

## PAROLE OF PRISONERS ACT.

### Act No. 41, 1966.

**Elizabeth II, No. 41, 1966** An Act to make provision for the specification of non-parole periods in respect of certain prisoners and the release of prisoners on parole, and the constitution, powers, authorities, duties and functions of the Parole Board; to amend the Crimes Act, 1900, and certain other Acts; and for purposes connected therewith. [Assented to, 11th October, 1966.]

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

**Short title.** 1. (1) This Act may be cited as the "Parole of Prisoners Act, 1966".

**Commencement.** (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

**Amendment of Act No. 40, 1900.** (3) (a) The Crimes Act, 1900, as amended by subsequent Acts, is amended by omitting section 464A.

Sec. 464A.  
(Parole Board.)

**Repeal of Act No. 36, 1950.** (b) The Crimes (Amendment) Act, 1950, is hereby repealed.

(Consequential.)

**Definitions.** 2. (1) In this Act, unless the context or subject matter otherwise indicates or requires—

"Board" means the Parole Board constituted under this Act.

"Comptroller-General" means the Comptroller-General of Prisons.

"Prison"

“Prison” has the meaning ascribed thereto in the Prisons No. 41, 1966 Act, 1952, as amended by subsequent Acts.

“Prisoner” has the meaning ascribed thereto in the Prisons Act, 1952, as amended by subsequent Acts.

(2) In sections four, five and six of this Act, “imprisonment for a term” or “term of imprisonment” does not include—

- (a) imprisonment pursuant to the Habitual Criminals Act, 1957, as amended by subsequent Acts;
- (b) imprisonment in default of payment of any fine or penalty;
- (c) imprisonment for life or imprisonment pursuant to a sentence of death;
- (d) the keeping in strict custody pursuant to subsection three of section twenty-three of the Mental Health Act, 1958, as amended by subsequent Acts;
- (e) imprisonment pursuant to Part II of the Deserted Wives and Children Act, 1901, as amended by subsequent Acts, Part XII, Part XIV or Part XVI of the Child Welfare Act, 1939, as amended by subsequent Acts, or Part III of the Maintenance Act, 1964, as amended by subsequent Acts.

3. (1) There shall be constituted a Board to be called **Parole Board.** the Parole Board.

(2) The Board shall consist of five members appointed by the Governor. Of the five members—

- (a) one shall be a Judge of the Supreme Court or the District Court, a member of the Industrial Commission of New South Wales, or a person qualified for appointment as such a judge or member; and
- (b) one at least shall be a woman.

(3) The person referred to in paragraph (a) of subsection two of this section shall be Chairman of the Board and shall preside at all meetings of the Board at which he is present.

(4)

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(4) The Governor may appoint a person having any of the qualifications referred to in paragraph (a) of subsection two of this section to be Deputy Chairman of the Board who in the absence of the Chairman shall have the like powers, authorities, duties and functions as the Chairman.

(5) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of any member of the Board, and a member shall not, in his capacity as such, be subject to the provisions of any such Act during his term of office.

(6) The Board shall not make any decision, determination or recommendation unless at least three members (one of whom is the Chairman) concur therein.

(7) A member of the Board shall, subject to this section, hold office for a period of three years from the date of his appointment and shall be eligible for re-appointment from time to time upon the expiration of his term of office.

(8) A member of the Board shall be deemed to have vacated his office if he—

- (a) is absent from three consecutive ordinary meetings of the Board except upon leave granted by the Minister;
- (b) resigns his office by writing under his hand addressed to the Governor;
- (c) dies;
- (d) is removed from office by the Governor;
- (e) being a person referred to in paragraph (a) of subsection two of this section, ceases to hold the qualification by virtue of which he was appointed to the Board.

(9) A member of the Board shall be paid such fees and allowances as may be approved by the Governor.

(10) Meetings of the Board shall be held at such times and places as are fixed by the Chairman and the procedure at any such meetings shall be as determined by the Board.

4. (1) This section applies to and in respect of persons convicted before or after the commencement of this Act and sentenced to imprisonment after such commencement.

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Specification of non-parole periods for prisoners sentenced after commencement of this Act.

(2) Where a person convicted as aforesaid by a court, judge or justice of an offence is sentenced to imprisonment for a term—

- (a) of not less than twelve months, the court, judge or justice shall; or
- (b) of less than twelve months, the court, judge or justice may,

specify a period, in any case not less than six months, before the expiration of which the person so sentenced shall not be released on parole pursuant to this Act, which period is hereinafter referred to as the "non-parole period".

(3) If it appears to a court, judge or justice that by reason of the nature of the offence or the antecedent character of the person convicted as aforesaid the specification of a non-parole period pursuant to paragraph (a) of subsection two of this section in respect of a person convicted as aforesaid is undesirable the court, judge or justice may refrain from specifying a non-parole period and in any such case the court, judge or justice shall give its or his determination and the reasons therefor in writing.

(4) Where a court, judge or justice sentences any person who at the time of the imposition of such sentence is serving a term of imprisonment to an additional term of imprisonment such court, judge or justice imposing such additional term of imprisonment shall specify or may specify, having regard to the provisions of this section, a non-parole period in respect of the aggregate of the terms of imprisonment imposed upon such person. A non-parole period specified in pursuance of this subsection shall be in substitution for any non-parole period previously specified pursuant to this section or section five of this Act. In no case shall the specification of a non-parole period in pursuance of this subsection have the effect of reducing the period, whether such period is a non-parole period or not, before the expiration of which a prisoner would be otherwise released on parole pursuant to this Act.

