

# NORTHERN TERRITORY OF AUSTRALIA

## PAROLE ACT 1971

As in force at 8 October 2021

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 8 October 2021

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## PAROLE ACT 1971

**An Act relating to sentences of imprisonment imposed on, and the release on parole of, certain persons found guilty of offences**

### **Part 1                      Preliminary matters**

#### **1                      Short title**

This Act may be cited as the *Parole Act 1971*.

#### **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:

***appointed member*** means a member of the Board appointed under section 3B(1A) or (2).

***approved monitoring device***, see section 165 of the *Correctional Services Act 2014*.

***Chairperson*** means the Chairperson of the Board under section 3C.

***court*** means the Supreme Court or Local Court.

***custodial correctional facility***, see section 11(1)(a) of the *Correctional Services Act 2014*.

***non-parole period***, see section 3(1) of the *Sentencing Act 1995*.

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

**parole period**, see section 3AA.

**police officer** means:

- (a) a member of the Police Force of the Territory; or
- (b) a member of the Australian Federal Police.

**prisoner**, see section 6 of the *Correctional Services Act 2014*.

**probation and parole officer**, see section 4 of the *Correctional Services Act 2014*.

**relevant offence**, see section 5(1).

**sanction** means a period of a person's sentence of imprisonment which must be served in a custodial correctional facility by the person under the sanctions matrix.

**sanctions matrix**, see section 4C.

**sanctions regime** means the application of the sanctions matrix to an instance of non-compliance with a condition of a person's parole order.

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

- (3) For this Act, a person is taken to have served a term of imprisonment:
  - (a) when the person is discharged from imprisonment; or
  - (b) when the person would, but for the fact that the person is serving another term of imprisonment, have been discharged from imprisonment.

**3AA Parole period**

- (1) The ***parole period***, in relation to a person who is released from the custody of the Commissioner of Correctional Services under a parole order, is the period:
- (a) commencing on the day on which the person is released from custody; and
  - (b) expiring:
    - (i) on the day on which the term of imprisonment to which the person was sentenced expires; or
    - (ii) if the parole order in relation to the person is revoked or cancelled – on the date of the revocation or cancellation.
- (2) However, if the person's parole order contains a condition that the sanctions regime applies in relation to the order – any time served in custody as a sanction does not form part of the parole period.

**3AB Application to youth detainees**

- (1) This Act applies to a youth detainee as if:
- (a) a reference to a prisoner or offender were a reference to the youth detainee; and
  - (b) a reference to imprisonment included a reference to detention; and
  - (c) the reference to the *Sentencing Act 1995* in section 5(1) included a reference to the *Youth Justice Act 2005*; and
  - (d) a reference to the Commissioner of Correctional Services, other than a reference in Part 2, included a reference to the CEO (Youth Justice); and
  - (e) a reference to the Local Court were a reference to the Youth Justice Court; and
  - (f) a reference to a custodial correctional facility were a reference to a detention centre; and
  - (g) a reference to a probation and parole officer included a reference to a community youth justice officer; and
  - (h) a reference to an approved monitoring device were a reference to an approved monitoring device as defined in section 5(1) of the *Youth Justice Act 2005*.

(2) In this section:

**CEO (Youth Justice)** means the Chief Executive Officer (as defined in section 19 of the *Public Sector Employment and Management Act 1993*) of the Agency responsible for youth justice.

**community youth justice officer**, see section 5(1) of the *Youth Justice Act 2005*.

**detention centre**, see section 5(1) of the *Youth Justice Act 2005*.

**youth detainee** means a detainee as defined in section 5(1) of the *Youth Justice Act 2005*.

**Youth Justice Court** means the Youth Justice Court continued in existence by section 45 of the *Youth Justice Act 2005*.

## **Part 2            Administrative matters**

### **Division 1        Parole Board**

#### **3A            Parole Board established**

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

#### **3B            Membership of Board**

- (1) The Board must have 18 members who are to be:
- (a) a lawyer who has been admitted to the legal profession for at least 10 years; and
  - (b) the Commissioner of Correctional Services; and
  - (c) 2 police officers nominated by the Commissioner of Police; and
  - (d) 2 persons, each of whom is:
    - (i) a medical practitioner; or
    - (ii) a person registered under the Health Practitioner Regulation National Law to practise in the psychology profession (other than as a student); and
  - (e) 2 persons, each of whom represents the interests of victims of crime; and



- (f) 10 persons who reflect, as closely as possible, the composition of the community at large and include women and Aboriginals and Torres Strait Islanders.

(1A) The member mentioned in subsection (1)(a):

- (a) is to be appointed in writing by the Administrator; and
- (b) holds office for 5 years but, subject to sections 3E and 3EA, may continue to hold office beyond 5 years until the appointment of a successor; and
- (c) is eligible for re-appointment.

