

NORTHERN TERRITORY OF AUSTRALIA

PAROLE OF PRISONERS ACT

As in force at 1 July 1996

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NORTHERN TERRITORY OF AUSTRALIA

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PAROLE OF PRISONERS ACT

An Act relating to Sentences of imprisonment imposed on the release on parole of certain persons found guilty of offences

1 Short title

This Act may be cited as the *Parole of Prisoners Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Interpretation

(1) In this Act, unless the contrary intention appears:

constable means a Commonwealth Police Officer or a member of the police force of the Territory.

court means the Supreme Court or a court of summary jurisdiction.

minimum term of imprisonment means that part of a term of imprisonment to which a person has been sentenced by a court that is fixed by the court as the period during which the person is not eligible to be released on parole.

offence means an offence against a law (other than a Commonwealth Act or regulations under a Commonwealth Act) in force in the Territory.

offender means a person convicted of an offence against a law (other than a Commonwealth Act or regulations under a Commonwealth Act) in force in the Territory.

parole officer means a parole officer, or honorary parole officer, appointed under section 3P.

parole order means an order made under section 5(2) and, if such an order has been amended, means the order as amended.

prison includes any place where a person who has been sentenced to a term of imprisonment may be detained to undergo that imprisonment.

the Board means the Parole Board of the Northern Territory established under this Act.

the Chairman means the Chairman of the Board, and includes an Acting Chairman.

the parole period, in relation to a person who has been released from prison on parole in pursuance of section 5, means the period that:

- (a) commences on the day on which the person is released from prison; and
 - (b) ends on the day on which the term of imprisonment to which that person was sentenced expires, or, if the parole order in relation to the person is revoked or cancelled, on the date of the revocation or cancellation.
- (3) For the purposes of this Act, a person shall be deemed to have served a term of imprisonment:
- (a) when he is discharged from imprisonment; or
 - (b) when he would, but for the fact that he is serving another term of imprisonment, have been discharged from imprisonment.

3A Parole Board

For the purposes of this Act, there shall be a board to be known as the Parole Board of the Northern Territory.

3B Members of Board

- (1) The Board shall consist of:
- (a) the Chief Justice;
 - (b) the Director of Correctional Services appointed under section 6(1) of the *Prisons (Correctional Services) Act*; and
 - (c) 4 other members appointed by the Minister.
- (2) Where a member of the Board is or is about to be, not available to perform his functions as a member of the Board, or there is a vacancy in the office of a member of the Board, the Minister may appoint a person to act as a member of the Board while the

member is so not available or during that vacancy.

- (3) A person so appointed shall, while so acting, be deemed to be a member of the Board.
- (4) A member of the Board who is appointed to the Board holds office, subject to this Act, for a period of 3 years from the date of his appointment, but is eligible for re-appointment.

3C Chairman of the Board

- (1) The Chief Justice shall be Chairman of the Board.
- (2) Every Judge of the Supreme Court is an Acting Chairman of the Board.
- (3) Where the Chairman is unable or does not wish to attend a meeting of the Board, he may appoint an Acting Chairman to attend the meeting in his stead.
- (4) Where the Chairman is, or is about to be, not available to perform the functions of his office as Chairman, he may appoint an Acting Chairman to perform the functions of that office in his stead while he is so not available.
- (5) Where an Acting Chairman attends a meeting of the Board pursuant to this section he shall, while so attending, be deemed to be a member of the Board.

3E Resignation of member

A member of the Board who is appointed to the Board may resign his office by writing under his hand addressed to the Minister.

3F Meetings of the Board

- (1) The Board shall meet as often as the Chairman thinks necessary.
- (2) A meeting of the Board shall be convened by the Chairman, or by the Secretary to the Board on the direction of the Chairman, by notice in writing to the other members of the Board, and shall be held at the time and place specified in the notice.
- (3) The Chairman shall preside at all meetings of the Board at which he is present.
- (4) At a meeting of the Board, 3 members constitute a quorum.
- (5) A question arising at a meeting of the Board shall be determined by a majority of votes.

