a search, the supervisor may order the person to leave the centre immediately.
- (3) A supervisor may at any time order a search to be stopped.
- (4) A person who disobeys a supervisor's order under subsection (2) commits an offence.
Penalty: \$1 000.

104. Seizure

- (1) In carrying out a search under section 103, a prescribed person may seize anything found in a centre, whether in a person's possession or not, that the supervisor of the centre believes on reasonable grounds jeopardizes or is likely to jeopardize the security or good order of the centre or the safety of persons in it.
- (2) A drug prescribed for a person and in that person's possession must not be seized under subsection (1).
- (3) Anything seized by a prescribed person must be given to the supervisor of the centre immediately.
- (4) Anything seized must be dealt with by the supervisor under the regulations.

Division 3 — Miscellaneous

105. Department to report on centres

The annual report of the accountable officer of the department prepared for the purposes of the *Financial Administration and Audit Act 1985* is to include a report on the operations of centres and community corrections activities and other operations of the department under this Part.

106. Regulations

Regulations made for the purposes of this Part may —

- (a) prescribe powers of persons conducting anything being done under a community corrections order;
- (b) provide for the transport of offenders required to do anything under a community corrections order;
- (c) regulate the procedure for searches and seizures carried out under this Part;
- (d) prescribe forms.

Part 10 — Staff

Division 1 — Chief executive officer

107. Functions

- (1) Subject to the control of the Minister, the CEO's functions include —
 - (a) the proper administration of community orders, early release orders, RPOs and WDOs; and
 - (b) the control and management of community corrections centres.
- (2) The CEO has the functions of a CCO.
- (3) Where this Act, the *Sentencing Act 1995*, the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, or the *Bail Act 1982* empowers or requires the CEO to do any thing, any exercise of that power must be done in writing and signed by the CEO or, if the power is exercised by a delegate, by the delegate.
- (4) The CEO may review and confirm, amend or cancel a decision made, or a direction or order given, by a member of the departmental staff.

108. Delegation

- (1) The CEO may, either generally or as provided by the instrument of delegation, delegate to any person —
 - (a) any function of the CEO under this Act or the *Sentencing Act 1995*;
 - (b) any function of the CEO under Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*,other than this power of delegation.

- (2) Unless the contrary is proved, it is to be presumed that a document purporting to have been signed by a person as a delegate of the CEO was signed by a person in the performance of a function that at the time was delegated to the person by the CEO.

109. CEO may confer functions of CCO on person

The CEO may confer some or all of the functions of a CCO on a member of the departmental staff who is neither a CCO nor an honorary CCO.

110. CEO to notify Board of certain breaches

Subject to any directions issued by the Board to the CEO, if a breach of a parole order or a WRO comes to the knowledge of the CEO he or she must forthwith report the matter to the Board and must provide such other information about the breach as the Board requires.

Division 2 — Other staff

111. Appointment

- (1) The staff, including CCOs, needed for the purposes of this Act, the *Sentencing Act 1995* and Part VIA of the *Bail Act 1982* —
- (a) may be appointed or engaged under the *Public Sector Management Act 1994*; or
 - (b) may be appointed on an honorary basis.
- (2) A person who is a member of the Police Force is not to be appointed to be an honorary CCO.
- (3) A member of the Police Force who holds a designated position (as defined in the *Witness Protection (Western Australia) Act 1996*) may be appointed to be an honorary CCO for the purposes of supervising an offender who is a participant in the State Witness Protection Program established under that Act.

- (4) The regulations may prescribe classes of staff and their functions.

112. Volunteers

- (1) The CEO may authorize a person to work as an unpaid volunteer.
- (2) A volunteer is under the control of the CEO.
- (3) The CEO may at any time cancel the authorization of a volunteer.

Division 3 — Miscellaneous

113. Compensation for injury

If under Division 2 a person is appointed on an honorary basis or authorized to work as a volunteer —

- (a) the person is, while performing the functions of the position, to be regarded for the purposes of the *Workers' Compensation and Rehabilitation Act 1981* as a worker employed by the Crown; and
- (b) for the purposes of that Act, the person's weekly earnings are to be taken to be the amount that the Minister considers is reasonable in the circumstances.

114. Assistance by police officers

- (1) Subject to the directions of the Commissioner of Police, a member of the Police Force may, if so requested by the CEO or a CCO, assist in the exercise or performance of any function conferred or imposed by this Act.
- (2) A member of the Police Force acting under subsection (1) has the same functions and protection from liability as a CCO would have in the same situation.

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Part 10 Staff

Division 3 Miscellaneous

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- (3) The functions and protection conferred by subsection (2) are in addition to those conferred or imposed on a member of the Police Force by any other written law.

Part 11 — Parole Board

115. Parole Board established

A board called the Parole Board is established.

116. Membership

- (1) There are to be 7 members on the Board —
 - (a) a judicial member nominated by the Attorney General and appointed by the Governor;
 - (b) 3 persons appointed by the Governor;
 - (c) the CEO;
 - (d) a departmental officer nominated by the CEO; and
 - (e) a police officer nominated by the Commissioner of Police.
- (2) A person must not be nominated as the judicial member unless he or she —
 - (a) is a judge of the Supreme Court or the District Court and the Chief Justice or the Chief Judge of the District Court (as the case may be) consents to the nomination; or
 - (b) is a retired judge of one of those courts.

