Queensland

Dangerous Prisoners (Sexual Offenders) Act 2003

Current as at 15 August 2014

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Queensland

Dangerous Prisoners (Sexual Offenders) Act 2003

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Dangerous Prisoners (Sexual Offenders) Act 2003

[as amended by all amendments that commenced on or before 15 August 2014]

An Act to provide for the continued detention of a particular class of prisoner for their control, care or treatment, or for their supervised release, and for other purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

2 Definitions

The dictionary in the schedule defines particular words used in this Act.

3 Objects of this Act

The objects of this Act are—

(a) to provide for the continued detention in custody or supervised release of a particular class of prisoner to ensure adequate protection of the community; and

(b) to provide continuing control, care or treatment of a particular class of prisoner to facilitate their rehabilitation.

4 Relationship with Bail Act

The *Bail Act 1980* does not apply to a person detained under this Act.

Part 2 Continuing detention or supervision

Division 1 Application for orders

5 Attorney-General may apply for orders

(1) The Attorney-General may apply to the court for an order or orders under section 8 and a division 3 order in relation to a prisoner.

(2) The application must—

(a) state the orders sought; and

(b) be accompanied by any affidavits to be relied on by the Attorney-General for the purpose of seeking an order or orders under section 8; and

(c) be made during the last 6 months of the prisoner's period of imprisonment.

(3) On the filing of the application, the registrar must record a return date for the matter to come before the court for a hearing (***preliminary hearing***) to decide whether the court is satisfied that there are reasonable grounds for believing the prisoner is a serious danger to the community in the absence of a division 3 order.

(4) The return date for the preliminary hearing must be within 28 business days after the filing.

(5) A copy of the application and any affidavit to be relied on by the Attorney-General must be given to the prisoner within 2 business days after the filing.

(6) In this section—

prisoner means a prisoner detained in custody who is serving a period of imprisonment for a serious sexual offence, or serving a period of imprisonment that includes a term of imprisonment for a serious sexual offence, whether the person was sentenced to the term or period of imprisonment before or after the commencement of this section.

6 Prisoner may file material in response

(1) The prisoner may file affidavits to be relied on by the prisoner for the preliminary hearing.

(2) The prisoner must give a copy of the affidavits to the Attorney-General at least 3 business days before the day set down for the preliminary hearing.

7 Contents of affidavit

(1) An affidavit must be confined to the evidence the person making it could give if giving evidence orally.

(2) However, an affidavit for use in a preliminary hearing may contain statements based on information and belief if the person making it states the sources of the information and the grounds for the belief.

8 Preliminary hearing

(1) If the court is satisfied there are reasonable grounds for believing the prisoner is a serious danger to the community in the absence of a division 3 order, the court must set a date for the hearing of the application for a division 3 order.

(2) If the court is satisfied as required under subsection (1), it may make—

(a) an order that the prisoner undergo examinations by 2 psychiatrists named by the court who are to prepare independent reports; and

(b) if the court is satisfied the application may not be finally decided until after the prisoner's release day—

(i) an order that the prisoner's release from custody be supervised; or

(ii) an order that the prisoner be detained in custody for the period stated in the order.

Note—

If the court makes an order under subsection (2)(b)(i), the order must contain the requirements for the prisoner stated in section 16(1).

8A Attorney-General may produce report

(1) This section applies if a hearing date is set under section 8.

(2) The Attorney-General may produce to the court a report, prepared by the chief executive for the Attorney-General, about the prisoner that—

(a) proposes requirements under section 16(2) for any supervised release of the prisoner; and

(b) indicates the extent to which the proposed requirements under paragraph (a) and the requirements under section 16 can be reasonably and practicably managed by corrective services officers.

(3) The Attorney-General must give a copy of the report to the prisoner on the next business day after the Attorney-General receives the report.

9 What a risk assessment order authorises

A risk assessment order authorises the examination of the prisoner by 2 psychiatrists, named in the risk assessment order, who must examine the prisoner and prepare a report as required under section 11.

9AA Victim's submission relating to division 3 order

(1) As soon as practicable after the court sets a date for the hearing of an application for a division 3 order, the chief executive must give written notice of the application and hearing date to the following eligible person—

(a) subject to paragraph (b), the actual victim of the serious sexual offence for which the prisoner is serving a term or period of imprisonment;

(b) if the victim is under 18 years or has a legal incapacity, the victim's parent or guardian.

(2) The notice must invite the eligible person to give to the chief executive, before the date stated in the notice, a written submission stating—

(a) the person's views about any division 3 order or conditions of release to which the prisoner should be subject; and

(b) any other matters prescribed under a regulation.

(3) It is sufficient compliance with subsection (1) for the chief executive to give the notice to the eligible person at the eligible person's last-known address recorded in the eligible persons register.

(3A) The chief executive must, before the hearing, give the Attorney-General—

(a) if the chief executive received a submission from an eligible person in response to a notice given to the person under subsection (3)—the submission; or

(b) information that the eligible person has not given a submission in response to the notice.

(4) The Attorney-General must place before the court for the hearing of the division 3 order any submission received from the eligible person before the hearing date.

9A Court may adjourn hearing for division 3 order

(1) The court may, on application or on its own initiative, adjourn the hearing of an application for a division 3 order.

(2) If the court adjourns the hearing of the application and is satisfied the application may not be finally decided until after the prisoner's release day, the court may make an order—

(a) that the prisoner's release from custody be supervised; or

(b) that the prisoner be detained in custody for the period stated in the order.

Note—

If the court makes an order under subsection (2)(a), the order must contain the requirements for the prisoner stated in section 16(1).

10 Discontinuing application for division 3 order

(1) The Attorney-General, at any time after applying for a division 3 order, may discontinue the application by giving to the registrar and the prisoner a notice of discontinuance.

(2) The application is taken to be dismissed by the court when the notice is given to the registrar.

(3) If the prisoner has been ordered to be detained under an interim detention order or has been released from custody under an interim supervision order, the Attorney-General must apply immediately to the court for rescission of the order.

(4) If the chief executive received a submission from an eligible person in response to a notice given to the person under section 9AA, the chief executive must give the person written notice of the discontinuance of the application.

Division 2 Psychiatric examinations

11 Preparation of psychiatric report

(1) Each psychiatrist examining the prisoner must prepare a report under this section.

(2) The report must indicate—

(a) the psychiatrist's assessment of the level of risk that the prisoner will commit another serious sexual offence—

(i) if released from custody; or

(ii) if released from custody without a supervision order being made; and

(b) the reasons for the psychiatrist's assessment.

(3) For the purposes of preparing the report, the chief executive must give each psychiatrist any medical, psychiatric, prison or other relevant report or information in relation to the prisoner in the chief executive's possession or to which the chief executive has, or may be given, access.

(4) A person in possession of a report or information mentioned in subsection (3) must give a copy of the report or the information to the chief executive if asked by the chief executive.

(5) Subsection (4) authorises and requires the person to give the report or information despite any other law to the contrary or any duty of confidentiality attaching to the report.

(6) If a person required to give a report or information under subsection (4) refuses to give the report or information, the chief executive may apply to the court for an order requiring the person to give the report or information to the chief executive.

(7) A person giving a report or information under subsection (4) or (6) is not liable, civilly, criminally or under an administrative process, for giving the report or information.

(8) Each psychiatrist must have regard to each report or the information given to the psychiatrist under subsection (3).

(9) Each psychiatrist must prepare a report even if the prisoner does not cooperate, or does not cooperate fully, in the examination.

12 Psychiatric reports to be given to the Attorney-General and the prisoner

(1) Each psychiatrist must give a copy of the psychiatrist's report to the Attorney-General within 7 days after finalising the report.

(2) The Attorney-General must give a copy of each report to the prisoner on the next business day after the Attorney-General receives the report.

Division 3 Final orders

13 Division 3 orders

(1) This section applies if, on the hearing of an application for a division 3 order, the court is satisfied the prisoner is a serious danger to the community in the absence of a division 3 order (a ***serious danger to the community***).

