



Queensland

Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Act 2010

Act No. 34 of 2010



Queensland

Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Act 2010

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Queensland

Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Act 2010

Act No. 34 of 2010

An Act to amend the Dangerous Prisoners (Sexual Offenders) Act 2003, the Penalties and Sentences Act 1992 and the Births, Deaths and Marriages Registration Act 2003 for particular purposes

[Assented to 8 September 2010]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Act 2010*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Dangerous Prisoners (Sexual Offenders) Act 2003

3 Act amended

This part amends the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

4 Insertion of new s 8A

After section 8—

insert—

‘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.’.

5 Amendment of s 9AA (Victim’s submission relating to division 3 order)

- (1) Section 9AA(1) to (3), ‘Attorney-General’—
omit, insert—
‘chief executive’.
 - (2) Section 9AA—
insert—
- ‘(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.’.
- (3) Section 9AA(5)—
omit.

6 Amendment of s 10 (Discontinuing application for division 3 order)

- Section 10(4), ‘Attorney-General’—
omit, insert—
‘chief executive’.

[s 7]

7 Amendment of s 13 (Division 3 orders)

(1) Section 13(4), before paragraph (a)—

insert—

‘(aa) any report produced under section 8A;’.

(2) Section 13(6), from ‘or (b)’—

omit, insert—

‘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.’.

8 Insertion of new s 13A

Part 2, division 3—

insert—

‘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.’.

9 Amendment of s 15 (Effect of supervision order or interim supervision order)

Section 15(a), ‘at the end of the prisoner’s period of imprisonment’—

omit, insert—

‘on the prisoner’s release day’.

10 Insertion of new pt 2, div 3B, sdiv 1 hdg

Part 2, division 3B—

insert—

‘Subdivision 1 Requirements for supervised release’.

11 Amendment of s 16 (Requirements for supervised release)

(1) Section 16, heading, ‘supervised release’—

omit, insert—

‘orders’.

(2) Section 16(1), ‘a judicial authority’—

omit, insert—

‘the court or a relevant appeal court’.

(3) Section 16(1)(b) and (2), ‘the judicial authority’—

omit, insert—

‘the court or a relevant appeal court’.

(4) Section 16(1), after paragraph (da)—

insert—

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

(5) Section 16(1)(db)—

[s 12]

omit, insert—

‘(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 or child care centres.
- 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.’.

12 Insertion of new pt 2, div 3B, sdiv 2 hdg

After section 16—

insert—

‘Subdivision 2 Directions to released prisoners’.

13 Amendment of s 16A (Curfew and monitoring devices)

Section 16A(4)—

omit, insert—

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

14 Insertion of new ss 16B to 16D

Part 2, division 3B, subdivision 2, after section 16A—

insert—

‘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.

[s 15]

‘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).’.

15 Amendment of s 17 (Court to give reasons)

(1) Section 17, heading—

omit, insert—

‘17 Court or relevant appeal court to give reasons’.

(2) Section 17, ‘a judicial authority’—

omit, insert—

‘the court or a relevant appeal court’.

16 Amendment of s 19 (Amendment of requirements of supervision order or interim supervision order)

Section 19(3), from ‘the requirements mentioned’—

omit, insert—

‘all of the requirements under section 16(1) if the order does not already include all of those requirements.’.

17 Insertion of new pt 2, div 4A

Part 2—

insert—

‘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

[s 17]

- (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.'

18 Amendment of s 21 (Interim order concerning custody generally)

Section 21(7)(a), from ‘the requirements mentioned’—

omit, insert—

‘all of the requirements under section 16(1) if the order does not already include all of those requirements; and’.

19 Amendment of s 21A (Victim’s submission relating to further order)

(1) Section 21A(1) to (3), ‘Attorney-General’—

omit, insert—

‘chief executive’.

(2) Section 21A(1), after ‘written notice’—

insert—

‘*(hearing notice)*’.

(3) Section 21A—

insert—

‘(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.’.

(4) Section 21A—

insert—

‘(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

[s 20]

- (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.’.
- (5) Section 21A(5)—
omit.

20 Amendment of s 22 (Court may make further order)

- (1) Section 22(3)(b), from ‘including’—
omit, insert—
‘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;’.
- (2) Section 22(3)—
insert—
‘(c) consider any further report or revised report in the nature of a report of a type mentioned in section 8A.’.
- (3) Section 22(7)(a), from ‘the requirements mentioned’—
omit, insert—
‘all of the requirements under section 16(1) if the order does not already include all of those requirements; and’.

21 Amendment of s 27 (Review—periodic)

- (1) Section 27(1)—
omit, insert—

-
- ‘(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) Section 27(2), ‘mentioned in subsection (1)’—
omit.

22 Insertion of new s 28A

After section 28—

insert—

‘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.’.