(2) A member mentioned in subsection (1)(d), (e) or (f):

- (a) is to be appointed in writing by the Administrator; and
- (b) holds office for 3 years commencing on the date of appointment; and
- (c) is eligible for re-appointment.

(3) The validity of a decision or direction of the Board is not affected by a vacancy in the membership of the Board.

### **3C            Chairperson of Board**

The member mentioned in section 3B(1)(a) is the Chairperson of the Board.

### **3D            Appointment of persons to act as appointed members**

- (1) The Minister may appoint a person to act as an appointed member:
  - (a) during a vacancy in the office of the member, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when the member is for any reason unable to perform the functions of the office.
- (2) A person appointed to act under subsection (1) during a vacancy in an office must not act in that office continuously for more than 12 months.
- (3) A person is not to be appointed to act under subsection (1) as an appointed member unless the person is eligible to be appointed as such a member.

- (4) Anything done by or in relation to a person purporting to act in pursuance of an appointment under subsection (1) is not invalid on the ground:

- (a) the appointment was ineffective or had ceased to have effect; or
- (b) the occasion to act had not arisen or had ceased.

### **3E            Resignation of appointed members**

An appointed member may resign his or her office by writing signed by the member and given to the Minister.

### **3EA          Removal from office of appointed members**

- (1) The Administrator must terminate the appointment of an appointed member if the member ceases to be eligible for appointment as such a member.
- (2) The Administrator may terminate the appointment of an appointed member for inability, inefficiency, misconduct, or physical or mental incapacity.

### **3EB          Constitution of Board for different matters**

- (1) For a matter relating to a prisoner who is serving a term of imprisonment for life for the offence of murder, the Board is constituted by:
  - (a) the Chairperson; and
  - (b) the Commissioner of Correctional Services; and
  - (c) 8 other members of the Board nominated by the Chairperson:
    - (i) one of whom must be a member mentioned in section 3B(1)(c); and
    - (ii) one of whom must be a member mentioned in section 3B(1)(d); and
    - (iii) one of whom must be a member mentioned in section 3B(1)(e); and
    - (iv) 5 of whom must be members mentioned in section 3B(1)(f).

- (2) For a matter relating to any other prisoner, the Board is constituted by:
  - (a) the Chairperson; and
  - (b) the Commissioner of Correctional Services; and
  - (c) 4 other members of the Board nominated by the Chairperson:
    - (i) one of whom must be a member mentioned in section 3B(1)(c); and
    - (ii) one of whom must be a member mentioned in section 3B(1)(e); and
    - (iii) 2 of whom must be members mentioned in section 3B(1)(f); and
  - (d) if the Chairperson considers it desirable – one other member of the Board nominated by the Chairperson who must be a member mentioned in section 3B(1)(d).
- (3) For any other matter, the Board is constituted by all members of the Board.

### **3F        Meetings of Board**

- (1) The Board must meet as often as the Chairperson thinks necessary.
- (2) A meeting of the Board must be convened by the Chairperson, or by the Secretary to the Board on the direction of the Chairperson, by notice in writing to the other members of the Board, and must be held at the time and place specified in the notice.
- (3) The Chairperson must preside at all meetings of the Board.
- (4) At a meeting of the Board, a quorum is constituted by the following members present in person or by proxy appointed under section 3FA:
  - (a) for a matter relating to a prisoner who is serving a term of imprisonment for life for the offence of murder – the Chairperson and 7 other members;
  - (b) for a matter relating to any other prisoner – the Chairperson and 3 other members;
  - (c) for any other matter – the Chairperson and 9 other members.

- (5) At a meeting of the Board:
  - (a) questions of law are to be determined by the Chairperson; and
  - (b) questions (other than questions of law) concerning the release on parole of a prisoner who is serving a term of imprisonment for life for the offence of murder are to be determined by a unanimity of votes; and
  - (c) all other questions are to be determined by a majority of votes.
- (6) The Chairperson has a deliberative vote and, in the event of an equality of votes on a question to be determined by a majority of votes, also has a casting vote.
- (7) The Secretary to the Board must keep a record of its proceedings.
- (8) Subject to this Act, the procedure at meetings of the Board must be as the Board determines.

**3FA        Appointment of proxy by Commissioner of Correctional Services**

- (1) If the Commissioner of Correctional Services is unable to attend a meeting of the Board, the Commissioner may appoint a person (excluding another member of the Board) to attend and vote at the meeting as the Commissioner's proxy.
- (2) The appointment of the proxy must be in writing given to the Chairperson before the meeting.

**3H        Board to prepare annual report**

- (1) The Board must, as soon as practicable after each 31 December, prepare and give to the Minister a report of its activities during the year ended on that date.
- (2) The Minister must table a copy of the report within 10 sitting days after receiving it.

**3HA        Exclusion of rules of natural justice**

Subject to this Act, 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 Chairperson or direction of the Board under this Act.