(2) A prisoner is a serious danger to the community as mentioned in subsection (1) if there is an unacceptable risk that the prisoner will commit a serious sexual offence—

(a) if the prisoner is released from custody; or

(b) if the prisoner is released from custody without a supervision order being made.

(3) On hearing the application, the court may decide that it is satisfied as required under subsection (1) only if it is satisfied—

(a) by acceptable, cogent evidence; and

(b) to a high degree of probability;

that the evidence is of sufficient weight to justify the decision.

(4) In deciding whether a prisoner is a serious danger to the community as mentioned in subsection (1), the court must have regard to the following—

(aa) any report produced under section 8A;

(a) the reports prepared by the psychiatrists under section 11 and the extent to which the prisoner cooperated in the examinations by the psychiatrists;

(b) any other medical, psychiatric, psychological or other assessment relating to the prisoner;

(c) information indicating whether or not there is a propensity on the part of the prisoner to commit serious sexual offences in the future;

(d) whether or not there is any pattern of offending behaviour on the part of the prisoner;

(e) efforts by the prisoner to address the cause or causes of the prisoner's offending behaviour, including whether the prisoner participated in rehabilitation programs;

(f) whether or not the prisoner's participation in rehabilitation programs has had a positive effect on the prisoner;

(g) the prisoner's antecedents and criminal history;

(h) the risk that the prisoner will commit another serious sexual offence if released into the community;

(i) the need to protect members of the community from that risk;

(j) any other relevant matter.

(5) If the court is satisfied as required under subsection (1), the court may order—

(a) that the prisoner be detained in custody for an indefinite term for control, care or treatment (***continuing detention order***); or

(b) that the prisoner be released from custody subject to the requirements it considers appropriate that are stated in the order (***supervision order***).

(6) In deciding whether to make an order under subsection (5)(a) or (b)—

(a) the paramount consideration is to be the need to ensure adequate protection of the community; and

(b) the court must consider whether—

(i) adequate protection of the community can be reasonably and practicably managed by a supervision order; and

(ii) requirements under section 16 can be reasonably and practicably managed by corrective services officers.

(7) The Attorney-General has the onus of proving that a prisoner is a serious danger to the community as mentioned in subsection (1).

13A Fixing of period of supervision order

(1) If the court makes a supervision order, the order must state the period for which it is to have effect.

(2) In fixing the period, the court must not have regard to whether or not the prisoner may become the subject of—

(a) an application for a further supervision order; or

(b) a further supervision order.

(3) The period can not end before 5 years after the making of the order or the end of the prisoner's period of imprisonment, whichever is the later.

Division 3A Effect of particular orders

14 Effect of continuing detention order or interim detention order

(1) A continuing detention order has effect in accordance with its terms—

(a) on the order being made or at the end of the prisoner's period of imprisonment, whichever is the later; and

(b) until rescinded.

(2) An interim detention order has effect in accordance with its terms—

(a) on the order being made or at the end of the prisoner's period of imprisonment, whichever is the later; and

(b) for the period stated in the order, unless earlier rescinded.

15 Effect of supervision order or interim supervision order

A supervision order or interim supervision order has effect in accordance with its terms—

(a) on the order being made or on the prisoner's release day, whichever is the later; and

(b) for the period stated in the order.

Division 3B Supervised release to be subject to particular requirements

Subdivision 1 Requirements for supervised release

16 Requirements for orders

(1) If the court or a relevant appeal court orders that a prisoner's release from custody be supervised under a supervision order or interim supervision order, the order must contain requirements that the prisoner—

(a) report to a corrective services officer at the place, and within the time, stated in the order and advise the officer of the prisoner's current name and address; and

(b) report to, and receive visits from, a corrective services officer as directed by the court or a relevant appeal court; and

(c) notify a corrective services officer of every change of the prisoner's name, place of residence or employment at least 2 business days before the change happens; and

(d) be under the supervision of a corrective services officer; and

(da) comply with a curfew direction or monitoring direction; and

(daa) comply with any reasonable direction under section 16B given to the prisoner; and

(db) comply with every reasonable direction of a corrective services officer that is not directly inconsistent with a requirement of the order; and

Examples of direct inconsistency—

If the only requirement under subsection (2) contained in a particular order is that the released prisoner must live at least 1km from any school—

1 A proposed direction to the prisoner would be directly inconsistent if it requires the released prisoner to live at least 2km from any school.

2 A proposed direction to the prisoner would not be directly inconsistent if it requires the released prisoner to live at least a stated distance from something else, including, for example, children's playgrounds, public parks, education and care service premises or QEC service premises.

3 A proposed direction to the prisoner would not be directly inconsistent if it requires the released prisoner not to live anywhere unless that place has been approved by a corrective services officer.

(e) not leave or stay out of Queensland without the permission of a corrective services officer; and

(f) not commit an offence of a sexual nature during the period of the order.

(2) The order may contain any other requirement the court or a relevant appeal court considers appropriate—

(a) to ensure adequate protection of the community; or

Examples for paragraph (a)—

- a requirement that the prisoner must not knowingly reside with a convicted sexual offender
- a requirement that the prisoner must not, without reasonable excuse, be within 200m of a school
- a requirement that the prisoner must wear a device for monitoring the prisoner's location

(b) for the prisoner's rehabilitation or care or treatment.

Subdivision 2 Directions to released prisoners

16A Curfew and monitoring directions

(1) The purpose of this section is to enable the movements of a released prisoner to be restricted and to enable the location of the released prisoner to be monitored.

(2) A corrective services officer may give 1 or both of the following directions to the released prisoner—

(a) a direction to remain at a stated place for stated periods (***curfew direction***);

Example—

a direction to remain at the released prisoner's place of residence from 2.30p.m. to 7.00p.m. on school days, if the prisoner is not required to be at a place of employment during these hours

(b) a direction to do 1 or both of the following (***monitoring direction***)—

(i) wear a stated device;

(ii) permit the installation of any device or equipment at the place where the released prisoner resides.

(3) A corrective services officer may give any reasonable directions to a released prisoner that are necessary for the proper administration of a curfew direction or monitoring direction.

(4) A direction under this section must not be directly inconsistent with a requirement of the relevant order for the released prisoner.

16B Other directions

(1) A corrective services officer may give a released prisoner a reasonable direction about—

(a) the prisoner's accommodation; or

Example—

a direction that the released prisoner may only reside at a place of residence approved by a corrective services officer

(b) the released prisoner's rehabilitation or care or treatment; or

Example—

a direction that the released prisoner participate in stated treatment programs

(c) drug or alcohol use by the released prisoner.

(2) A direction under subsection (1) may relate to a matter even though the relevant order imposes a requirement about the matter, either generally or specifically.

(3) However, the direction must not be directly inconsistent with a requirement of the order.

16C Criteria for giving directions

(1) A corrective services officer may give a direction under this subdivision or a direction mentioned in section 16(1)(db) only if the officer reasonably believes the direction is necessary—

(a) to ensure the adequate protection of the community; or

(b) for the prisoner's rehabilitation or care or treatment.

(2) In this section—

reasonably believes means believes on grounds that are reasonable in all the circumstances of the case.

16D Requirement under order to comply with directions not affected

Sections 16(1)(da), 16(1)(daa), 16A and 16B do not limit section 16(1)(db).

Division 3C Reasons for orders

17 Court or relevant appeal court to give reasons

(1) If the court or a relevant appeal court makes any of the following orders, it must give detailed reasons for making the order—

(a) a continuing detention order;

(b) an interim detention order;

(c) a supervision order;

(d) an interim supervision order.

(2) The reasons must be given at the time the order is made.

Division 4 Amendment of supervision orders or interim supervision orders

18 Application for amendment

(1) An application under this division must be made by—

(a) a prisoner released under a supervision order or interim supervision order (***released prisoner***); or

(b) the chief executive with the Attorney-General's consent.

(2) Notice of an application made by the released prisoner must be given by the released prisoner to the Attorney-General and the chief executive.

(3) Notice of an application made by the chief executive must be given to the released prisoner.

19 Amendment of requirements of supervision order or interim supervision order

(1) The court may, on application, amend the requirements of a supervision order or interim supervision order if the court is satisfied that—

(a) the released prisoner is not able to comply with the requirements of the order because of a change in the released prisoner's circumstances; or

(b) an amendment of the requirements is necessary or desirable for any other reason.