117. Secretary

Under Part 3 of the *Public Sector Management Act 1994* a person is to be appointed to be the secretary of the Board.

118. Schedule 1 applies

Schedule 1 has effect in relation to the Board.

119. Functions

- (1) The functions of the Board are set out in this Act.

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- (2) The Board may do all things necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions.

120. Board to have powers of Royal Commission

- (1) For the purpose of carrying out its functions, the Board and its chairperson and members have and may exercise the powers that a Royal Commission and its chairman and commissioners have under the *Royal Commissions Act 1968*.
- (2) The *Royal Commissions Act 1968*, with any necessary changes, has effect in relation to the Board, its chairperson and members.

121. Orders by the Board

- (1) An order giving effect to a decision made by the Board is to be signed by 2 members of the Board.
- (2) A notice of a decision made by the Board may be signed by its secretary.
- (3) Despite subsection (1), the secretary or a member of the Board, on behalf of and in the name of the Board, may make a parole order in accordance with guidelines issued by the Board except in respect of a parole term of a prescribed class.
- (4) The Board may issue guidelines to be observed by its members and secretary when making parole orders under subsection (3).

122. Board may require prisoner to appear before it

- (1) At any time while a prisoner is subject to a parole order or a WRO, the Board, by order, may require him or her to appear before the Board.
- (2) For the purposes of subsection (1), the Board may issue a warrant to have the prisoner arrested and brought before the Board.

- (3) The powers in this section may be exercised whether or not the Board has amended, cancelled or otherwise made a decision in relation to the order concerned.

123. Issue of warrants by Board

- (1) If this Act empowers the Board to issue a warrant to have a person arrested, it is not necessary for the Board to meet before the warrant is issued.
- (2) A warrant issued by the Board to have a person arrested must be signed by —
- (a) 2 members of the Board; or
 - (b) the judicial member of the Board if he or she is a judge of the Supreme Court or the District Court.

124. Judicial notice of appointment and signature

- (1) Judicial notice must be taken of —
- (a) the fact that a person is or was a member or the secretary of the Board; and
 - (b) the official signature of such a person.
- (2) Evidence of a parole order, a WRO or a decision made by the Board may be given by producing a copy of the order or decision certified by the secretary of the Board as a true copy.

125. Annual report to Minister

Before 1 October in each year, the Board is to give a written report to the Minister on —

- (a) the performance of the Board's functions during the previous financial year;
- (b) the number of prisoners released on parole during the previous financial year; and

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- (c) the operation of this Act and relevant parts of the *Sentencing Act 1995* so far as they relate to parole orders, to WROs and to the activities of CCOs in relation to those orders during the previous financial year.

126. Special reports to Minister

- (1) The Minister, in writing, may request the Board to report about any specified special matter relating to —
 - (a) the operation of this Act or the *Sentencing Act 1995* so far as it is relevant to the Board; or
 - (b) the performance of any function of the Board.
- (2) If so requested, the Board must provide a written report as soon as practicable.

Part 12 — Miscellaneous

127. Reasons for decision may be withheld

- (1) This section applies to those sections in this Act which refer to it.
- (2) If a person is required to give a prisoner reasons for a decision, then if the person decides that it would be in the interest of the prisoner or any other person, or the public, to withhold from the prisoner any or all of the reasons, the person may do so.

128. Exclusion of rules of natural justice

The rules known as the rules of natural justice (including any duty of procedural fairness) do not apply to or in relation to the doing or omission of any act, matter or thing under Parts 2 to 8 by —

- (a) the Governor;
- (b) the Minister;
- (c) the Board or its members or secretary; or
- (d) the CEO.

129. Arrest warrant may be issued if warrant of commitment in force

- (1) If a court has issued a warrant of commitment in respect of an offender that requires the offender to be imprisoned for a period, then at any time before the prisoner has served the period the CEO may issue a warrant to have the offender arrested and taken to a prison to serve or to continue to serve the period.
- (2) A warrant must not be issued under subsection (1) if the offender has been released pursuant to an order made in accordance with this Act or another written law in respect of the sentence or made in the exercise of the Royal Prerogative of Mercy.

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- (3) Without limiting subsection (1) or affecting subsection (2), a warrant may be issued under subsection (1) if in error an offender is released before having served the period of imprisonment specified in the warrant of commitment.
- (4) Subsection (1) does not limit any power to arrest a person who has escaped lawful custody.

130. Issue and execution of warrants

- (1) If this Act or the *Sentencing Act 1995* empowers a person to issue a warrant to have a person arrested, the warrant must be in the prescribed form and such a warrant has effect according to its wording.
- (2) In the absence of evidence to the contrary, it is to be presumed that —
 - (a) the person who issued the warrant is empowered to do so; and
 - (b) the signature on the warrant is that of the person who issued it.
- (3) A person to whom the warrant is directed must give effect to the warrant as soon as practicable.
- (4) The warrant itself is sufficient authority to the person to whom it is directed to arrest the person concerned and to hold the person in custody for the purposes of taking him or her, as soon as practicable, to the place specified in the warrant.