23 Amendment of s 30 (Review hearing)

- (1) Section 30(1), ‘matters mentioned in section 13(4)’—
omit, insert—
‘required matters’.
- (2) Section 30(4)—
omit, insert—
- ‘(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

[s 24]

- (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.’.
- (3) Section 30(4A)—
omit.
- (4) Section 30—
insert—
- ‘(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.’.

24 Amendment of s 41 (Stay of operation of decision)

- (1) Section 41(2), ‘the judicial authority’—
omit, insert—
‘the court’.
- (2) Section 41(2), note, ‘a judicial authority’—
omit, insert—
‘the court hearing an appeal’.

25 Insertion of new pt 4A

After part 4—
insert—

‘Part 4A Offences

‘43AA Contravention of relevant order

‘A released prisoner must not contravene the relevant order without reasonable excuse.

Maximum penalty—2 years imprisonment.

‘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 Proceedings for offences

‘A proceeding for an offence against this Act is a summary offence.’

[s 26]

26 Omission of s 43B (Offence of contravening supervision order or interim supervision order)

Section 43B—

omit.

27 Amendment of s 44 (Hearings on the papers)

Section 44(1), ‘section 8(1) or 18’—

omit, insert—

‘section 8(1), 18 or 19D(2)’.

28 Amendment of s 49 (Appearance at hearings)

(1) Section 49(1), after ‘18,’—

insert—

‘19D,’.

(2) Section 49(2), ‘section 8 or 18’—

omit, insert—

‘section 8, 18 or 19D’.

29 Insertion of new s 49A

After section 49—

insert—

‘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.’.

30 Replacement of s 51 (Parole)

Section 51—

omit, insert—

‘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.’.

31 Insertion of new pt 8

After section 58—

insert—

‘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.’.

32 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *judicial authority* and *supervision order*—
omit.

- (2) Schedule—

insert—

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

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

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.

finite sentence, for part 10, see section 173(1)(b).

finite term, for a provision about a finite sentence, means the term of the sentence.

indefinite sentence, for part 10, see section 162.

nominal sentence, for part 10, see section 162.

qualifying offence, for part 10, see section 162.

Queensland board means the Queensland Parole Board under the *Corrective Services Act 2006*.

serious harm means any detrimental effect of a serious nature on a person's emotional, physical or psychological wellbeing, whether temporary or permanent.

term of imprisonment means the duration of imprisonment imposed for a single offence and includes—

- (a) the imprisonment an offender is serving, or is liable to serve—
 - (i) for default in payment of a single fine; or
 - (ii) for failing to comply with a single order of a court; and
- (b) for an offender on whom a finite sentence has been imposed, any extension under section 174B(6) of the offender's finite term.'

34A Amendment of s 9 (Sentencing guidelines)

Section 9—

insert—

- '(8) In sentencing an offender, a court must not have regard to whether or not the offender—
 - (a) may become, or is, the subject of a dangerous prisoners application; or
 - (b) may become subject to an order because of a dangerous prisoners application.'

[s 35]

35 Amendment of s 162 (Definitions)

Section 162, definition *violent offence*—

omit, insert—

‘qualifying offence means an indictable offence—

- (a) against a provision of the Criminal Code mentioned in schedule 2, as in force at any time (a *relevant Code provision*); or
- (b) that involved counselling or procuring the commission of, or attempting or conspiring to commit, a relevant Code provision.’.

36 Amendment of s 163 (Indefinite sentence—imposition)

- (1) Section 163, ‘violent offence’—

omit, insert—

‘qualifying offence’.

- (2) Section 163(4)(d), ‘serious physical harm’—

omit, insert—

‘serious harm’.

37 Amendment of s 165 (Attorney-General’s consent)

Section 165(2), ‘violent offence’—

omit, insert—

‘qualifying offence’.

38 Amendment of s 166 (Adjournment)

- (1) Section 166(b), ‘violent offence’—

omit, insert—

‘qualifying offence’.

- (2) Section 166(b), ‘called by the prosecution and the offender’—

omit, insert—

‘received by the court’.

39 Insertion of new ss 166A to 166C

After section 166—

insert—

‘166A Reports about offender

- ‘(1) This section applies when the court adjourns the offender’s sentencing.
- ‘(2) The court must make an order that the chief executive (corrective services) must—
 - (a) prepare for the court a report about the offender; and
 - (b) give the court the report within a stated period.
- ‘(3) The court may also order the chief executive (corrective services) to provide or obtain any other report that the court considers appropriate to enable it to impose the proper sentence.
- ‘(4) In this section—

report includes an assessment of, or information about, the prisoner.

‘166B Distribution of reports

- ‘(1) On receipt of a report under section 166A the court must give a copy to—
 - (a) the prosecution; and
 - (b) the offender’s lawyers.
- ‘(2) The court must ensure the prosecution and the offender’s lawyers have sufficient time before the sentencing to consider and respond to the report.
- ‘(3) The court may order the report, or part of the report, not be shown to the offender.