(2) The court may amend the requirements if it is satisfied that—

(a) the requirements, as amended, are sufficient to ensure adequate protection of the community; and

(b) it is reasonable to make the amendment in all the circumstances.

(3) If the court amends the requirements on an application made by the chief executive, the court must also amend the supervision order or interim supervision order to include all of the requirements under section 16(1) if the order does not already include all of those requirements.

(4) To the extent the supervision order or interim supervision order includes a requirement mentioned in section 16(1), the order can not be amended under this section in relation to the requirement.

19A Removal or reinstatement of requirement to comply with curfew direction or monitoring direction

(1) This section applies to a requirement of a supervision order or interim supervision order that a released prisoner comply with a curfew direction or monitoring direction.

(2) The court may, on application by the released prisoner, remove the requirement if the released prisoner satisfies the court on the balance of probabilities that the adequate protection of the community can be ensured without the requirement.

(3) An application under subsection (2) may only be made—

(a) for the first time, after 2 years from the date the requirement was included in the order; or

(b) if paragraph (a) does not apply, after 1 year from the date an application by the released prisoner under this section was last decided.

(4) At the hearing of the application, the chief executive may place before the court evidence of the released prisoner's compliance, or noncompliance, with the order.

(5) The court must have regard to the evidence placed before it under subsection (4) in considering whether the adequate protection of the community can be ensured without the requirement.

(6) The court may, on application made at any time by the chief executive with the Attorney-General's consent, reinstate a

requirement of a supervision order or interim supervision order removed under this section.

Division 4A Extending supervised release

19B Attorney-General may apply for further supervision order

(1) This section applies to a released prisoner subject to a supervision order (the ***current order***).

(2) The Attorney-General may apply for a further supervision order for the released prisoner.

(3) The application may be made only within the last 6 months of effect of the current order.

(4) Despite subsection (2), the Attorney-General can not make the application if a further supervision order has been made for the released prisoner.

(5) However, subsection (4) does not prevent the making of the application if—

(a) under section 13(5)(b) or 30(3)(b), a new supervision order is made for the released prisoner; and

(b) no further supervision order has already been made for the new supervision order.

19C Requirements for application

The application must—

(a) state the period of supervised release sought; and

(b) be accompanied by any affidavits to be relied on in support of the application.

19D Application of provisions for division 3 orders

(1) Division 1 (other than section 5(1) and (2)), division 2, section 13, section 15 and divisions 3B and 3C apply for the

application and the operation of any further supervision order for the released prisoner—

(a) as if a reference in the provisions to a division 3 order were a reference to a further supervision order; and

(b) as if a reference in the provisions to an application for a division 3 order were a reference to an application under this division; and

(c) as if a reference in the provisions to the prisoner were a reference to the released prisoner; and

(d) as if a reference in the provisions to a prisoner's release day were a reference to the day that the current order expires; and

(e) as if the reference in section 5(5) to 2 business days were a reference to 7 business days; and

(f) as if the psychiatrist's assessment under section 11(2)(a) were an assessment of the level of risk that the released prisoner will, after the expiry of the current order, commit another serious sexual offence if a further supervision order is not made; and

(g) as if the references in section 13(5) to the making of an order were only a reference to the making of a further supervision order for the released prisoner; and

(h) as if the reference in section 16 to the ordering of release from custody were a reference to the making of a further supervision order; and

(i) with other necessary changes.

(2) If the court is satisfied the application may not be finally decided until after the current order expires, it may make an interim supervision order for the released prisoner.

(3) The power under subsection (2) applies for the application instead of the power to make the orders mentioned in section 8(2)(b) or 9A(2) as applied under subsection (1).

19E Fixing of period of further supervision order

If the court makes a further supervision order, the order must state the period for which it is to have effect.

19F Effect of further supervision order

If a further supervision order is made for the released prisoner, it has effect in accordance with its terms for the period stated in the order.

Division 5 Contravention of supervision order or interim supervision order

20 Warrant for released prisoner suspected of contravening a supervision order or interim supervision order

(1) This section applies if a police officer or corrective services officer reasonably suspects a released prisoner is likely to contravene, is contravening, or has contravened, a requirement of the released prisoner's supervision order or interim supervision order.

(2) The officer may, by a complaint to a magistrate, apply for a warrant for the arrest of the released prisoner directed to all police officers and corrective services officers to arrest the released prisoner and bring the released prisoner before the Supreme Court to be dealt with according to law.

(3) The magistrate must issue the warrant, in the approved form, if the magistrate is satisfied the grounds for issuing the warrant exist.

(4) However, the warrant may be issued only if the complaint is under oath.

(6) The warrant may state the suspected contravention in general terms.

(7) If the magistrate issues a warrant under subsection (3), the commissioner of the police service or the chief executive must

give a copy of the warrant to the Attorney-General within 24 hours after the warrant is issued.

(8) The *Police Powers and Responsibilities Act 2000*, sections 800 to 802, apply to the application for the warrant—

(a) as if the warrant were a prescribed authority, within the meaning of section 800 of that Act, that could be obtained under that Act; and

(b) if the application is made by a corrective services officer, as if the corrective services officer were a police officer.

Note—

The *Police Powers and Responsibilities Act 2000*, sections 800 to 802 provide for obtaining prescribed authorities by phone, fax, radio, email or another similar facility.

(9) To remove any doubt, it is declared that a failure by the commissioner of the police service or the chief executive to comply with subsection (7) does not affect the court's ability to make a further order under section 22.

21 Interim order concerning custody generally

(1) This section applies if a released prisoner is brought before the court under a warrant issued under section 20.

(2) The court must—

(a) order that the released prisoner be detained in custody until the final decision of the court under section 22; or

(b) release the prisoner under subsection (4).

(3) The released prisoner may, when the issue of his or her custody is raised under subsection (2), or at any time after the court makes an order under that subsection detaining the prisoner, apply to the court to be released pending the final decision.

(4) The court may order the release of the released prisoner only if the prisoner satisfies the court, on the balance of probabilities, that his or her detention in custody pending the

final decision is not justified because exceptional circumstances exist.

(5) If the court adjourns an application under subsection (3), the court must order that the released prisoner remain in custody pending the decision on the application.

(6) If the court orders the released prisoner's release, the court must order that the prisoner be released subject to the existing supervision order or existing interim supervision order (each the ***existing order***) as amended under subsection (7).

(7) For subsection (6), the court—

(a) must amend the existing order to include all of the requirements under section 16(1) if the order does not already include all of those requirements; and

(b) may amend the existing order to include any other requirements the court considers appropriate to ensure adequate protection of the community.

21A Victim's submission relating to further order

(1) As soon as practicable after the court sets a date for the hearing for making its final decision under section 22 in relation to the prisoner, the chief executive must give written notice (***hearing notice***) of the issue of the warrant and hearing date to the following eligible person—

(a) subject to paragraph (b), the person mentioned in section 9AA(1)(a) as the actual victim of the serious sexual offence for which the prisoner was serving a term or period of imprisonment;

(b) if the victim is under 18 years or has a legal incapacity, the victim's parent or guardian.

(1A) However, subsection (1) does not apply if—

(a) the chief executive has already given the eligible person a hearing notice for the prisoner; and

(b) the person has informed the chief executive that the person no longer wishes to receive hearing notices for the prisoner.

(2) The notice must invite the eligible person to give to the chief executive, before the date stated in the notice, a written submission stating—

(a) the person's views about any further order or conditions of release to which the prisoner should be subject; and

(b) any other matters prescribed under a regulation.

(3) It is sufficient compliance with subsection (1) for the chief executive to give the notice to the eligible person at the eligible person's last-known address recorded in the eligible persons register.

(3A) The chief executive must, before the hearing, give the Attorney-General—

(a) if the chief executive received a submission from an eligible person in response to a hearing notice—the submission; or

(b) information that the eligible person has not given a submission in response to a hearing notice; or

(c) information that the eligible person has informed the chief executive that the person no longer wishes to receive hearing notices for the prisoner.