(5)

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No. 41, 1966 (5) Where a term of imprisonment imposed by a court, judge or justice is varied upon appeal and—

- (a) such court, judge or justice has specified a non-parole period in respect of such term of imprisonment such non-parole period may be varied upon the appeal; or
- (b) where no non-parole period has been specified by reason of the operation of paragraph (b) of subsection two or of subsection three of this section a non-parole period may be specified upon the appeal.

Imposition of non-parole periods for prisoners sentenced before commencement of this Act.

5. (1) This section applies to and in respect of persons convicted and sentenced before the commencement of this Act to imprisonment for a term and serving such term of imprisonment at such commencement.

(2) Where a person to whom this section applies is not due for release, any remission of sentence being taken into consideration, within twelve months of the commencement of this Act and the court, judge or justice by whom such person has been sentenced has not made a recommendation relating to the release of that person within a specified period, the Board shall, as soon as practicable after such commencement—

- (a) specify in relation to such person a period (being a period expiring on a date later than six months after he began to serve his term of imprisonment but earlier than the date on which but for this subsection he would be otherwise eligible for release) before the expiration of which the person so sentenced shall not be released on parole pursuant to this Act; or
- (b) make a recommendation that such person should not be released before the date on which but for this subsection he would be otherwise eligible for release.

Such period shall, where it is earlier than the date on which he would be otherwise eligible for release, be deemed to be a non-parole period for the purposes of this Act.

6.

## 6. (1) The Board shall—

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- (a) where a non-parole period was specified by a court, judge or justice pursuant to section four of this Act in respect of a prisoner;
- (b) where a period deemed to be a non-parole period for the purposes of this Act pursuant to section five of this Act has been specified in respect of a prisoner; or
- (c) in the case of a prisoner serving a term of imprisonment at the commencement of this Act and in respect of whom the court, judge or justice imposing such sentence has made a recommendation that such prisoner be considered for release after a specified period (which period shall be deemed to be a non-parole period for the purposes of this Act),

Parole orders.

consider before the expiration of the non-parole period whether or not such prisoner should be released on parole.

## (2) After consideration of such matter the Board may—

- (a) authorise and direct, by order in writing (which order is hereinafter referred to as a "parole order") that the prisoner be released from prison on parole at the time specified in the parole order being—
  - (i) in the case of a prisoner who has, in the opinion of the Board, exhibited excellence in conduct, training, industry, education or some other aspect of penal rehabilitation, a time preceding the expiration of the non-parole period provided that such time does not reduce the non-parole period by more than four days for each month of actual servitude; or
  - (ii) in any other case a time not earlier than the expiration of the non-parole period;
- (b) determine that the prisoner not be released from prison upon the expiration of the non-parole period; or
- (c) determine that the matter be reviewed from time to time as the Board deems fit.

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**No. 41, 1966** Any parole order shall subject to this Act be in force for such period and be subject to such terms and conditions as the Board may determine and shall be sufficient warrant for the governor of the prison in which the prisoner is detained to release such prisoner in accordance with the tenor of the parole order.

The terms and conditions of a parole order may include terms and conditions requiring the person to whom the parole order applies to subject himself to the supervision of a parole officer during the period specified in the parole order.

The Board may revoke, amend or vary any parole order either before or after the person in respect of whom the parole order applies has been released thereunder.

Any parole order as so amended or varied shall accordingly apply to such person.

(3) Where a parole order has been revoked after the release of a prisoner from prison the Board may, by warrant signed by any two members, authorise any member of the police force or parole officer to apprehend the person to whom the parole order applies and to return him to a prison to serve the unexpired portion of his term of imprisonment (any period of release on parole not to be taken into account), and such warrant shall be sufficient authority for the apprehension of such person and his return to and retention in a prison.

The Board may issue further parole orders in respect of a prisoner whose retention in a prison is in consequence of the operation of this subsection.

(4) Where during the parole period a parole order has not been revoked the person to whom the parole order applies shall upon the expiration of the parole period be deemed to have served the term of imprisonment in respect of which the parole order was made and shall be wholly discharged therefrom.

7. The Board shall report to the Minister upon the release of any prisoner in any case where the Minister has referred such matter to the Board and the Board may at such times

**Reports  
to the  
Minister  
on certain  
prisoners.**

as

as it considers desirable report to the Minister upon whether the keeping in strict custody of a person under subsection three of section twenty-three of the Mental Health Act, 1958, as amended by subsequent Acts, should be continued or not. No. 41, 1966

8. (1) The Comptroller-General and all persons employed in a prison shall grant to the members of the Board or to any person authorised in writing by the Board in that behalf access at all reasonable times to any prisoner confined in that prison whose release on parole is being considered by the Board or whose case has been referred to the Board by the Minister under section seven of this Act or in respect of whom a non-parole period is applicable, and shall provide for such members or person facilities for communicating with or observing such prisoner. Access to and information concerning prisoners.

(2) (a) The Comptroller-General and the Commissioner of Police shall, if so requested by the Board, furnish or cause to be furnished to the Board reports on the conduct and character of any prisoner whose release on parole is being considered by the Board or whose case has been referred to it by the Minister under section seven of this Act or in respect of whom a non-parole period is applicable.

(b) Where any such prisoner was formerly an inmate of an institution within the meaning of the Child Welfare Act, 1939, as amended by subsequent Acts, the Director of the Child Welfare Department shall, if so requested by the Board, furnish or cause to be furnished to the Board a report on the conduct and character of the prisoner while an inmate of the institution.

(c) There shall be included in any report on the conduct and character of a prisoner furnished or caused to be furnished to the Board under this subsection any information available to the person furnishing the report or causing the same to be furnished which may be of assistance to the Board in considering the case of the prisoner.

9. Nothing in this Act shall be so construed as to limit or affect in any manner the Royal prerogative of mercy. Royal prerogative of mercy preserved.

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