**3J                      Actions not to lie against members or probation and parole officers**

- (1) An action or proceeding, whether civil or criminal, does not lie against a member of the Board or probation and parole officer for or in respect of an act or thing done in good faith by the member or probation and parole officer in his or her capacity as member or probation and parole officer, as the case may be.
- (2) An act or thing is taken to have been done in good faith if the member of the Board or probation and 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 must:
  - (a) act generally as secretary to the Board; and
  - (b) record minutes of meetings of the Board; and
  - (c) prepare the agenda of parole cases for each meeting of the Board at which parole cases are to be considered; and
  - (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 Chairperson.

**Division 2                      Probation and parole officers**

**3R                      Functions of probation and parole officers**

It is the duty of a probation and parole officer:

- (a) to supervise persons released on parole as assigned by the Board; and
- (aa) to supervise persons made subject to the supervision of a probation and parole officer under a non-custodial supervision order within the meaning of Part IIA of the Criminal Code; and
- (b) to prepare reports as required by the Board; and

- (c) to maintain case records and statistics as required by the Board; and
- (d) to carry out the directions of the Board in relation to a parole order; and
- (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 Chairperson.

## **Part 3                      Parole orders**

### **4                      Chairperson may require attendance of prisoner**

The Chairperson may require a prisoner to be brought before a meeting of the Board at which a matter relating to the prisoner is to be considered, if the Chairperson considers it necessary or desirable.

### **4A                      Expert advice or opinion**

The Board may, in considering a matter, seek the advice or opinion of an expert on the matter.

### **4B                      Release on parole of prisoner serving life imprisonment for murder**

- (1) This section applies if the Board is considering the release on parole of a prisoner who is serving a term of imprisonment for life for the crime of murder.
- (2) The Board may invite persons to make submissions on the matter to the Board, including the following persons:
  - (a) members of the victim's family;
  - (b) if the prisoner is an Aboriginal or Torres Strait Islander who identifies with a particular community of Aboriginals or Torres Strait Islanders – representatives of that community.
- (3) In considering the matter, the Board must have regard to the principle that the public interest is of primary importance and, in doing so, must give substantial weight to the following matters:
  - (a) the protection of the community as the paramount consideration;

- (b) the likely effect of the prisoner's release on the victim's family;
  - (c) if the prisoner is an Aboriginal or Torres Strait Islander who identifies with a particular community of Aboriginals or Torres Strait Islanders – the likely effect of the prisoner's release on that community.
- (4) The Board must not make a parole order in relation to the prisoner unless the Board considers that the prisoner has cooperated satisfactorily in the investigation of the offence to identify the location, or the last known location, of the remains of the victim of the offence.
- (5) For subsection (4), the cooperation may occur before or after the prisoner was sentenced to imprisonment.
- (6) For subsection (4), the Board must take into account any report by the Commissioner of Police evaluating the prisoner's cooperation in the investigation of the offence that is tendered to the Board.
- (7) The Commissioner of Police, in preparing a report as mentioned in subsection (6), must evaluate the following:
- (a) the nature and extent of the prisoner's cooperation;
  - (b) the timeliness of the cooperation;
  - (c) the truthfulness, completeness and reliability of any information or evidence provided by the prisoner;
  - (d) the significance and usefulness of the prisoner's cooperation.
- (8) The Board must give reasons for any decision or direction of the Board on the matter and those reasons must be included in the record of its proceedings kept under section 3F(7).

#### **4C Sanctions matrix**

The Chairperson may, on behalf of the Board, from time to time, by *Gazette* notice, determine a schedule of sanctions (the ***sanctions matrix***) for non-compliance with conditions of a parole order.

#### **5 Release on parole**

- (1) This section applies in relation to a person who is serving a term of imprisonment for an offence (the ***relevant offence***) for which a non-parole period has been fixed under this Act or the *Sentencing Act 1995*.

- (2) The Board may, by written order (a **parole order**), direct that the person be released from custody on parole at a time after the expiry of the non-parole period fixed by the sentencing court.
- (3) A parole order in relation to a person is sufficient authority for the release of the person from a custodial correctional facility.

*Note for section 5*

*Another law may specify circumstances in which a parole order cannot be made. See for example sections 12(2) and 29(2) of the Serious Sex Offenders Act 2013.*

## **5A Parole order conditions**

- (1) It is a condition of a parole order that the person to whom the order relates, during the parole period:
  - (a) is subject to supervision by a probation and parole officer; and
  - (b) must comply with all reasonable directions of the probation and parole officer.
- (2) A parole order is also subject to any other conditions specified in the order.
- (3) Without limiting subsection (2), conditions specified in a parole order may include any of the following:
  - (a) that the person to whom the order relates must reside at a specified place;
  - (b) that the person is subject to monitoring (but not if the person is a youth, unless the person was found guilty of the relevant offence by the Supreme Court);
  - (c) that the sanctions regime applies in relation to instances of non-compliance with the conditions of the order.
- (4) In this section:

**monitoring**, of a person, means one or more of the following:

- (a) the person must:
  - (i) wear or have attached, and not tamper with, destroy or otherwise interfere with, an approved monitoring device during the period the person is on parole, or a lesser period fixed by the Board; and
  - (ii) allow the placing or installation in, and retrieval from, a specified place of anything necessary for the effective operation of the device;



- (b) the person must give a spoken sample of the person's voice for use with an approved monitoring device.