(4) The Attorney-General must place before the court for the hearing of the division 3 order any submission received from the eligible person before the hearing date.

22 Court may make further order

(1) The following subsections apply if the court is satisfied, on the balance of probabilities, that the released prisoner is likely to contravene, is contravening, or has contravened, a requirement of the supervision order or interim supervision order (each the ***existing order***).

(2) Unless the released prisoner satisfies the court, on the balance of probabilities, that the adequate protection of the community can, despite the contravention or likely contravention of the existing order, be ensured by the existing order as amended under subsection (7), the court must—

(a) if the existing order is a supervision order, rescind it and make a continuing detention order; or

(b) if the existing order is an interim supervision order, rescind it and make an order that the released prisoner be detained in custody for the period stated in the order.

(3) For the purpose of deciding whether to make a continuing detention order as mentioned in subsection (2)(a), the court may do any or all of the following—

(a) act on any evidence before it or that was before the court when the existing order was made;

(b) make any order necessary to enable evidence of a kind mentioned in section 13(4) to be brought before it, including, for example, an order—

(i) in the nature of a risk assessment order, subject to the restriction under section 8(2); or

(ii) for the revision of a report about the released prisoner produced under section 8A;

(c) consider any further report or revised report in the nature of a report of a type mentioned in section 8A.

(4) To remove any doubt, it is declared that the court need not make an order in the nature of a risk assessment order if the court is satisfied that the evidence otherwise available under subsection (3) is sufficient to make a decision under subsection (2)(a).

(5) If the court makes an order in the nature of a risk assessment order, the psychiatrist or each psychiatrist examining the released prisoner must prepare a report about the released prisoner and, for that purpose, section 11 applies.

(6) For applying section 11 to the preparation of the report—

(a) section 11(2) applies with the necessary changes; and

(b) section 11(3) only applies to the extent that a report or information mentioned in the subsection has not previously been given to the psychiatrist.

(7) If the released prisoner satisfies the court, on the balance of probabilities, that the adequate protection of the community can, despite the contravention or likely contravention of the existing order, be ensured by a supervision order or interim supervision order, the court—

(a) must amend the existing order to include all of the requirements under section 16(1) if the order does not already include all of those requirements; and

(b) may otherwise amend the existing order in a way the court considers appropriate—

(i) to ensure adequate protection of the community; or

(ii) for the prisoner's rehabilitation or care or treatment.

(8) The existing order may not be amended under subsection (7)(b) so as to remove any requirements mentioned in section 16(1).

22A Appearance by Attorney-General

The Attorney-General has a right of appearance before the court hearing a matter under section 21 or 22 and may do any or all of the following—

(a) make submissions;

(b) call evidence;

(c) test the evidence before the court.

Division 6 Return to custody of released prisoner

23 Application of division

This division applies if, after being released from custody under a supervision order or interim supervision order, a released prisoner is sentenced to a term or period of imprisonment for any offence, other than an offence of a sexual nature.

24 Period in custody not counted

(1) The released prisoner's supervision order or interim supervision order is suspended for any period the released prisoner is detained in custody on remand or serving the term of imprisonment.

(2) The period for which the released prisoner's supervision order or interim supervision order has effect as stated in the order is extended by any period the released prisoner is detained in custody.

Division 7 Disclosure provisions

25 Duty to disclose

(1) This section applies to an application for a division 3 order and for the hearing of a matter under section 22.

(2) The Attorney-General's duty to disclose evidence or things in the Attorney-General's possession is the same duty to disclose the prosecution has in a criminal proceeding.

(3) The Attorney-General must disclose the evidence or things—

(a) for an application for a division 3 order—at least 7 days before the application is heard; or

(b) for the hearing of a matter under section 22—as soon as practicable after—

(i) the Attorney-General is given a copy of the warrant issued under section 20 for the prisoner to whom the matter relates; and

(ii) the warrant is executed.

(4) If the Attorney-General can not comply with the time requirement because the thing to be disclosed was not in the Attorney-General's possession in sufficient time, including, for example, because the thing did not exist at the time, the Attorney-General must disclose the thing as soon as practicable after it comes into the Attorney-General's possession.

Part 3 Annual reviews

26 Purpose of this part

The purpose of this part is to ensure that a prisoner's continued detention under a continuing detention order is subject to regular review.

27 Review—periodic

(1) If the court makes a continuing detention order, it must review the order at the intervals provided for under this section.

(1A) The hearing for the first review and all submissions for the hearing must be completed within 2 years after the day the order first had effect.

(1B) There must be subsequent annual reviews while the order continues to have effect.

(1C) Each annual review must start within 12 months after the completion of the hearing for the last review under this section.

(2) The Attorney-General must make any application that is required to be made to cause the reviews to be carried out.

28 Review—application by prisoner

(1) The prisoner may apply to the court for the prisoner's continuing detention order to be reviewed at any time after the court makes its first review under section 27(1) if the court gives leave to apply on the ground that there are exceptional circumstances that relate to the prisoner.

(2) The registrar must immediately forward a copy of the application to the Attorney-General.

(3) As soon as practicable after the making of the application, the court must give directions to enable the application to be heard.

(4) Subject to any directions given by the court, the application must be heard as soon as practicable after the application is made.

28A Attorney-General may produce report

Section 8A applies for any application under section 27 or 28 as if the application were an application for a division 3 order.

29 Psychiatric reports to be prepared for review

(1) Unless the court otherwise orders at the hearing of any application under this Act, for the purposes of a review under section 27 or 28, the chief executive must arrange for the prisoner to be examined by 2 psychiatrists.

(2) For subsection (1) and the purposes of a review, sections 11 and 12 apply with necessary changes.

(3) Subsection (1) authorises examinations of the prisoner by the 2 psychiatrists.

30 Review hearing

(1) This section applies if, on the hearing of a review under section 27 or 28 and having regard to the required matters, the court affirms a decision that the prisoner is a serious danger to the community in the absence of a division 3 order.

(2) On the hearing of the review, the court may affirm the decision only if it is satisfied—

(a) by acceptable, cogent evidence; and

(b) to a high degree of probability;

that the evidence is of sufficient weight to affirm the decision.

(3) If the court affirms the decision, the court may order that the prisoner—

(a) continue to be subject to the continuing detention order; or

(b) be released from custody subject to a supervision order.

(4) In deciding whether to make an order under subsection (3)(a) or (b)—

(a) the paramount consideration is to be the need to ensure adequate protection of the community; and

(b) the court must consider whether—

(i) adequate protection of the community can be reasonably and practicably managed by a supervision order; and

(ii) requirements under section 16 can be reasonably and practicably managed by corrective services officers.

(5) If the court does not make the order under subsection (3)(a), the court must rescind the continuing detention order.

(6) In this section—

required matters means all of the following—

(a) the matters mentioned in section 13(4);

(b) any report produced under section 28A.

Part 4 Appeals

31 Appeals

The Attorney-General or a prisoner in relation to whom a decision of the court under this Act has been made may appeal against the decision.

32 Time for appeal

(1) An appeal must be started within 1 month after the decision is made (the ***appeal period***).

(2) On application, the Court of Appeal may extend the appeal period.

33 Starting appeal

(1) A person starts an appeal by filing a notice of appeal with the registrar.

(2) The notice must—

(a) be signed by the person or the person's lawyer; and

(b) state, briefly and precisely, the grounds of the appeal.

(3) If the notice is not filed in the appeal period, the person must also file with the registrar a notice of application for extension of time for filing the notice.

34 Registrar to give respondent copies of particular documents

The registrar must give to the respondent to an appeal copies of any of the following documents filed with the registrar for the appeal—

(a) the notice of appeal;

(b) a notice of application for extension of time for filing a notice mentioned in paragraph (a).

35 Abandoning applications for extensions

(1) This section applies to an applicant for extension of time within which to appeal.

(2) The applicant, at any time after filing the application, may abandon it by giving to the registrar a notice of abandonment of application.

(3) The application is taken to be refused by the Court of Appeal when the notice of abandonment is given to the registrar.

(4) However, if the court considers it necessary in the interests of justice, the Court of Appeal may set aside the abandonment and reinstate the application.