[s 40]

‘166C Use of reports

- ‘(1) The offender’s lawyers may, before the offender’s sentencing is to take place, file with the court a notice of intention to dispute the whole or any part of a report given under section 166A.
- ‘(2) If a notice is filed under subsection (1), the court must not take the report or the part in dispute into consideration on the sentencing unless the offender’s lawyers have been given the opportunity—
 - (a) to lead evidence on the disputed matters; and
 - (b) to cross-examine the author of the report on its contents.’.

40 Amendment of s 167 (Evidence)

- (1) Section 167(3), ‘violent offence’—
omit, insert—
‘qualifying offence’.
- (2) Section 167—
insert—
- ‘(4) Subsections (1) and (2) do not affect the admissibility of a report given under section 166A or any matter contained in the report.’.

41 Insertion of new s 172D

After section 172C—
insert—

‘172D Court not to have regard to possible order under Dangerous Prisoners (Sexual Offenders) Act 2003

- ‘A court hearing a review under section 171 or 172 must not have regard to whether or not the offender—
- (a) may become, or is, the subject of a dangerous prisoners application; or

- (b) may become subject to an order because of a dangerous prisoners application.

Note—

See also section 9(8) (Sentencing guidelines).’.

42 Amendment of s 173 (Indefinite sentence discharged)

- (1) Section 173(1)(b)—

omit, insert—

‘(b) impose a sentence (a *finite sentence*) on the offender under this Act for the qualifying offence for which the indefinite sentence was imposed.’.

- (2) Section 173(3), ‘A sentence imposed under subsection (1)(b)’—

omit, insert—

‘A finite sentence’.

43 Replacement of s 174 (Parole for offenders)

Section 174—

omit, insert—

‘174 Parole application if finite sentence imposed

- ‘(1) An offender on whom a finite sentence has been imposed may apply under the *Corrective Services Act 2006* for release on parole under that Act.
- ‘(2) However, an application under subsection (1) can not be made less than 6 months before the relevant period of imprisonment for the offender ends.
- ‘(3) Despite the *Corrective Services Act 2006*, section 187 the Queensland board must hear and decide the application.
- ‘(4) If the decision on the application is to grant the parole, the Queensland board must decide the parole period.
- ‘(5) The board can not on the application decide a parole period that ends before the relevant period of imprisonment ends.

[s 43]

- ‘(6) The board may decide a parole period that ends after the relevant period of imprisonment ends.
- ‘(7) The parole period decided by the board must be 5 years, subject to subsections (8) and (9).
- ‘(8) The parole period may be more than 5 years if—
 - (a) the rest of the offender’s period of imprisonment immediately before deciding the parole period is more than 5 years (the *remaining period*); and
 - (b) the parole period is the remaining period.
- ‘(9) The parole period may be less than 5 years only if the board considers that period is appropriate having regard to any relevant board guidelines.
- ‘(10) In this section—

relevant period of imprisonment, for the offender, means a period of imprisonment for the offender consisting of or including a finite term of imprisonment, whether or not the finite term has ended.

‘174A When parole order must be made

- ‘(1) This section applies if an offender on whom a finite sentence has been imposed is not currently on parole 6 months before the relevant period of imprisonment for the offender ends (the *6-month period*).
- ‘(2) To remove any doubt, it is declared that this section applies even if the offender made an application under section 174 (an *offender application*) that has not been not decided.
- ‘(3) The Queensland board must, within the 6-month period, make a parole order under the *Corrective Services Act 2006*, section 194.
- ‘(4) If the offender has made an offender application, subsection (3) applies even if the decision on the application was not or would not have been to grant the parole.

- ‘(5) If the offender has not made an offender application, subsection (3) applies as if the offender had lawfully made an offender application.

Note—

The word ‘lawfully’ is necessary because ordinarily an offender application within the 6-month period would be prevented under section 174(2).

- ‘(6) The parole order may order the offender’s release at any time during or at the end of the 6-month period for a parole period ending after the relevant period of imprisonment ends.
- ‘(7) The board must decide the parole period which is to start from the release.
- ‘(8) The parole period decided by the board must be 5 years, subject to subsection (9).
- ‘(9) The parole period may be less than 5 years only if the board considers that period is appropriate having regard to any relevant board guidelines.
- ‘(10) In this section—
relevant period of imprisonment, for the offender, see section 174(10).

‘174B Provisions for parole orders under part

- ‘(1) This section applies if a parole order is made under section 174 or 174A.
- ‘(2) The *Corrective Services Act 2006*, chapter 5, part 1, divisions 5 and 6 apply to the parole order.
- ‘(3) The *Dangerous Prisoners (Sexual Offenders) Act 2003* continues to apply to a prisoner, within the meaning of section 5(6) of that Act, who is or has been subject to the application of section 174 or 174A.