**5B Amendment or revocation of parole order – before expiry of parole period**

- (1) At any time before the expiry of a person's parole period, the Chairperson may:
  - (a) amend a parole order in relation to the person by:
    - (i) varying or revoking a condition of the order (other than the condition mentioned in section 5A(1)); or
    - (ii) imposing additional conditions, including a condition that the sanctions regime applies in relation to instances of non-compliance with the conditions of the order; or
  - (b) revoke the parole order.
- (2) An amendment under subsection (1)(a) of a condition of a person's parole order:
  - (a) does not have effect until notice of the variation, revocation or determination is given to the person; and
  - (b) has no effect if notice is not given to the person before the expiry of the parole period.

**5C Commission of offence or contravention of condition during parole period**

- (1) This section applies in relation to the following persons to whom a parole order relates:
  - (a) a person who:
    - (i) is found guilty, whether before or after the expiry of the parole period under the order, of an offence committed during the parole period; and
    - (ii) is sentenced for that offence to a sentence that does not include a term of actual imprisonment;
  - (b) a person who:
    - (i) is proceeded against, whether before or after the expiry of the parole period under the order, for an offence committed during the parole period; and

- (ii) who is released by the court on condition as to future good behaviour or any other condition;
- (c) a person who, during the parole period under the order, failed to comply with a condition of the order.
- (2) The Chairperson may, by written order, direct that the person's parole order be revoked even after the parole period has expired.
- (3) The Chairperson cannot make an order under subsection (2) after the parole period has expired if, before the expiry, the Chairperson was aware of the relevant matter mentioned in subsection (1)(a), (b) or (c).
- (4) If the Chairperson makes an order under subsection (2), the parole order is taken to have been revoked immediately before the expiry of the parole period.
- (5) In this section:

**offence** includes an offence against a law of the Commonwealth, a State or another Territory.

#### **5D Parole order taken to be revoked**

- (1) This section applies in relation to a person who:
  - (a) while on parole, commits an offence; and
  - (b) is sentenced to a term of imprisonment for the offence.
- (2) The parole order is taken to have been revoked at the time of sentencing or, if the parole period has already expired immediately before the expiry of the parole period.
- (3) Despite subsection (2), the person's parole order is not taken to have been revoked if the term of imprisonment mentioned in subsection (1)(b) is wholly suspended.
- (4) However, if the suspended term of imprisonment is wholly or partially restored, the parole order is taken to be revoked when the person is committed into the custody of the Commissioner of Correctional Services.
- (5) In this section:

**offence** includes an offence against a law of the Commonwealth, a State or another Territory.

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**5E Requirements when sanctions regime condition of parole order**

- (1) This section applies if the sanctions regime applies in relation to a person's parole order.
- (2) If this section applies:
  - (a) the person must be given a copy of the sanctions matrix; and
  - (b) a probation and parole officer must explain to the person the consequences of non-compliance with the conditions of the parole order; and
  - (c) the person must acknowledge that the person has been given a copy of the sanctions matrix and the consequences of non-compliance have been explained to the person.
- (3) Subsection (2) must be complied with:
  - (a) if section 5A(3)(c) applies – before the person is released on parole; or
  - (b) if section 5B(1)(a)(ii) applies – as soon as practicable after the Chairperson amends the parole order.

**5F Application of sanctions regime**

- (1) This section applies if a person's parole order includes a condition that the sanctions regime applies to the person's parole order.
- (2) If a probation and parole officer believes on reasonable grounds that an instance of non-compliance with a condition of the person's parole order has occurred, the officer must give a written report about the matter to the Chairperson as soon as practicable after the instance of non-compliance.
- (3) If the Chairperson is satisfied that an instance of non-compliance has occurred, the Chairperson may:
  - (a) issue a written warning; or
  - (b) impose the applicable sanction under the sanctions matrix; or
  - (c) revoke the person's parole order; or
  - (d) take no action.
- (4) A sanction imposed under subsection (3)(b) must not have the effect of extending the term of imprisonment imposed at sentence.