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- (6) The Chairman has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
 - (7) The Secretary to the Board shall keep a record of its proceedings.
 - (8) Subject to this Act, the procedure at meetings of the Board shall be as the Board determines.

3G Chairman may require attendance of prisoner

Where, at a meeting of the Board, a matter relating to a prisoner is to be discussed, the Chairman may, if he considers it necessary or desirable, require the prisoner to be brought before the Board.

3H Board to prepare annual report

- (1) The Board shall, as soon as practicable after each 31 December, prepare and furnish to the Minister a report of its activities during the year ended on that date.
- (2) A copy of each report shall be laid before the Legislative Assembly within 10 sitting days of the Legislative Assembly after it has been so furnished.

3HA 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 a decision or action of the Chairman or direction of the Board under this Act.

3J Actions not to lie against members or parole officers

- (1) An action or proceeding, whether civil or criminal, does not lie against a member of the Board or parole officer for or in respect of an act or thing done in good faith by the member or parole officer in his capacity as member or parole officer, as the case may be.
- (2) An act or thing shall be deemed to have been done in good faith if the member of the Board or parole officer by whom the act or thing was done was not actuated by ill-will to the person affected or by any other improper motive.

3K Secretary to the Board

- (1) The Minister may appoint a person to be Secretary to the Board.
- (2) Subject to the directions of the Minister, the Secretary to the Board shall:
 - (a) act generally as secretary to the Board;

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- (b) record minutes of meetings of the Board;
 - (c) prepare the agenda of parole cases for each meeting of the Board;
 - (d) prepare parole orders and other documents as directed by the Board; and
 - (e) carry out such other duties as directed by the Board or the Chairman.

3P Parole officers

- (1) The Minister may appoint persons to be parole officers for the purposes of this Act.
- (2) The Board may appoint a person to be an honorary parole officer for such period as it thinks fit.

3Q Resignation of parole officers

A parole officer may resign his office by writing under his hand addressed to the Chairman.

3R Functions of parole officers

It is the duty of a parole officer:

- (a) to supervise persons released on parole as assigned by the Board;
- (b) to prepare reports as required by the Board;
- (c) to maintain case records and statistics as required by the Board;
- (d) to carry out the directions of the Board in relation to a parole order;
- (e) to investigate and make reports to the Board on the employment and place of living available to each person applying for release on parole; and
- (f) to perform such other duties as directed by the Board or the Chairman.

5 Release of offenders on parole

- (2) Subject to this section the Board may, in its discretion, by order in writing direct that a person, being a person who is serving a term of imprisonment for an offence in respect of which a minimum term of

imprisonment has been fixed in pursuance of this Act or the *Sentencing Act*, be released from prison on parole at a time specified in the order, being a time that is after the expiration of that minimum term of imprisonment.

- (3) An order under subsection (2) in relation to a person is sufficient authority for the release of the person from prison.
- (5) A parole order:
 - (a) shall be expressed to be subject to the condition that the person to whom it relates shall, during the parole period, be subject to supervision on parole under a person, for the time being, appointed in accordance with the order and shall obey all reasonable directions of the person so appointed; and
 - (b) is subject to such other conditions, if any, as are specified in the order.
- (6) The Chairman may, at any time before the expiration of the parole period, by order in writing:
 - (a) amend a parole order by varying or revoking a condition of the order, other than the condition referred to in subsection (5)(a), or by imposing additional conditions; or
 - (b) revoke the parole order.
- (6AA) The Chairman may, in his discretion but subject to subsections (6AB) and (6A), at any time after the expiration of the parole period, where the person to whom the parole order related:
 - (a) before or after the expiration of the parole period is found guilty of an offence committed during the parole period (including an offence against a Commonwealth Act, regulations under a Commonwealth Act, or a law of a State or another Territory), and as a result of the finding of guilt is sentenced otherwise than to a term of actual imprisonment;
 - (b) before or after the expiration of the parole period was or is proceeded against for such an offence and was or is released by the court before which the proceedings were brought (whether or not he is found guilty) on condition as to his future good behaviour or any other condition; or
 - (c) failed, during the parole period, to comply with a condition of the parole order,

by order in writing, direct that the parole order be revoked and the parole order shall thereupon be deemed to have been revoked as from the time immediately before the expiration of the parole period.