36 Abandoning appeal

(1) An appellant, at any time after starting an appeal, may abandon it by giving to the registrar a notice of abandonment of appeal.

(2) The appeal is taken to be dismissed by the Court of Appeal when the notice is given to the registrar.

(3) However, if the Court of Appeal considers it necessary in the interests of justice, the Court of Appeal may set aside the abandonment and reinstate the appeal.

37 Lawyer acting for prisoner

(1) A lawyer acting for a prisoner in an appeal must—

(a) give written notice that the lawyer acts for the prisoner to the registrar; and

(b) give a copy of the notice to the other party to the appeal.

(2) The notice must state the lawyer's—

(a) address for service; and

(b) telephone and facsimile number; and

(c) email address, if any.

(3) The lawyer must comply with subsection (1)—

(a) no later than 14 days before the day the appeal is set down for hearing (the ***hearing day***); or

(b) if the hearing day is sooner than the 14 days, as soon as possible.

(4) A lawyer acting for a prisoner who files a notice of appeal is taken to continue acting for the prisoner until the earliest of the following happens—

(a) the lawyer gives a notice to the registrar under section 38(1);

(b) the lawyer is given the Court of Appeal's leave to withdraw from acting for the prisoner under section 38(2).

38 Lawyer withdrawing from acting for prisoner

(1) A lawyer who is no longer instructed to act for a prisoner in an appeal may withdraw from acting for the prisoner in the appeal by—

(a) as soon as possible after becoming aware that the lawyer is no longer instructed to act, giving the registrar written notice that the lawyer no longer acts for the prisoner; and

(b) at the same time, giving a copy of the notice to each of the following persons at the person's address that is last known to the lawyer—

(i) the other party to the appeal;

(ii) the prisoner.

(2) A lawyer who wants to withdraw from acting for a prisoner in an appeal, other than because the lawyer is no longer instructed to act for the prisoner, may withdraw by—

(a) giving written notice to the registrar that the lawyer intends seeking the Court of Appeal's leave to withdraw from acting for the prisoner in the appeal; and

(b) giving a copy of the notice to—

(i) the other party to the appeal; and

(ii) the prisoner; and

(c) obtaining the Court of Appeal's leave to withdraw from acting for the prisoner in the proceeding.

(3) The lawyer must give the notice or copy mentioned in subsection (2)—

(a) no later than 14 days before the hearing day; or

(b) if the hearing day is sooner than the 14 days, as soon as possible.

39 Application for leave to be present

If a prisoner indicates on the notice of appeal that the prisoner wants to be present at the hearing of the appeal, the notice is taken also to be an application for leave to be present at the appeal.

40 Prisoner detained in custody

(1) This section applies to an appeal if the prisoner is not legally represented and is detained in custody.

(2) The chief executive must give the registrar written notice that the prisoner is detained in custody.

(3) The registrar may ask the Court of Appeal for directions about the appeal, including, for example, about the prisoner's attendance at the appeal.

41 Stay of operation of decision

(1) An appeal does not stay the operation of the decision.

(2) However, if the court hearing an appeal is satisfied the appeal may not be finally decided until after the prisoner's release day, the court may make an order—

(a) that the prisoner's release from custody be supervised; or

(b) that the prisoner be detained in custody for the period stated in the order.

Note—

If the court hearing an appeal makes an order under subsection (2)(a), the order must contain the requirements for the prisoner stated in section 16(1).

42 Court's power to order re-arrest on appeal by Attorney-General

(1) This section applies if an order is made under section 41(2)(b) for the detention of a prisoner.

(2) The Court of Appeal, the judge of appeal or the court may, when the order is made or afterwards, issue a warrant for the prisoner's apprehension and committal into custody.

43 Court of Appeal's powers on appeal

(1) An appeal is by way of rehearing.

(2) The Court of Appeal—

(a) has all the powers and duties of the court that made the decision appealed from; and

(b) may draw inferences of fact, not inconsistent with the findings of the court; and

(c) may, on special grounds, receive further evidence as to questions of fact, either orally in court, by affidavit or in another way; and

(d) may order that the matter be remitted to the court for rehearing.

(3) Subsection (2)(a) does not limit the powers that the Court of Appeal has in its civil jurisdiction.

(4) If the Court of Appeal orders that the matter be remitted to the court for rehearing and is satisfied the matter may not be reheard until after the prisoner's release day, the Court of Appeal may make an order—

(a) that the prisoner's release from custody be supervised; or

(b) that the prisoner be detained in custody for the period stated in the order.

Note—

If the Court of Appeal makes an order under subsection (4)(a), the order must contain the requirements for the prisoner stated in section 16(1).

Part 4A Offences

43AA Contravention of relevant order

(1) A released prisoner who contravenes the relevant order for the released prisoner without a reasonable excuse commits a misdemeanour.

Maximum penalty—2 years imprisonment.

(2) If a released prisoner commits an offence against subsection (1) by removing or tampering with a stated device for the purpose of preventing the location of the released prisoner to be monitored, the released prisoner commits a crime.

Minimum penalty—1 year's imprisonment served wholly in a corrective services facility.

Maximum penalty—5 years imprisonment.

(3) In this section—

corrective services facility see the *Corrective Services Act 2006*, schedule 4.

stated device means a device a released prisoner is required to wear under the relevant order or a monitoring direction made under the relevant order.

43AB Applying for change of name without permission

(1) A person who is a released prisoner must obtain the chief executive's written permission before applying to change the person's name under the *Births, Deaths and Marriages Registration Act 2003* (the ***registration Act***).

Maximum penalty—20 penalty units or 6 months imprisonment.

(2) In deciding whether to give the permission, the chief executive must consider each of the following—

(a) the safety of the person and other persons;

(b) the person's rehabilitation or care or treatment;

(c) whether the proposed name change could be used to further an unlawful activity or purpose;

(d) whether the proposed name change could be considered offensive to a victim of a crime or an immediate family member of a deceased victim of a crime.

(3) Subsection (4) applies if the chief executive becomes aware that the person has failed to comply with subsection (1) in registering, under the registration Act, a change of name.

(4) The chief executive may apply to the registrar under the registration Act for the cancellation of the registration.

43AC Indictable offences that must be heard and decided summarily on prosecution election

(1) This section applies to a charge before a Magistrates Court of an offence against section 43AA.

(2) The charge must be heard and decided summarily if the prosecution elects to have the charge heard and decided summarily.

(3) This section is subject to section 43AE.

43AD Constitution of Magistrates Court

A Magistrates Court that summarily deals with an indictable offence under section 43AC must be constituted by a magistrate.

43AE When Magistrates Court must abstain from jurisdiction

(1) A Magistrates Court must abstain from dealing summarily with a charge under section 43AC if satisfied, at any stage, and after hearing any submissions by the prosecution and defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction.

(2) If the court abstains from jurisdiction, the proceeding for the charge must be conducted as a committal proceeding.

43AF Charge may be heard and decided where defendant arrested or served

Without limiting the places a charge may be heard summarily under section 43AC, the charge may also be heard and decided at a place appointed for holding magistrates courts within the district in which the accused person was arrested on the charge or served with the summons for the charge under the *Justices Act 1886*.

43AG Time for prosecution

If a Magistrates Court hears and decides a charge summarily under section 43AC, the Magistrates Court has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose.

43AH Maximum penalty for indictable offences dealt with summarily

(1) The maximum penalty that may be imposed on a summary conviction of an indictable offence is 3 years imprisonment or

the maximum prescribed for the offence, whichever is the lesser.

(2) However, in no case may a person be punished more than if the offence had been dealt with on indictment.

43AI Appeals against decision to decide charge summarily

(1) This section applies if a person is summarily convicted or sentenced under section 43AC.

(2) The grounds on which the person may appeal include that the Magistrates Court erred by deciding the conviction or sentence summarily.

(3) The grounds on which the Attorney-General may appeal against sentence include that the Magistrates Court erred by deciding the sentence summarily.

(4) On an appeal against a sentence relying on a ground that the Magistrates Court erred by proceeding summarily, the court deciding the appeal may, if it decides to vary the sentence, impose the sentence the court considers appropriate up to the maximum sentence that could have been imposed if the matter had been dealt with on indictment.