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- (5) If the Chairperson decides that sanctions under the sanctions matrix are to be imposed in relation to multiple instances of non-compliance, the total sanction imposed must not be greater than the longest of the individual sanctions that apply in relation to the instances of non-compliance.
  - (6) If, under subsection (3)(b) the Chairperson imposes a sanction under the sanctions matrix, the Chairperson must, by written order:
    - (a) state that the Chairperson has imposed a sanction under subsection (3)(b); and
    - (b) specify the nature of the non-compliance and the sanction imposed.
  - (7) The written order is authority for a police officer to arrest the person and bring the person before the Local Court.
  - (8) The Local Court must issue a warrant of commitment of the person into the custody of the Commissioner of Correctional Services to serve the period specified in the Chairperson's order as a sanction as part of the original sentence of imprisonment if:
    - (a) the person:
      - (i) is brought before the court in accordance with subsection (7); or
      - (ii) otherwise appears before the court; and
    - (b) the court is satisfied that the Chairperson has made an order under subsection (6), imposing a sanction under the sanctions matrix.
  - (9) The effect of a person's parole order is suspended by the warrant of commitment mentioned in subsection (8).

## **5G Arrest of person**

- (1) This section applies if:
  - (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, whether or not that period has already expired, failed to comply with a condition of the parole order; or
  - (c) there are reasonable grounds for suspecting that a person has failed to comply with a condition of a parole order that relates to the person.

- (2) A police officer may:
  - (a) if the person is in the Territory – arrest the person without a warrant; or
  - (b) if the person is, or if there are reasonable grounds for suspecting the person is, in a State or another Territory – with a warrant mentioned in subsection (3), arrest the person.
- (3) A court may, on application by the Director of Public Prosecutions, issue a warrant authorising a police officer to arrest a person mentioned in subsection (2)(b).
- (4) If a police officer arrests a person under this section, the officer must, as soon as practicable, bring the person before the Local Court.

## **6 Cancellation of parole by court**

- (1) If a police officer arrests a person in the circumstances specified in section 5G(1)(b) or (c), the court before which the person is brought may, in its absolute discretion but subject to subsection (2), cancel the parole order.
- (2) The court must 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.
- (3) Where the court cancels a parole order and the parole period in relation to the order has already expired, the parole order is taken to have been cancelled as from the time immediately before the expiration of the parole period.

## **7 Issue of warrant where parole order revoked or cancelled**

The Local Court must issue a warrant of commitment of a person into the custody of the Commissioner of Correctional Services to serve the part of the term of imprisonment to which the parole order relates that the person has not served, if:

- (a) the person is:
  - (i) brought before the Local Court under section 5G(4); or
  - (ii) appears before the Local Court; 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.

**8 Remand of person**

- (1) Where a person has been brought before the Local Court under section 5G(4), the court may defer or adjourn the hearing of the matter and may:
- (a) by warrant from time to time remand the person into the custody of the Commissioner of Correctional Services until the time appointed for continuing the hearing; or
  - (b) grant the person bail in accordance with the *Bail Act 1982*.

**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;

the Local Court may, on the application of the person, grant the person bail in accordance with the *Bail Act 1982*.

- (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) ceases 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 must not, unless the person fails to comply with the person's bail undertaking or an agreement entered into by the person 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 the Local Court, 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 must:
- (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.

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- (2) An appeal under subsection (1) is by way of re-hearing, but the Supreme Court may have regard to any evidence given before the Local Court.

## **11 Service of term of imprisonment**

- (1) This section applies if:
- (a) a parole order in relation to a person is revoked or cancelled and the person is taken into custody under this Act; or
  - (b) a person is taken into custody to serve a sanction.
- (2) During any period of custody as mentioned in subsection (1)(a) or (b), the person is taken to be serving the part of the term of imprisonment that remained to be served at the commencement of the person's parole period (the **remainder**).
- (3) For a person mentioned in subsection (1)(b), any time spent in custody between the person's arrest under section 5F(7) and the time the person enters into the custody of the Commissioner of Correctional Services under section 5F(8) is taken to be time served as part of the remainder.
- (4) In accordance with subsection (3), the Local Court must backdate the warrant of commitment issued under section 5F(8) to reflect the time the person spent in custody after the person's arrest.

## **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 even if a previous parole order in relation to the person has been revoked or is taken to have been revoked, or has been cancelled.

## **13A Release on parole after serving sanction**

- (1) This section applies if a person has served a sanction.
- (2) At the completion of serving the sanction, the person is to be released again on parole and, while on parole, continues to be subject to the parole order originally applying to the person when the sanction was imposed.

*Note for subsection (2)*

*Section 14A provides for circumstances where the parole order originally applying may be modified.*

- (3) A probation and parole officer must, before the person is released under the parole order originally applying to the person or as soon as practicable after the person's release:
  - (a) explain to the person that the sanctions regime will continue to apply as a condition of the person's parole order, and warn the person accordingly; and
  - (b) advise the person that the person will continue to be supervised by a probation and parole officer until the parole period expires or the person's parole order is revoked or cancelled.

### **13B Effect of serving sanction on sentence**

- (1) This section applies if a person's parole order includes a condition that the sanctions regime applies to the order.
- (2) Subject to subsection (3) the expiry of the parole period is unaffected by the imposition of a sanction.
- (3) If the person's parole order is revoked or cancelled, in determining the time remaining to be served under the person's sentence of imprisonment, only the time the person has spent in custody is taken into account as time already served, including:
  - (a) time spent in custody before the person was initially released on parole; and
  - (b) time spent in custody serving a sanction.

