

Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Bill 2009

Amendments agreed to during Consideration

1 Clause 8 (Insertion of new s 13A)

Page 8, lines 23 and 24—

omit, insert—

- ‘(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.’.’

2 Clause 14 (Insertion of new ss 16B to 16D)

Page 12, line 3, ‘Section 16(1)(da) and (daa) and this subdivision’—

omit, insert—

‘Sections 16(1)(da), 16(1)(daa), 16A and 16B’.

3 Clause 17 (Insertion of new pt 2, div 4A)

Page 13, lines 5 to 10—

omit, insert—

- ‘(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.’

4 Clause 17 (Insertion of new pt 2, div 4A)

Page 13, line 18—

omit, insert—

‘13, section 15 and divisions 3B and 3C apply for the application and the operation of any further supervision order for the released prisoner—’.

5 Clause 17 (Insertion of new pt 2, div 4A)

Page 13, line 29—

omit, insert—

- ‘(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)’.

6 Clause 17 (Insertion of new pt 2, div 4A)

Page 14, line 4, ‘(f)’—

omit, insert—

‘(g)’.

7 Clause 17 (Insertion of new pt 2, div 4A)

Page 14, line 7, ‘(g)’—

omit, insert—

‘(h)’.

8 Clause 17 (Insertion of new pt 2, div 4A)

Page 14, line 10, '(h)'—

omit, insert—

'(i)'.

9 Clause 17 (Insertion of new pt 2, div 4A)

Page 14, line 18, '(1)'—

omit.

10 Clause 17 (Insertion of new pt 2, div 4A)

Page 14, lines 20 and 21—

omit.

11 Clause 25 (Insertion of new pt 4A)

Page 18, lines 20 and 21—

omit, insert—

'43AA Contravention of relevant order'.

12 Clause 25 (Insertion of new pt 4A)

Page 19, line 1—

omit, insert—

'43AB Applying for change of name without permission'.

13 Clause 30 (Replacement of s 51 (Parole))

Page 21, lines 5 and 6—

omit, insert—

'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—'.

14 Clause 31 (Insertion of new pt 8)

Page 21, after line 21—

insert—

‘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.’.

15 Clause 31 (Insertion of new pt 8)

Page 21, line 22, ‘59’—

omit, insert—

‘61’.

16 Clause 31 (Insertion of new pt 8)

Page 22, line 1, ‘60’—

omit, insert—

‘62’.

17 Clause 31 (Insertion of new pt 8)

Page 22, line 14, ‘61’—

omit, insert—

‘63’.

18 Clause 32 (Amendment of schedule (Dictionary))

Page 22, after line 29—

insert—

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

19 Clause 32 (Amendment of schedule (Dictionary))

Page 23, lines 10 and 11—

omit, insert—

‘(b) a further supervision order.’.

20 Clause 34 (Amendment of s 4 (Definitions))

Page 23, lines 22 to 24—

omit, insert—

‘(1) Section 4, definition *term of imprisonment—*

omit.

‘(2) Section 4—

insert—

‘board guidelines means guidelines under the *Corrective Services Act 2006*, section 227.

dangerous prisoners application means an application under the *Dangerous Prisoners (Sexual Offenders) Act 2003* for a continuing detention order, interim detention order, supervision order or interim supervision order.

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

21 Clause 34 (Amendment of s 4 (Definitions))

Page 24, line 8—

omit, insert—

‘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.'.'.

22 After clause 34

Page 24, after line 8—

insert—

'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.'.'.

23 Clause 40 (Amendment of s 167 (Evidence))

Page 27, lines 1 and 2, ', under section 166C,'—

omit.

24 Clause 41 (Insertion of new s 172D)

Page 27, lines 7 to 19—

omit, 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).’.

25 Clause 42 (Amendment of s 173 (Indefinite sentence discharged))

Page 27, line 23, ‘sentence (a *finite sentence*)’—

omit, insert—

‘impose a sentence (a *finite sentence*) on’.

26 Clause 43 (Replacement of s 174 (Resettlement leave and parole for offenders))

Page 28, lines 1 to 28, page 29, lines 1 to 31 and page 30, lines 1 to 13—

omit, insert—

‘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.
- ‘(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).

- ‘(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.’.

27 Clause 44 (Insertion of new s 217)

Page 30, lines 20 to 21—

omit, insert—

‘(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’.

28 Clause 44 (Insertion of new s 217)

Page 30, line 24, ‘amended part 10 only applies’—

omit, insert—

‘section 9(8) and amended part 10, other than new sections 172D and 174 to 174C, only apply’.

29 Clause 44 (Insertion of new s 217)

Page 30, line 27, after ‘sections’—

insert—

‘172D and’.

30 Clause 44 (Insertion of new s 217)

Page 31, line 6, after ‘sections’—

insert—

‘172D and’.