- (6AB) The Chairman shall not make an order under subsection (6AA) if, before the expiration of the parole period, he was aware of the relevant finding of guilt, proceedings or failure.
- (6A) The Board may give directions to the Chairman for his guidance for the purposes of subsection (6) or (6AA).
- (7) An amendment of a parole order under subsection (6) does not have effect until notice of the amendment is given to the person to whom the parole order relates, being notice given before the expiration of the parole period.
- (8) Subject to subsections (8A) and (8B), where a person to whom a parole order relates is sentenced to a term of imprisonment in respect of an offence committed during the parole period (including an offence against a Commonwealth Act, regulations under a Commonwealth Act, or a law of a State or another Territory), the parole order shall thereupon be deemed to have been revoked or, if the parole period has already expired, to have been revoked as from the time immediately before the expiration of the parole period.
- (8A) Subject to subsection (8B), a parole order shall not be deemed to be revoked where a person to whom it relates is sentenced to a term of imprisonment but is released forthwith in pursuance of a direction given under section 5(1)(b) of the *Criminal Law (Conditional Release of Offenders) Act* or section 40 of the *Sentencing Act*.
- (8B) Where a person is subsequently committed to prison under section 6 of the *Criminal Law (Conditional Release of Offenders) Act* or section 15 of the *Sentencing Act*, the parole order shall be deemed to be revoked when the person is so committed.
- (9) Where:
- (a) a parole order in relation to a person is revoked; or
 - (b) the person to whom a parole order relates has, during the parole period, failed to comply with a condition of the parole order or there are reasonable grounds for suspecting that he has, during that period, failed to comply with a condition of that order,

a constable may:

- (c) where the person is in the Territory – without warrant, arrest that person; or
 - (d) where the person is, or where there are reasonable grounds for suspecting that that person is, in a State or another Territory – with a warrant referred to in subsection (9A), arrest that person.
- (9A) For the purposes of subsection (9)(d), a court may, upon application being made to it by the Director of Public Prosecutions, issue a warrant authorizing a constable to arrest a person referred to in that subsection.
- (10) Where a constable arrests a person in pursuance of subsection (9), the constable shall, as soon as practicable, take the person before a court of summary jurisdiction.

6 Cancellation of parole by court

- (1) If a constable arrests a person in the circumstances specified in section 5(9)(b), the court before which he is taken may, in its absolute discretion but subject to subsection (2), cancel the parole order.
- (2) The court shall not, under subsection (1), cancel a parole order unless it is satisfied that the person has failed, without reasonable excuse, to comply with a condition of the parole order.

7 Issue of warrant where parole order revoked or cancelled

Where:

- (a) a person has been brought before a court of summary jurisdiction in pursuance of section 5(10); and
- (b) the court is satisfied that the parole order in relation to the person has been revoked or the court cancels the parole order in relation to the person,

the court shall issue a warrant for the commitment of the person to prison to serve the part of the term of imprisonment to which the parole order relates that he has not served.

8 Remand of person

- (1) Where a person has been brought before a court of summary jurisdiction in pursuance of section 5(10), the court may defer or adjourn the hearing of the matter and may:

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- (a) by warrant from time to time remand the person to a prison, lock-up or other place of custody there to be kept until the time appointed for continuing the hearing; or
 - (b) grant the person bail in accordance with the *Bail Act*.