131. Monitoring equipment

(1) In this section —

“monitoring equipment” means any device or equipment installed under this Act or the *Sentencing Act 1995* or the *Bail Act 1982* at the place where a person lives or lived to keep the person under surveillance or to monitor the person.

(2) The CEO may give the occupier of a place where monitoring equipment is installed a direction to deliver the equipment to the CEO within a set period.

(3) A person who contravenes a direction given under subsection (2) commits an offence.

(4) A CCO may, at any time, enter a place where monitoring equipment is installed to retrieve the equipment.

(5) A person who hinders a CCO exercising the power in subsection (4) commits an offence.

(6) A person who unlawfully interferes with the operation of any monitoring equipment commits an offence.

(7) A person who wilfully and unlawfully destroys or damages any monitoring equipment commits an offence.

Penalty: \$12 000 or imprisonment for 12 months.

132. Secrecy

(1) A person who is or has been in a position to which this section applies must not, whether directly or indirectly, record, disclose, or make use of any information obtained because of being in that position, except —

(a) for the purposes of and in the due exercise of functions under this Act;

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- (b) when ordered by a court or a judge to do so; or
- (c) in circumstances approved from time to time by the Minister.

Penalty: \$2 500.

- (2) The positions to which this section applies are —
 - (a) a member, a deputy of a member, an acting member or the secretary of the Board;
 - (b) the CEO; and
 - (c) a member of the departmental staff.

133. Protection from liability for wrongdoing

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act or the *Sentencing Act 1995*.
- (2) The protection given by subsection (1) applies even though the thing done as described in that subsection may have been capable of being done whether or not this Act or the *Sentencing Act 1995* had been enacted.
- (3) Despite subsection (1), the Crown is not relieved of any liability that it might have for another person having done anything as described in that subsection.
- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

134. Regulations

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

Schedule 1 — Provisions applicable to the Parole Board

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1. Interpretation

“member” means a member of the Board.

2. Terms of office

- (1) A member appointed by the Governor is a member for the period (not more than 3 years) specified in the instrument of appointment; but is eligible for re-appointment.
- (2) A person who is a member by reason of being the CEO ceases to be a member when he or she ceases to be the CEO.
- (3) A person who is a member by reason of being a departmental officer ceases to be a member when he or she resigns as a member or ceases to be a departmental officer or when another departmental officer is nominated by the CEO.
- (4) A person who is a member by reason of being a police officer ceases to be a member when he or she resigns as a member or ceases to be a police officer or when another police officer is nominated by the Commissioner of Police.

3. Resignation

- (1) A member appointed by the Governor may resign by giving his or her written resignation to the Minister.
- (2) The member who is a member by reason of being a departmental officer may resign by giving his or her written resignation to the CEO.
- (3) The member who is a member by reason of being a police officer may resign by giving his or her written resignation to the Commissioner of Police.

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- (4) A written resignation has effect when it is received by the relevant person or at such later date as it specifies.

4. Deputies of members

- (1) The Minister may appoint a person to be the deputy of a member appointed by the Governor, other than the judicial member.
- (2) The CEO may nominate a departmental officer to be his or her deputy.
- (3) The CEO may nominate a departmental officer to be the deputy of the member who is a departmental officer.
- (4) The member who is a police officer may nominate another police officer to be his or her deputy.
- (5) The deputy of a member may attend a meeting of the Board when the member is absent and may perform the member's functions.
- (6) This clause does not affect the operation of section 52 of the *Interpretation Act 1984*.

5. Meetings

- (1) The judicial member is the chairperson of the Board.
- (2) The chairperson is to decide when the Board meets.
- (3) At a meeting of the Board the chairperson is to preside, or in his or her absence, the longest serving member.
- (4) If in the absence of the judicial member more than one of the other members is eligible to preside, the other members are to appoint one of the eligible members to preside.
- (5) At a meeting of the Board —
 - (a) the presiding member and 2 other members constitute a quorum;

- (b) questions arising are to be determined by a majority of the members present and voting;
 - (c) if there is a tie in voting, the presiding member has a second vote; and
 - (d) the chairperson alone decides any question of law.
- (6) The Board may, if it thinks fit, conduct a meeting at which all or some members participate by telephone or other similar means, but any member who speaks on a matter at the meeting must be able to be heard by the other members at the meeting.
- (7) Subject to this clause the Board is to determine the procedure for convening and conducting its meetings.

6. Remuneration and allowances

- (1) Members, deputies and acting members, other than a judicial member who is a judge, are entitled to the remuneration and allowances set by the Governor.
- (2) Any remuneration and allowances paid to a judicial member who is a retired judge does not affect his or her entitlements under the *Judges' Salaries and Pensions Act 1950*.

7. Leave of absence

The Minister may grant leave of absence to a member on such conditions as the Minister determines.

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