Part 5 General

43A Persons who remain prisoners for particular purposes

(1) This section provides for the application of this Act to a person.

(2) A person who is subject to a continuing detention order or interim detention order remains a prisoner.

(3) A person who is subject to a supervision order or interim supervision order remains a prisoner for the purposes of any relevant application, appeal or rehearing.

(4) A person who is released from custody, without an interim supervision order having being made, after the court sets a date for the hearing of an application for a division 3 order relating to the person remains a prisoner for the purposes of the application.

(5) A person who is released from custody, without an interim supervision order having being made, after the Court of Appeal makes an order under section 43(2)(d) relating to the person remains a prisoner for the purposes of the rehearing.

(6) A person who is released from custody after the hearing of any application under this Act, without an interim supervision order having being made, remains a prisoner for the purposes of any appeal against the decision and for any subsequent appeal.

44 Hearings on the papers

(1) The court may decide whether it is satisfied as required under section 8(1), 18 or 19D(2) entirely or partly from a consideration of the documents filed, without the prisoner or witnesses appearing or the prisoner consenting to, or being heard on, the matter being decided in that way.

(2) In making its decision, the court may receive in evidence the following documents—

(a) the prisoner's antecedents and criminal history;

(b) anything relevant to the issue contained in the transcription of, or any medical, psychiatric, psychological or other report tendered in, any proceeding against the prisoner for a serious sexual offence.

(3) Subsection (1) is subject to section 49.

45 Other hearings

(1) This section applies to the following matters—

(a) an application for a division 3 order;

(b) an application for review under section 27 or 28;

(c) a proceeding for a further order under section 22.

(2) Subject to the admissibility of the evidence, before the court makes a decision or order on the hearing of the matter it must—

(a) hear evidence called by the Attorney-General; and

(b) hear evidence given or called by the prisoner, if the prisoner elects to give or call evidence.

(3) Subject to subsection (4), ordinary rules of evidence apply to evidence given or called under subsection (2).

(4) In making its decision, the court may receive in evidence the following documents—

(a) the prisoner's antecedents and criminal history;

(b) anything relevant to the issue contained in the transcription of, or any medical, psychiatric, psychological or other report tendered in, any proceeding against the prisoner for a serious sexual offence.

46 Court may give directions

The court may give directions in relation to the conduct of a proceeding under this Act on its own initiative or on an application.

47 Service on a prisoner

(1) If a document is required under this Act to be given to a prisoner detained in custody, the document is taken to have been given to the prisoner if the document is given to the chief executive.

(2) If, under subsection (1), a document is given to the chief executive, the chief executive must give the document to the prisoner without undue delay.

48 Service or filing by a prisoner

(1) If a prisoner detained in custody is unrepresented and is required under this Act to give or file a document, the prisoner may give the document to the chief executive.

(2) The chief executive must give or file the document without undue delay.

49 Appearance at hearings

(1) The prisoner is entitled to appear at a preliminary hearing under section 8 or at a hearing under section 13, 18, 19D, 22, 27 or 28.

(2) Subsection (1) does not limit the court's power under section 44 to deal with an application under section 8, 18 or 19D if the prisoner does not appear at the hearing of the application.

49A Provisions about victim's submissions and hearings

(1) This section applies for a hearing at which a submission mentioned in section 9AA or 21A may be placed before a court.

(2) To remove any doubt, it is declared that regard may be had to the submission even though it gives no details of the harm caused to the relevant victim by the serious sexual offence for which the submission was given.

(3) The mere fact that a submission has not been placed before the court under the section does not, of itself, give rise to an inference—

(a) that the serious sexual offence caused the relevant victim little or no harm; or

(b) that the relevant victim has no interest in the outcome of the hearing.

50 Order for detention taken to be a warrant for Corrective Services Act

An order of the court or the Court of Appeal under this Act that a prisoner be detained in custody for the period stated in the order is taken to be a warrant committing the prisoner into custody for the *Corrective Services Act 2006*.

51 Parole

A prisoner is not eligible for parole under the *Corrective Services Act 2006* or the *Penalties and Sentences Act 1992* and can not be issued a parole order under those Acts if—

(a) under section 8(1), the court has set a date for the hearing of an application for a division 3 order in relation to the prisoner and the application has not been discontinued or finally decided; or

(b) the prisoner is subject to a continuing detention order or interim detention order, whether or not the order has taken effect.

52 Approved forms

The chief executive of the department within which this Act is administered may approve forms for use under this Act.

53 Regulation-making power

The Governor in Council may make regulations under this Act.

Part 6 Transitional provisions for Justice and Other Legislation Amendment Act 2005

54 Amendment does not affect existing orders

(1) The amendment of this Act by the *Justice and Other Legislation Amendment Act 2005*, part 11 does not affect any order made under the Act and in force immediately before the commencement.

(2) An order mentioned in subsection (1) continues to have effect according to its terms after the commencement.

(3) In this section—

commencement means the commencement of this section.

55 Transitional statements for particular provisions

(1) A court may make an order under section 8(2)(b)(i) even if the application to which the order relates was made before the commencement if the application has not been decided on the commencement.

(2) A court may make an order under section 9A(2) even if the application to which the order relates was made before the commencement if the application has not been decided on the commencement.

(3) A judicial authority may make an order under section 41(2) even if the appeal to which the order relates was started before the commencement.

(4) The Court of Appeal may make an order under section 43(2)(d) or (4) even if the appeal to which the order relates was started before the commencement.

(5) Section 44(1) as in force immediately after the commencement applies even if the application to which the decision relates was started before the commencement.

(6) In this section—

commencement means the commencement of this section.

56 Amendments not to affect status of persons who were prisoners for particular purposes

(1) Without limiting section 43A, if, immediately before the commencement of this section, a person was or remained a prisoner for a purpose under the pre-amended Act, the person is or remains a prisoner for the purpose under the amended Act.

(2) In this section—

amended Act means this Act as amended by the *Justice and Other Legislation Amendment Act 2005*, part 11.

pre-amended Act means this Act as in force immediately before the commencement of this section.

Part 7 Transitional provisions for Dangerous Prisoners (Sexual Offenders) Amendment Act 2007

57 Application of amended Act to previous orders

(1) Subject to this section, this Act as amended applies in relation to any previous order.

(2) This Act as amended applies to any contravention of a previous order that happens after the commencement.

(3) This Act as in force immediately before the amendment applies, or continues to apply, in relation to any contravention of a previous order that happened before the commencement.

(4) In this section—

amended means amended by the *Dangerous Prisoners (Sexual Offenders) Amendment Act 2007*.

amendment means the amendment of this Act by the *Dangerous Prisoners (Sexual Offenders) Amendment Act 2007*.

commencement means the commencement of this section.

previous order means a supervision order or an interim supervision order made before the commencement.

58 Transitional statements for particular provisions

(1) Section 16(1)(da) and (db) do not apply to a supervision order or interim supervision order that is in force at the commencement (the ***existing order***), unless the court amends the requirements of the existing order to include the requirements stated in the paragraphs.

(1A) Without limiting the *Acts Interpretation Act 1954*, section 20, the repeal and re-enactment of section 22 does not affect any order made under section 22 before its repeal.

(2) Section 43B is not effective to impose criminal liability retrospectively.

(3) In this section—

commencement means the commencement of this section.

Part 8 Transitional provisions for Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Act 2010

59 Application of s 13A to existing applications

Section 13A applies to any application under this Act made but not decided before that section commences.

60 Application of s 13A to reviews of existing continuing detention orders

(1) This section applies for a prisoner subject to a continuing detention order made before section 13A commences.

(2) Section 13A applies for the making of a supervision order under section 30 for the prisoner.

61 Existing supervision orders

(1) This section applies to a supervision order or interim supervision order in force when this section commences.

(2) Despite section 13A, the order continues in force in accordance with its terms for the period stated in the order.

(3) To remove any doubt, it is declared that part 2, division 4A applies to the order and the released prisoner subject to it.

62 Transitional provision for directions under s 16B

(1) This section applies to a supervision order or interim supervision order in force when this section commences (the ***existing order***).