9 Release of person on bail

- (1) Where:
 - (a) a warrant has been issued in respect of a person under section 7; and
 - (b) an appeal is instituted by the person in pursuance of section 10,a court of summary jurisdiction may, on the application of the person, grant the person bail in accordance with the *Bail Act*.
- (2) Where an appeal under section 10 is allowed, a bail undertaking and any bail conditions entered into pursuant to a grant of bail under subsection (1) shall thereupon cease to have effect.
- (3) Where a person has been released on bail pursuant to a grant of bail made under subsection (1), a warrant issued under section 7 in respect of the person shall not, unless the person fails to comply with his bail undertaking or an agreement entered into by him pursuant to a bail condition, be executed or further executed before the appeal is disposed of.

10 Appeal from decision to cancel parole order

- (1) Where a court of summary jurisdiction, in pursuance of section 6, cancels a parole order, the person to whom the order relates may appeal to the Supreme Court against the cancellation and the Supreme Court shall:
 - (a) if it is satisfied that the ground on which the parole order was cancelled has been established – confirm the cancellation; or
 - (b) if it is not so satisfied – order that the cancellation and any warrant issued as a result of the cancellation cease to have effect.
- (2) An appeal under subsection (1) shall be by way of re-hearing, but the Supreme Court may have regard to any evidence given before the court of summary jurisdiction.

11 Service of term of imprisonment

Where a parole order in relation to a person is revoked or cancelled and the person is taken into custody in pursuance of this Act, the person shall, during any period in which he is in custody in pursuance of this Act be deemed to be serving the part of the term of imprisonment that remained to be served at the commencement of the parole period.

13 Release of person on parole after revocation or cancellation of previous parole order

A parole order may be made in relation to a person notwithstanding that a previous parole order in relation to the person has been revoked or is to be deemed to have been revoked, or has been cancelled.

14 Effect of parole order on sentence

(1) Where a parole order is made in relation to a person:

- (a) he shall be deemed to be still under sentence of imprisonment, and not to have served the part of the term of imprisonment that remained to be served at the commencement of the parole period, until the parole period expires without the parole order being revoked or cancelled or until he is otherwise discharged from that imprisonment; and
- (b) if the parole period expires without the parole order being revoked or cancelled, he shall be deemed to have served the part of the term of imprisonment that remained to be served at the commencement of the parole period and to have been discharged from that imprisonment.

(2) Where a parole order in relation to a person is, under section 5(6AA) or (8), deemed to have been revoked as from the time immediately before the expiration of the parole period, subsection (1) has effect as if the parole period had not expired without the parole order being revoked or cancelled.

15 Remission already earned before parole order revoked or cancelled

Where:

- (a) a parole order in relation to a person is revoked or cancelled under this Act; and

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- (b) before the revocation or cancellation, the person had earned under the *Prisons (Correctional Services) Act* or another law of the Territory a period of partial remission of the sentence of imprisonment in respect of which the parole order was made,

the period so earned shall, notwithstanding this or any other law of the Territory, be deducted from the term of imprisonment that remains to be served as a result of the revocation or cancellation of the parole order.

16 Exercise of Royal prerogative of mercy and operation of other Commonwealth laws or Territory laws

This Act does not affect:

- (a) the exercise of the Royal prerogative of mercy;
- (c) the operation of any other law of the Commonwealth, or of any law in force in a Territory, relating to the release of offenders.

17 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.

ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Parole of Prisoners Ordinance 1971 (Act No. 33, 1971)***

Assent date	16 June 1971
Commenced	10 May 1972 (Gaz No. 19, 10 May 1972, p 161)

Ordinances Revision Ordinance 1973 (Act No. 87, 1973)

Assent date	11 December 1973
Commenced	11 December 1973 (s 12(2))

Amending Legislation***Ordinances Revision Ordinance 1974 (Act No. 34, 1974)***

Assent date	26 August 1974
Commenced	11 December 1973 (s 3(2))

Ordinances Revision Ordinance (No. 2) 1974 (Act No. 69, 1974)