#### *Note for section 13B*

*The effect of subsections (2) and (3) is that the person receives "credit" for time spent in the community under a parole order as well as time served as a sanction, but if the parole order is revoked or cancelled, there is no "credit" for time spent in the community.*

### **14 Effect of parole order on sentence**

- (1) If a parole order that is not subject to the sanctions regime is made in relation to a person:
  - (a) the person is taken 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 the person is otherwise discharged from that imprisonment; and



- (b) if the parole period expires without the parole order being revoked or cancelled, the person is taken 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 5C or 5D, taken 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.
- (3) Where a parole order in relation to a person is, under section 6(3), taken to have been cancelled 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.

**14A      Alternative conditions under sanctions regime when re-released on parole**

When a person is released on parole after serving a sanction, the Chairperson may amend the person's parole order by varying the conditions of parole.

**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
- (b) before the revocation or cancellation, the person had earned under a 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 must, despite 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.

## **Part 4                      Miscellaneous matters**

### **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; or
- (c) the operation of any other law of the Commonwealth, or of any law in force in the Territory, relating to the release of offenders.

### **17                      Regulations**

The Administrator may make regulations under this Act.

## **Part 5                      Transitional matters for Parole Amendment Act 2016**

### **18                      Definitions**

In this Part:

***commencement*** means the commencement of the *Parole Amendment Act 2016*.

### **19                      Application of amendments**

- (1) Section 4B applies to the Board on and after the commencement when considering whether to make a parole order in relation to a prisoner who is serving a term of imprisonment for life for the crime of murder.
- (2) Section 4B also applies to the Board if:
  - (a) a prisoner who is serving a term of imprisonment for life for the crime of murder has been released on parole, whether before or after the commencement; and
  - (b) the parole of the prisoner is cancelled under section 6 on or after the commencement; and
  - (c) that cancellation is not set aside under section 10; and
  - (d) the Board is subsequently considering whether to make a further parole order in relation to the prisoner.

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- (3) However, section 4B does not apply to the Board in relation to a prisoner:
- (a) who has been released on parole before the commencement (unless subsection (2) applies); or
  - (b) in relation to whom the Board has made a parole order before the commencement if:
    - (i) the prisoner has not been released before the commencement; and
    - (ii) the parole order is not revoked before the prisoner is released under the order.

## **Part 6                      Transitional matters for Parole Amendment Act 2017**

### **20                      Application of amendments**

This Act, as amended by the *Parole Amendment Act 2017* (the **amendment Act**), applies in relation to a parole order, even if the parole order was entered into before the commencement of the amendment Act.

## **Part 7                      Transitional matters for Parole Amendment Act 2021**

### **21                      Definitions**

In this Part:

**amending Act** means the *Parole Amendment Act 2021*.

**commencement** means the commencement of section 5 of the amending Act.

### **22                      Change in membership of the Board**

- (1) On the commencement, the member of the Board under section 3B(1)(a) immediately before the commencement goes out of office.

- (2) Despite the change made to the membership of the Board by section 5 of the amending Act:
  - (a) the Board is taken to be the same body after the commencement as it was before the commencement; and
  - (b) a matter that was before the Board but not finally determined before the commencement may be further considered and determined after the commencement.

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## ENDNOTES

### 1 KEY

Key to abbreviations

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

### 2 LIST OF LEGISLATION

#### ***Parole of Prisoners Ordinance 1971 (Act No. 33, 1971)***

Assent date	16 June 1971
Commenced	10 May 1972 ( <i>Gaz</i> 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 ( <i>Gaz</i> No. 48A, 30 November 1976, p 1409)

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***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)

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***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)

***Parole of Prisoners Amendment Act 1997 (Act No. 8, 1997)***

Assent date	26 March 1997
Commenced	26 March 1997

***Parole of Prisoners Amendment Act 2002 (Act No. 13, 2002)***

Assent date	7 June 2002
Commenced	15 June 2002 (s 2 <i>Criminal Code Amendment (Mental Impairment and Unfitness to be Tried) Act 2002</i> (Act No. 11, 2002))

***Sentencing (Crime of Murder) and Parole Reform Act 2003 (Act No. 3, 2004)***

Assent date	7 January 2004
Commenced	11 February 2004 (Gaz G6, 11 February 2004, p 2)

***Statute Law Revision Act (No. 2) 2004 (Act No. 54, 2004)***

Assent date	15 September 2004
Commenced	27 October 2004 (Gaz G43, 27 October 2004, p 3)