(2) Section 16B does not apply to the relevant prisoner and section 16(1)(daa) and (db) do not apply to the existing order

to the extent those provisions apply for a direction under section 16B.

(3) However, section 16B and section 16(1)(daa) and (db) do apply if, under section 19, 21 or 22, the court amends the requirements of the existing order to include a requirement to comply with any direction given to the relevant prisoner under section 16B.

63 First review period for particular existing continuing detention orders

(1) This section applies if—

(a) a continuing detention order is in force when this section commences; and

(b) no application under section 27 or 28 has been made for the order.

(2) The first review of the order must start within 12 months after the completion of the hearing for the order.

Part 9 Transitional provisions for Criminal Law Amendment Act 2014

64 Application of amended s 43AA to previous orders

(1) Amended section 43AA applies to any contravention of a previous order that happens after the commencement.

(2) Previous section 43AA applies, or continues to apply, in relation to any contravention of a previous order that happened before the commencement.

(3) In this section—

amended section 43AA means section 43AA as amended by the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

commencement means the commencement of this section.

previous order means a supervision order or an interim supervision order made before the commencement.

previous section 43AA means section 43AA as in force immediately before the commencement.

65 Application of amended definition of serious sexual offence

(1) For the purposes of this Act, the amended definition of serious sexual offence applies to include an offence mentioned in the amended definition that was committed before the commencement of the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

(2) In this section—

amended definition of serious sexual offence means the schedule, definition *serious sexual offence* as amended by the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

Schedule Dictionary

section 2

appeal period see section 32(1).

chief executive means the chief executive (corrective services).

continuing detention order see section 13(5)(a).

corrective services officer see the *Corrective Services Act 2006*, schedule 4.

court means the trial division of the Supreme Court.

criminal history means criminal history prepared by the commissioner of the police service.

curfew direction see section 16A(2)(a).

current order, for part 2, division 4A, see section 19B(1).

division 3 order means—

(a) a continuing detention order; or

(b) a supervision order.

education and care service premises see the Education and Care Services National Law (Queensland), section 5(1).

eligible person means a person registered as an eligible person in relation to the prisoner on the eligible persons register.

eligible persons register means the eligible persons register kept under the *Corrective Services Act 2006.*

further supervision order means an order made under section 19D.

hearing day see section 37(3)(a).

interim detention order means an order detaining a person in custody made under section 8(2)(b)(ii), 9A(2)(b), 21(2)(a) or 22(2)(b), 41(2)(b) or 43(4)(b).

interim supervision order means an order made under section 8(2)(b)(i), 9A(2)(a), 19D(2), 41(2)(a) or 43(4)(a).

monitoring direction see section 16A(2)(b).

period of imprisonment see the *Penalties and Sentences Act 1992*, section 4.

preliminary hearing see section 5(3).

prisoner means a prisoner within the meaning of the *Corrective Services Act 2006*.

Note—

Also see section 43A.

psychiatrist means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession as a specialist registrant in the specialty of psychiatry, other than as a student.

QEC service premises see the *Education and Care Services Act 2013*, schedule 1.

reasonably suspects means suspects on grounds that are reasonable in all the circumstances of the case.

registrar means the registrar of the court.

release day, in relation to a prisoner, means the day on which the prisoner is due to be unconditionally released from lawful custody under the *Corrective Services Act 2006*.

released prisoner see section 18(1)(a).

relevant appeal court means, if the decision of the trial division of the Supreme Court on a matter relating to this Act is appealed, a court with jurisdiction to hear the appeal or any further appeal relating to the matter.

relevant order, for a released prisoner, means the supervision order or interim supervision order to which the released prisoner is subject.

requirement, of an order, includes—

(a) a condition, including a condition of an order made before the commencement of the *Dangerous Prisoners (Sexual Offenders) Amendment Act 2007*; and

(b) a provision of an order made before the commencement of that Act under section 16(2) or 22(1) as in force at any time before the commencement of that Act.

risk assessment order means an order made under section 8(2)(a).

serious danger to the community see section 13(1).

serious sexual offence means an offence of a sexual nature, whether committed in Queensland or outside Queensland—

(a) involving violence; or

(b) against a child; or

(c) against a person, including a fictitious person represented to the prisoner as a real person, whom the prisoner believed to be a child under the age of 16 years.

supervised release means release from custody under a supervision order or interim supervision order.

supervision order means—

(a) a supervision order made under section 13(5)(b); or

(b) a further supervision order.

term of imprisonment see the *Penalties and Sentences Act 1992*, section 4.

transcription, of a proceeding, means a transcription of a record under the *Recording of Evidence Act 1962* of the proceeding.

violence includes the following—

(a) intimidation;

(b) threats.

Endnotes

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2 Key

Key to abbreviations in list of legislation and annotations

Key		Explanation	Key		Explanation
AIA	=	**Acts Interpretation Act 1954**	**(prev)**	=	**previously**
amd	=	**amended**	**proc**	=	**proclamation**
amdt	=	**amendment**	**prov**	=	**provision**
ch	=	**chapter**	**pt**	=	**part**
def	=	**definition**	**pubd**	=	**published**
div	=	**division**	**R[X]**	=	**Reprint No. [X]**
exp	=	**expires/expired**	**RA**	=	**Reprints Act 1992**
gaz	=	**gazette**	**reloc**	=	**relocated**
hdg	=	**heading**	**renum**	=	**renumbered**
ins	=	**inserted**	**rep**	=	**repealed**
lap	=	**lapsed**	**(retro)**	=	**retrospectively**
notfd	=	**notified**	**rv**	=	**revised version**
num	=	**numbered**	**s**	=	**section**
o in c	=	**order in council**	**sch**	=	**schedule**
om	=	**omitted**	**sdiv**	=	**subdivision**
orig	=	**original**	**SIA**	=	**Statutory Instruments Act 1992**
p	=	**page**	**SIR**	=	**Statutory Instruments Regulation 2012**
para	=	**paragraph**	**SL**	=	**subordinate legislation**
prec	=	**preceding**	**sub**	=	**substituted**
pres	=	**present**	**unnum**	=	**unnumbered**
prev	=	**previous**			

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory

requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments included	Effective	Notes
1	none	6 June 2003	
1A	2005 Act No. 70	8 December 2005	
1B	2006 Act No. 24	29 May 2006	
1C	2006 Act No. 29	28 August 2006	
1D	2006 Act No. 45	2 February 2007	
2	2007 Act No. 35	29 August 2007	
2A	2007 Act No. 37	28 September 2007	
2B	2010 Act No. 14	1 July 2010	
2C	2010 Act No. 34	1 December 2010	
2D	2011 Act No. 38	1 January 2012	

Current as at	Amendments included	Notes
5 April 2013	2013 Act No. 3	
1 January 2014	2013 Act No. 44	
15 August 2014	2014 Act No. 39	

4 List of legislation

Dangerous Prisoners (Sexual Offenders) Act 2003 No. 40
date of assent 6 June 2003
commenced on date of assent

amending legislation—

Justice and Other Legislation Amendment Act 2005 No. 70 s 1, pt 11
date of assent 8 December 2005
commenced on date of assent

Personal Injuries Proceedings (Legal Advertising) and Other Acts Amendment Act 2006 No. 24 pts 1, 4
date of assent 29 May 2006
commenced on date of assent

Corrective Services Act 2006 No. 29 ss 1, 2(2), 518 sch 3
date of assent 1 June 2006
ss 1–2 commenced on date of assent
remaining provisions commenced 28 August 2006 (2006 SL No. 213)

Criminal Code (Drink Spiking) and Other Acts Amendment Act 2006 No. 45 pts 1, 4
date of assent 10 November 2006
ss 1–2 commenced on date of assent
remaining provisions commenced 2 February 2007 (2007 SL No. 6)

Dangerous Prisoners (Sexual Offenders) Amendment Act 2007 No. 35
date of assent 29 August 2007
commenced on date of assent

Justice and Other Legislation Amendment Act 2007 No. 37 ss 1, 162 sch
date of assent 29 August 2007
ss 1–2 commenced on date of assent
remaining provisions commenced 28 September 2007 (2007 SL No. 241)