Assent date	24 October 1974
Commenced	11 December 1973 (s 3)

Ordinances Revision Ordinance 1976 (Act No. 27, 1976)

Assent date	28 June 1976
Commenced	ss 1, 2 and 6: 28 June 1976 (s 6(2)); ss 3 and 4: 11 December 1973; s 5: 24 October 1974

Parole of Prisoners Ordinance 1974 (Act No. 46, 1974)

Assent date	23 September 1974
Commenced	23 September 1974

Parole of Prisoners Ordinance 1976 (Act No. 61, 1976)

Assent date	26 November 1976
Commenced	1 December 1976 (Gaz No. 48A, 30 November 1976, p 1409)

Parole of Prisoners Ordinance 1977 (Act No. 36, 1977)

Assent date 29 July 1977
 Commenced 9 September 1977 (*Gaz No. 36, 9 September 1977, p 4*)

Transfer of Powers (Self-Government) Ordinance 1978 (Act No. 54, 1978)

Assent date 1 July 1978
 Commenced 1 July 1978 (s 8)

Law Officers Ordinance 1978 (Act No. 61, 1978)

Assent date 1 July 1978
 Commenced 1 July 1978

Statute Law Revision Act 1978 (Act No. 95, 1978)

Assent date 5 September 1978
 Commenced 5 September 1978

Parole of Prisoners Act 1979 (Act No. 100, 1979)

Assent date 3 September 1979
 Commenced 3 September 1979

Remuneration (Statutory Bodies) Act 1979 (Act No. 9, 1980)

Assent date 14 January 1980
 Commenced 8 February 1980 (*Gaz G6, 8 February 1980, p 6*)

Statute Law Revision Act (No. 3) 1981 (Act No. 91, 1981)

Assent date 21 September 1981
 Commenced 21 September 1981

Statute Law Revision Act (No. 4) 1981 (Act No. 4, 1982)

Assent date 12 February 1982
 Commenced 12 February 1982

Parole of Prisoners Amendment Act 1982 (Act No. 9, 1982)

Assent date 8 April 1982
 Commenced 8 April 1982

Parole of Prisoners Amendment Act (No. 2) 1982 (Act No. 63, 1982)

Assent date 8 October 1982
 Commenced 29 June 1983 (s 2, s 2 *Bail Act 1982* (Act No. 57, 1982) and *Gaz S19, 29 June 1983*)

Law Officers Amendment Act (No. 2) 1986 (Act No. 48, 1986)

Assent date 10 December 1986
 Commenced 19 December 1986 (*Gaz S87, 17 December 1986*)

Parole of Prisoners Amendment Act 1987 (Act No. 52, 1987)

Assent date 16 November 1987
 Commenced 3 February 1988 (s 2, s 2 *Criminal Law (Conditional Release of Offenders) Amendment Act 1987* (Act No. 53, 1987) and *Gaz S2, 1 February 1988*)

Parole of Prisoners Amendment Act 1989 (Act No. 37, 1989)

Assent date 20 September 1989
 Commenced 1 November 1989 (*Gaz G43, 1 November 1989, p 7*)

Director of Public Prosecutions (Consequential Amendments) Act 1990 (Act No. 29, 1990)

Assent date	11 June 1990
Commenced	21 January 1991 (s 2, s 2 <i>Director of Public Prosecutions Act 1990</i> (Act No. 35, 1990) and Gaz G2, 16 January 1991, p 9)

Statute Law Revision Act 1994 (Act No. 50, 1994)

Assent date	20 September 1994
Commenced	20 September 1994

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date	19 April 1996
Commenced	s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 <i>Sentencing Act 1995</i> (Act No. 39, 1995) and Gaz S15, 13 June 1996)

3 SAVINGS AND TRANSITIONAL PROVISIONS

- s 5 *Parole of Prisoners Ordinance 1976* (Act No. 61, 1976)
- s 4 *Parole of Prisoners Ordinance 1977* (Act No. 36, 1977)
- s 6 *Parole of Prisoners Act 1979* (Act No. 100, 1979)

4 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Ordinances Revision Ordinance 1973* (Act No. 87, 1973) (as amended) to the following provisions: ss 3, 5, 6, 7, 8, 9, 10, 12, 14, and 16.