Note—

See also the *Dangerous Prisoners (Sexual Offenders) Act 2003*, section 51 (Parole).

[s 43]

- ‘(4) During the parole period decided under section 174 or 174A, the offender must be under the authority of the Queensland board and the supervision of an authorised corrective services officer.
- ‘(5) Subsections (6) and (7) apply if (other than for this section) there would exist a period (the *gap period*) between the end of the relevant period of imprisonment for the offender and the last day of the parole period.
- ‘(6) The finite term included in the relevant period of imprisonment is taken to be extended by the gap period.
- ‘(7) Any term of imprisonment ordered to be served cumulatively with the finite term is taken to be ordered to be served cumulatively with the finite term as extended.
- ‘(8) In this section—
relevant period of imprisonment, for the offender, see section 174(10).

‘174C Parole provisions on cancellation of parole order

- ‘(1) This section applies if a parole order under section 174 or 174A is made for an offender and the order is cancelled.
- ‘(2) No further parole order may be made under either section against the offender.
- ‘(3) Any extension of the finite term under section 174B(6) continues to apply and is not affected by the cancellation.
- ‘(4) To remove any doubt, it is declared that this section does not limit the offender’s ability under the *Corrective Services Act 2006* to apply for, or to be granted, further parole.
- ‘(5) The Queensland board must hear and decide any application for the further parole.
- ‘(6) Subsection (5) applies despite the *Corrective Services Act 2006*, section 187.’.

44 Insertion of new s 217

After section 216—

insert—

**‘217 Transitional provision for Dangerous Prisoners
(Sexual Offenders) and Other Legislation
Amendment Act 2010**

- ‘(1) Section 9(8) and amended part 10, other than new sections 172D and 174 to 174C, apply to the sentencing of an offender and to a review under that part no matter when the relevant offence happened or happens.
- ‘(2) However, section 9(8) and amended part 10, other than new sections 172D and 174 to 174C, only apply if the conviction for the offence took place after the date of assent of the amending Act.
- ‘(3) New sections 172D and 174 to 174C apply to an offender on whom a finite sentence has been imposed no matter when the relevant offence or conviction happened or happens, or when the finite sentence was made.
- ‘(4) Subsections (1) and (3) apply despite the *Acts Interpretation Act 1954*, section 20C.
- ‘(5) In this section—

amended part 10 means part 10 as amended under the amending Act.

amending Act means the *Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Act 2010*.

new sections 172D and 174 to 174C means those numbered sections of the post-amended Act, as affected by any relevant definitions under the post-amended Act.

post-amended Act means this Act as amended by the amending Act.’.

45 Insertion of new sch 2

After schedule—

[s 45]

insert—

‘Schedule 2 Qualifying offences

section 162, definition *qualifying offence*, paragraph (a)

Criminal Code

Section	Section heading or description of offence
54A	Demands with menaces upon agencies of government
208	Unlawful sodomy
210	Indecent treatment of children under 16
213	Owner etc. permitting abuse of children on premises
215	Carnal knowledge with or of children under 16
216	Abuse of persons with an impairment of the mind
217	Procuring young person etc. for carnal knowledge
Section	Section heading or description of offence
218	Procuring sexual acts by coercion etc.
219	Taking child for immoral purposes
221	Conspiracy to defile
222	Incest
229B	Maintaining a sexual relationship with a child
302, 305	Murder
303, 310	Manslaughter
306	Attempt to murder
309	Conspiring to murder

311	Aiding suicide
313	Killing unborn child
315	Disabling in order to commit indictable offence
317	Acts intended to cause grievous bodily harm and other malicious acts
320A	Torture
321	Attempting to injure by explosive or noxious substances
322	Administering poison with intent to harm
349	Rape
350	Attempt to commit rape
351	Assault with intent to commit rape
352	Sexual assaults
411(2)	Robbery with circumstance of aggravation
412	Attempted robbery

Criminal Code (Provisions repealed by Criminal Law Amendment Act 1997)

Section	Section heading
208	Unlawful anal intercourse
221	Conspiracy to defile
222	Incest by man
223	Incest by adult female

47 Amendment of s 42 (Correcting the register)

Section 42(1)(b), after ‘*Corrective Services Act 2006*, section 27(4)’—

insert—

‘or the *Dangerous Prisoners (Sexual Offenders) Act 2003*, section 43AB(4)’.

Schedule **Consequential amendments of
Penalties and Sentences
Act 1992**

section 38

1 **Sections 156A(1)(a), 161A(a), 161B(3)(a) and 161C, ‘the
schedule’—**

omit, insert—

‘schedule 1’.

2 **Schedule—**

number as schedule 1.

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