Health Legislation (Health Practitioner Regulation National Law) Amendment Act 2010 No. 14 ss 1, 124 sch
date of assent 21 April 2010
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2010 (see s 2)

Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Act 2010 No. 34 pts 1–2
date of assent 8 September 2010
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 2010 (2010 SL No. 329)

Education and Care Services National Law (Queensland) Act 2011 No. 38 ss 1–2, pt 5 div 5
date of assent 24 November 2011
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2012 (2011 SL No. 277)

Classification of Computer Games and Images and Other Legislation Amendment Act 2013 No. 3 ss 1, 2(2)(e)–(f), 61 sch 2
date of assent 26 February 2013
ss 1–2 commenced on date of assent
remaining provisions commenced 5 April 2013 (2013 SL No. 39)

Education and Care Services Act 2013 No. 44 ss 1–2, 269 sch 1 pt 2
date of assent 23 September 2013
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2014 (2013 SL No. 264)

Criminal Law Amendment Act 2014 No. 39 s 1, pt 7
date of assent 15 August 2014
commenced on date of assent

5 List of annotations

Attorney-General may apply for orders
s 5 amd 2005 No. 70 s 62

Preliminary hearing
s 8 amd 2005 No. 70 s 63

Attorney-General may produce report
s 8A ins 2010 No. 34 s 4

Victim's submission relating to division 3 order
s 9AA ins 2007 No. 35 s 2A
amd 2010 No. 34 s 5

Court may adjourn hearing for division 3 order
s 9A ins 2005 No. 70 s 64

Discontinuing application for division 3 order
s 10 amd 2005 No. 70 s 65; 2007 No. 35 s 2B; 2010 No. 34 s 6

Division 3—Final orders
div hdg sub 2005 No. 70 s 66

Division 3 orders
s 13 amd 2007 No. 35 s 2C; 2010 No. 34 s 7

Fixing of period of supervision order
s 13A ins 2010 No. 34 s 8

Division 3A—Effect of particular orders
div hdg ins 2005 No. 70 s 67

Effect of continuing detention order or interim detention order
prov hdg amd 2005 No. 70 s 68(1)
s 14 amd 2005 No. 70 s 68(2)–(3)

Effect of supervision order or interim supervision order
prov hdg amd 2005 No. 70 s 69
s 15 amd 2005 No. 70 s 69; 2010 No. 34 s 9

Division 3B—Supervised release to be subject to particular requirements
div hdg ins 2005 No. 70 s 70

Subdivision 1—Requirements for supervised release
sdiv hdg ins 2010 No. 34 s 10

Requirements for orders
prov hdg amd 2007 No. 35 s 3(1); 2010 No. 34 s 11(1)
s 16 amd 2005 No. 70 s 71; 2006 No. 45 s 10; 2007 No. 35 s 3(2)–(4); 2010 No. 34 s 11(2)–(5); 2011 No. 38 s 64; 2013 No. 44 s 269 sch 1 pt 2

Subdivision 2—Directions to released prisoners
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Curfew and monitoring directions
s 16A ins 2007 No. 35 s 3A
amd 2010 No. 34 s 13

Other directions
s 16B ins 2010 No. 34 s 14

Criteria for giving directions
s 16C ins 2010 No. 34 s 14

Requirement under order to comply with directions not affected
s 16D ins 2010 No. 34 s 14

Division 3C—Reasons for orders
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Court or relevant appeal court to give reasons
prov hdg sub 2010 No. 34 s 15(1)
s 17 amd 2005 No. 70 s 73; 2010 No. 34 s 15(2)

Division 4—Amendment of supervision orders or interim supervision orders
div hdg amd 2005 No. 70 s 74

Application for amendment
s 18 amd 2005 No. 70 s 75

Amendment of requirements of supervision order or interim supervision order
prov hdg amd 2005 No. 70 s 76; 2007 No. 35 s 3B(1)
s 19 amd 2005 No. 70 s 76; 2007 No. 35 s 3B(1)–(2); 2010 No. 34 s 16

Removal or reinstatement of requirement to comply with curfew direction or monitoring direction
s 19A ins 2007 No. 35 s 3C

Division 4A—Extending supervised release
div 4A (ss 19B–19F) ins 2010 No. 34 s 17

Division 5—Contravention of supervision order or interim supervision order
div hdg amd 2005 No. 70 s 77

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s 20 amd 2005 No. 70 s 78(2); 2006 No. 24 s 27; 2007 No. 35 s 4(1A)–(8)

Interim order concerning custody generally
prov hdg amd 2005 No. 70 s 79
s 21 sub 2007 No. 35 s 5
amd 2010 No. 34 s 18

Victim's submission relating to further order
s 21A ins 2007 No. 35 s 5A
amd 2010 No. 34 s 19

Court may make further order
s 22 amd 2005 No. 70 s 80; 2006 No. 24 s 28
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amd 2010 No. 34 s 20

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s 40 amd 2006 No. 29 s 518 sch 3; 2007 No. 37 s 162 sch

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Court of Appeal's powers on appeal
s 43 amd 2005 No. 70 s 85

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s 43AA ins 2010 No. 34 s 25
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Applying for change of name without permission
s 43AB ins 2010 No. 34 s 25

Indictable offences that must be heard and decided summarily on prosecution election
s 43AC ins 2010 No. 34 s 25
sub 2014 No. 39 s 41

Constitution of Magistrates Court
s 43AD ins 2014 No. 39 s 41

When Magistrates Court must abstain from jurisdiction
s 43AE ins 2014 No. 39 s 41

Charge may be heard and decided where defendant arrested or served
s 43AF ins 2014 No. 39 s 41

Time for prosecution
s 43AG ins 2014 No. 39 s 41

Maximum penalty for indictable offences dealt with summarily
s 43AH ins 2014 No. 39 s 41

Appeals against decision to decide charge summarily
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Persons who remain prisoners for particular purposes
s 43A ins 2005 No. 70 s 86
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s 43B ins 2007 No. 35 s 9
om 2010 No. 34 s 26

Hearings on the papers
s 44 amd 2005 No. 70 s 87; 2010 No. 34 s 27; 2013 No. 3 s 61 sch 2

Other hearings
s 45 amd 2007 No. 35 s 10; 2013 No. 3 s 61 sch 2

Service on a prisoner
s 47 amd 2006 No. 29 s 518 sch 3; 2007 No. 37 s 162 sch

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s 48 amd 2007 No. 37 s 162 sch

Appearance at hearings
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Provisions about victim's submissions and hearings
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Order for detention taken to be a warrant for Corrective Services Act
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PART 6—TRANSITIONAL PROVISIONS FOR JUSTICE AND OTHER LEGISLATION AMENDMENT ACT 2005
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pres s 54 ins 2005 No. 70 s 90

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s 55 prev s 55 om R1 (see RA s 40)
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PART 7—TRANSITIONAL PROVISIONS FOR DANGEROUS PRISONERS (SEXUAL OFFENDERS) AMENDMENT ACT 2007

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PART 9—TRANSITIONAL PROVISIONS FOR CRIMINAL LAW AMENDMENT ACT 2014

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def ***curfew direction*** ins 2007 No. 35 s 13(1)
def ***current order*** ins 2010 No. 34 s 32(2)
def ***education and care service premises*** ins 2011 No. 38 s 65
def ***eligible person*** ins 2007 No. 35 s 13(1)
def ***eligible persons register*** ins 2007 No. 35 s 13(1)
def ***further supervision order*** ins 2010 No. 34 s 32(2)
def ***interim detention order*** sub 2005 No. 70 s 91(1)–(2)
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def ***monitoring direction*** ins 2007 No. 35 s 13(1)
def ***prisoner*** amd 2005 No. 70 s 91(3); 2006 No. 29 s 518 sch 3
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def ***relevant appeal court*** ins 2010 No. 34 s 32(2)
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def ***serious sexual offence*** amd 2014 No. 39 s 43
def ***supervised release*** amd 2005 No. 70 s 91(4)
def ***supervision order*** sub 2010 No. 34 s 32(1)–(2)
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