



Explanatory Statement

PAROLE AMENDMENT BILL 2021

SERIAL NO. 27

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

ORIGINAL PAPER

No. 292.....

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ATTORNEY-GENERAL AND MINISTER FOR JUSTICE

EXPLANATORY STATEMENT

GENERAL OUTLINE

The Bill amends the *Parole Act 1971* (the Act) to appoint an independent Chairperson to the Parole Board of the Northern Territory (the Board) and related amendments.

NOTES ON CLAUSES

Clause 1. Short title

This is a formal clause which provides for the citation of the Bill. The Bill, when passed, may be cited as the *Parole Amendment Act 2021*.

Clause 2. Commencement

This is a formal clause which provides that the *Parole Amendment Act 2021* will commence on the day after assent.

Clause 3. Act amended

This is a formal clause which provides that the Act being amended is the *Parole Act 1971*.

Clause 4. Section 3 amended (Interpretation)

This clause makes a minor amendment to the definition of 'appointed member' in section 3(1) of the Act. This amendment clarifies that a member appointed under new section 3B(1A) of the Act is an appointed member. New section 3B(1A) provides for the appointment of the lawyer member to the Board. By operation of section 3C of the Act that member is the Chairperson of the Board. In effect this amendment means that the Chairperson of the Board is an appointed member for the purposes of the Act.

Clause 5. Section 3B amended (Membership of Board)

This clause:

- amends section 3B(1)(a) of the Act to omit the requirement for a member of the Board to include the Chief Justice or his nominee and replace it with a requirement for the membership of the Board to include a lawyer who has been admitted to the legal profession for at least 10 years. The term 'lawyer' is defined in section 17 of the *Interpretation Act 1978* and means an 'Australian lawyer' as defined in section 5(a) of the *Legal Profession Act 2006* (namely a person who is admitted to the legal profession under the *Legal Profession Act 2006* or a corresponding law). By operation of section 3C of the Act, the lawyer member is the Chairperson of the Board; and
- inserts new section 3B(1A) into the Act to:
 - permit the Administrator to appoint a person to the position on the Board identified in section 3B(1)(a) for a term of five years, with an option for re-appointment. This will effectively allow the Administrator to appoint the Chairperson of the Board; and
 - permit the member appointed pursuant to section 3B(1)(a) to continue to hold office until a successor is appointed. This provision, along with section 3D of the Act, is designed to ensure continuity in circumstances where the member's / Chairperson's term expires and the appointment of a successor is yet to be finalised. This provision will ensure there is always a Chairperson of the Board appointed so that the Board's proceedings are not affected by a vacancy in the Chairperson's position.

Clause 6. Section 3D amended (Appointment of persons to act as appointed members)

This clause amends section 3D(3) of the Act. Section 3D provides for the Minister to appoint a person to act as an appointed member of the Board if the position is vacant or the member is unable to perform the functions of office. Subsection (3) imposes a requirement that a person appointed by the Minister to act as an appointed member must be eligible for appointment to that position. The amendment to subsection (3) extends that requirement to any person the Minister seeks to appoint as an acting appointed member including to the position identified in section 3B(1)(a), that is the lawyer member on the Board, by removing references to appointments under specific provisions. As that person would be the acting Chairperson of the Board due to the operation of section 3C of the Act, this amendment will effectively ensure that any person appointed as the acting Chairperson to the Board is eligible to be appointed to that role.

Clause 7. Section 3EA amended (Removal from office of appointed members)

This clause amends section 3EA(1) of the Act to remove references to appointments under specific provisions so that the Administrator must terminate the appointment of any appointed member if the

member ceases to be eligible for appointment. This clause will ensure that there is a mechanism to remove the Chairperson if they cease to meet the eligibility requirements for the section 3B(1)(a) position; for example if they cease to be eligible to be a lawyer.

Clause 8. Part 7 inserted

This clause inserts a new Part 7 in the Act which will include all transitional provisions to ensure that the Board is taken to be the same body after the commencement of section 5 of the *Parole Amendment Act 2021* as it was before the commencement.

This clause:

- inserts a new section 21 Definitions to apply in the Part;
- inserts a new section 22(1) which confirms that on commencement the Chairperson goes out of or leaves the office;
- inserts a new section 22(2) as to the constitution of the Board. This new subsection will address any issues that might arise with respect to the composition of the Board changing as a result of the amendments and any affect that might have on ongoing matters before the Board and decisions made by the Board before the amendments commenced. It means that the Board is considered to be the same notwithstanding that it will be made up of different members.

Clause 9. Repeal of Act

This is a standard clause which provides that the Act is repealed on the day after it commences.