5 LIST OF AMENDMENTS

It	amd No. 91, 1981, s 2; No. 17, 1996, s 6
s 1	amd No. 91, 1981, s 2
s 2	amd No. 91, 1981, s 2
s 3	amd No. 61, 1976, s 6; No. 100, 1979, ss 3 and 5; No. 91, 1981
s 3A	ins No. 61, 1976, s 7 amd No. 91, 1981, s 2
s 3B	ins No. 61, 1976, s 7 amd No. 36, 1977, s 8; No. 54, 1978, s 3; No. 91, 1981, s 2; No. 37, 1989, s 4
s 3C	ins No. 61, 1976, s 7 amd No. 91, 1981, s 2
s 3D	ins No. 61, 1976, s 7 amd No. 36, 1977, s 5 rep No. 9, 1980, s 6
s 3E	ins No. 61, 1976, s 7 amd No. 36, 1977, s 8; No. 54, 1978, s 3
s 3F	ins No. 61, 1976, s 7 amd No. 91, 1981, s 2
s 3G	ins No. 61, 1976, s 7
s 3H	ins No. 61, 1976, s 7 amd No. 36, 1977, s 8; No. 54, 1978, s 3
s 3HA	ins No. 37, 1989, s 5
s 3J	ins No. 61, 1976, s 7
s 3K	ins No. 61, 1976, s 7 amd No. 36, 1977, ss 6 and 8; No. 54, 1978, s 3

ENDNOTES

- ss 3L – 3N ins No. 61, 1976, s 7
rep No. 36, 1977, s 7
- s 3P ins No. 61, 1976, s 7
amd No. 36, 1977, s 8; No. 54, 1978, s 3; No. 91, 1981, s 2
- s 3Q ins No. 61, 1976, s 7
rep No. 27, 2014, s 26
- s 3R ins No. 61, 1976, s 7
- s 4 sub No. 61, 1976, s 8
amd No. 61, 1978, s 4; No. 91, 1981, s 2; No. 48, 1986, s 9; No. 52, 1987,
s 3; No. 29, 1990, s 7
rep No. 17, 1996, s 6
- s 4A ins No. 61, 1976, s 8
rep No. 17, 1996, s 6
- s 5 amd No. 61, 1976, s 9; No. 100, 1979, ss 4 and 5; No. 91, 1981, s 2; No. 9,
1982, s 3; No. 48, 1986, s 9; No. 37, 1989, s 6; No. 29, 1990, s 7; No. 50,
1994, s 16 No. 17, 1996, s 6
- s 6 amd No. 100, 1979, s 5; No. 9, 1982, s 4; No. 37, 1989, s 7; No. 8, 1997, s 4
- s 7 amd No. 100, 1979, s 5
- s 8 amd No. 100, 1979, s 5; No. 63, 1982, s 4
- s 9 amd No. 63, 1982, s 5
- s 11 amd No. 91, 1981, s 2
- s 12 amd No. 61, 1976, s 10; No. 61, 1978, s 4; No. 100, 1979, s 5; No. 9, 1981,
s 4; No. 9, 1982, s 5; No. 48, 1986, s 9; No. 37, 1989, s 8
rep No. 17, 1996, s 6
- s 13 sub No. 61, 1976, s 11
- s 14 amd No. 100, 1979, s 5; No. 91, 1981, s 2; No. 37, 1989, s 9
- s 15 sub No. 46, 1974, s 3
amd No. 91, 1981, s 2; No. 37, 1989, s 10
- s 16 amd No. 4, 1982, s 3
- s 17 amd No. 95, 1978, s 14; No. 91, 1981, s 2