***Statute Law Revision Act 2005 (Act No. 44, 2005)***

Assent date	14 December 2005
Commenced	14 December 2005

***Justice (Corrections) and Other Legislation Amendment Act 2011 (Act No. 24, 2011)***

Assent date	31 August 2011
Commenced	ss 3, 9 to 11, 15 to 17, 19, 20, 24, 33, 42, schs 1 and 2, sch 4 pt 1 and sch 5: 31 August 2011 (s 2); rem: 27 February 2012 (Gaz S9, 21 February 2012)

***Statute Law Revision Act 2011 (Act No. 30, 2011)***

Assent date	31 August 2011
Commenced	21 September 2011 (Gaz G38, 21 September 2011, p 5)

***Criminal Justice Legislation Amendment Act 2011 (Act No. 32, 2011)***

Assent date	15 November 2011
Commenced	15 February 2012 (Gaz G7, 15 February 2012, p 6)

***Health Practitioner (National Uniform Legislation) Implementation Act 2012 (Act No. 17, 2012)***

Assent date	22 May 2012
Commenced	1 July 2012 (s 2)

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**Serious Sex Offenders Act 2013 (Act No. 9, 2013)**

Assent date 3 May 2013  
Commenced 1 July 2013 (*Gaz* G24, 12 June 2013, p 2)

**Parole of Prisoners Amendment Act 2013 (Act No. 40, 2013)**

Assent date 19 December 2013  
Commenced 15 January 2014 (*Gaz* G2, 15 January 2014, p 2)

**Correctional Services (Related and Consequential Amendments) Act 2014 (Act No. 27, 2014)**

Assent date 4 September 2014  
Commenced 9 September 2014 (*Gaz* S80, 9 September 2014, p 2)

**Parole Amendment Act 2014 (Act No. 37, 2014)**

Assent date 13 November 2014  
Commenced 13 November 2014

**Local Court (Related Amendments) Act 2016 (Act No. 8, 2016)**

Assent date 6 April 2016  
Commenced 1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

**Parole Amendment Act 2016 (Act No. 28, 2016)**

Assent date 13 July 2016  
Commenced 5 August 2016 (*Gaz* S85, 5 August 2016)

**Parole Amendment Act 2017 (Act No. 17, 2017)**

Assent date 30 August 2017  
Commenced 13 September 2017 (*Gaz* G37, 13 September 2017, p 6)

**Youth Justice Legislation Amendment Act 2017 (Act No. 19, 2017)**

Assent date 30 October 2017  
Commenced 5 January 2018 (*Gaz* G51, 20 December 2017, p 4)

**Parole Amendment Act 2021 (Act No. 21, 2021)**

Assent date 7 October 2021  
Commenced 8 October 2021 (s 2)

### 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)  
s 6 *Parole of Prisoners Amendment Act 1997* (Act No. 8, 1997)  
pt 5 *Sentencing (Crime of Murder) and Parole Reform Act 2003* (Act No. 3, 2004)

### 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 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 *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 3, 3AB, 5, 8 and 9.

## 6 LIST OF AMENDMENTS

lt	amd No. 91, 1981, s 2; No. 17, 1996, s 6
pt 1 hdg	ins No. 24, 2011, s 15
s 1	amd No. 91, 1981, s 2; No. 27, 2014, s 25
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 2; No. 3, 2004, s 11; No. 54, 2004, s 7; No. 30, 2011, s 3; No. 24, 2011, ss 12 and 15; No. 27, 2014, s 27; No. 8, 2016, s 45; No. 17, 2017, s 4; No. 21, 2021, s 4
s 3AA	ins No. 17, 2017, s 5
s 3AB	ins No. 19, 2017, s 38
pt 2 hdg	ins No. 24, 2011, s 15
pt 2	
div 1 hdg	ins No. 24, 2011, s 15
s 3A hdg	sub No. 24, 2011, s 15
s 3A	ins No. 61, 1976, s 7
	amd No. 91, 1981, s 2; No. 30, 2011, s 3
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
	sub No. 3, 2004, s 12
	amd No. 44, 2005, s 22; No. 30, 2011, s 3; No. 17, 2012, s 55; No. 40, 2013, s 4; No. 27, 2014, s 27; No. 8, 2016, s 45; No. 21, 2021, s 5
s 3C	ins No. 61, 1976, s 7
	amd No. 91, 1981, s 2
	sub No. 3, 2004, s 12
	amd No. 30, 2011, s 3; No. 40, 2013, s 9
s 3D	ins No. 61, 1976, s 7
	amd No. 36, 1977, s 5
	rep No. 9, 1980, s 6
	ins No. 3, 2004, s 12
	amd No. 40, 2013, s 9; No. 21, 2021, s 6
s 3E	ins No. 61, 1976, s 7
	amd No. 36, 1977, s 8; No. 54, 1978, s 3
	sub No. 3, 2004, s 12
s 3EA	ins No. 3, 2004, s 12
	amd No. 40, 2013, s 9; No. 21, 2021, s 7
s 3EB	ins No. 3, 2004, s 12
	amd No. 30, 2011, s 3
	sub No. 40, 2013, s 5
	amd No. 27, 2014, s 27; No. 37, 2014, s 3; No. 8, 2016, s 45
s 3F	ins No. 61, 1976, s 7
	amd No. 91, 1981, s 2; No. 3, 2004, s 13; No. 30, 2011, s 3; No. 40, 2013, s 6; No. 8, 2016, s 45
s 3FA	ins No. 40, 2013, s 7
	amd No. 27, 2014, s 27
s 3G	ins No. 61, 1976, s 7
	amd No. 30, 2011, s 3
	rep No. 28, 2016, s 4
s 3GA	ins No. 3, 2004, s 14
	rep No. 28, 2016, s 4

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s 3GB	ins No. 3, 2004, s 14 amd No. 8, 2016, s 45 rep No. 28, 2016, s 4
s 3H	ins No. 61, 1976, s 7 amd No. 36, 1977, s 8; No. 54, 1978, s 3; No. 3, 2004, s 15; No. 30, 2011, s 3
s 3HA	ins No. 37, 1989, s 5 amd No. 30, 2011, s 3
s 3J	ins No. 61, 1976, s 7 amd No. 30, 2011, s 3; No. 27, 2014, s 27
s 3K	ins No. 61, 1976, s 7 amd No. 36, 1977, ss 6 and 8; No. 54, 1978, s 3; No. 30, 2011, s 3; No. 40, 2013, s 8
pt 2	
div 2 hdg	ins No. 24, 2011, s 15 amd No. 27, 2014, s 27
ss 3L – 3N	ins No. 61, 1976, s 7 rep No. 36, 1977, s 7
s 3P hdg	sub No. 24, 2011, s 15
s 3P	ins No. 61, 1976, s 7 amd No. 36, 1977, s 8; No. 54, 1978, s 3; No. 91, 1981, s 2; No. 54, 2004, s 7; No. 30, 2011, s 3 rep No. 27, 2014, s 26
s 3Q	ins No. 61, 1976, s 7 amd No. 30, 2011, s 3 rep No. 27, 2014, s 26
s 3R	ins No. 61, 1976, s 7 amd No. 13, 2002, s 3; No. 30, 2011, s 3; No. 9, 2013, s 123; No. 27, 2014, s 27
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 ins No. 24, 2011, s 13 rep No. 27, 2014, s 26 ins No. 28, 2016, s 5
pt 3 hdg	ins No. 24, 2011, s 15
s 4A	ins No. 61, 1976, s 8 rep No. 17, 1996, s 6 ins No. 28, 2016, s 5
s 4B	ins No. 28, 2016, s 5
s 4C	ins No. 17, 2017, 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; No. 8, 1997, s 3; No. 3, 2004, s 16; No. 30, 2011, s 3; No. 24, 2011, ss 14 and 15; No. 32, 2011, s 19; No. 9, 2013, s 124; No. 27, 2014, s 27; No. 8, 2016, s 45 sub No. 17, 2017, s 6
ss 5A – 5G	ins No. 17, 2017, 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; No. 30, 2011, s 3; No. 24, 2011, s 15; No. 17, 2017, s 7
s 7	amd No. 100, 1979, s 5; No. 30, 2011, s 3; No. 8, 2016, s 45 sub No. 17, 2017, s 8
s 8	amd No. 100, 1979, s 5; No. 63, 1982, s 4; No. 27, 2014, s 27; No. 8, 2016, s 45; No. 17, 2017, s 9
s 9	amd No. 63, 1982, s 5; No. 30, 2011, s 3; No. 8, 2016, s 45
s 10	amd No. 30, 2011, s 3; No. 8, 2016, s 45
s 11	amd No. 91, 1981, s 2; No. 30, 2011, s 3 sub No. 17, 2017, s 10

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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 amd No. 30, 2011, s 3
s 13A – 13B	ins No. 17, 2017, s 11
s 14	amd No. 100, 1979, s 5; No. 91, 1981, s 2; No. 37, 1989, s 9; No. 8, 1997, s 5; No. 30, 2011, s 3; No. 17, 2017, s 12
s 14A	ins No. 17, 2017, s 13
s 15	sub No. 46, 1974, s 3 amd No. 91, 1981, s 2; No. 37, 1989, s 10; No. 30, 2011, s 3; No. 27, 2014, s 27
pt 4 hdg	ins No. 24, 2011, s 15
s 16	amd No. 4, 1982, s 3; No. 30, 2011, s 3; No. 24, 2011, s 15
s 17	amd No. 95, 1978, s 14; No. 91, 1981, s 2; No. 30, 2011, s 3
pt 5 hdg	ins No. 28, 2016, s 6
ss 18 – 19	ins No. 28, 2016, s 6
pt 6 hdg	ins No. 17, 2017, s 14
s 20	ins No. 17, 2017, s 14
pt 7 hdg	ins No. 21, 2021, s 8
ss 21 – 22	ins No. 21, 2021, s 8