



Crimes Legislation Amendment Act (No. 2) 1989

No. 4 of 1990

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Crimes Legislation Amendment Act (No. 2) 1989

No. 4 of 1990

**An Act to amend various Acts relating to criminal matters,
to repeal the *Commonwealth Prisoners Act 1967*, and for
related purposes**

[Assented to 17 January 1990]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Crimes Legislation Amendment Act (No. 2) 1989*.

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Commencement

2. (1) Sections 1, 2, 36, 37, 38, 46, 47, 51, 52 and 53, subsection 50 (2), and Part 4, commence on the day on which this Act receives the Royal Assent.

(2) Sections 20, 21 and 22 commence immediately after section 10 of the *Crimes Legislation Amendment Act 1989* commences.

(3) Sections 39 and 48 commence on the commencement of section 7 of the *Cash Transaction Reports Act 1988*.

(4) Subject to subsections (5) and (6), subsections 40 (1) and 50 (1) commence on a day to be fixed by Proclamation, being a day that does not occur before the commencement of section 15 of the *Cash Transaction Reports Act 1988*.

(5) If the day fixed by Proclamation under subsection (4) is the same as the day on which section 15 of the *Cash Transaction Reports Act 1988* commences, subsections 40 (1) and 50 (1) commence immediately after the commencement of section 15 of that Act.

(6) If the commencement of subsections 40 (1) and 50 (1) is not fixed by Proclamation published in the *Gazette* before 31 December 1990, those subsections are repealed on that day.

(7) Subsection 40 (2) commences immediately after the commencement of section 15 of the *Cash Transaction Reports Act 1988*.

(8) Sections 41 and 49 commence immediately after the commencement of section 18 of the *Cash Transaction Reports Act 1988*.

(9) Section 42 commences immediately after the commencement of section 19 of the *Cash Transaction Reports Act 1988*.

(10) Section 43 commences immediately after the commencement of section 20 of the *Cash Transaction Reports Act 1988*.

(11) Section 44 commences immediately after the commencement of section 21 of the *Cash Transaction Reports Act 1988*.

(12) Section 45 commences immediately after the commencement of section 23 of the *Cash Transaction Reports Act 1988*.

(13) Subject to subsection (14), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

(14) If a provision referred to in subsection (13) does not commence under that subsection within the period of 6 months beginning on the day it receives the Royal Assent, it commences on the first day after the end of that period.

**PART 2—AMENDMENTS OF THE CRIMES ACT 1914
AND CONSEQUENTIAL AMENDMENTS**

Division 1—Amendments of the Crimes Act 1914

Principal Act

3. In this Division, “Principal Act” means the *Crimes Act 1914*.

Interpretation

4. Section 3 of the Principal Act is amended by adding at the end the following subsection:

“(2) In this Act, a reference to a fine includes a reference:

- (a) to a pecuniary penalty other than a pecuniary penalty imposed:
 - (i) under Division 3 of Part XIII of the *Customs Act 1901*; or
 - (ii) by a pecuniary penalty order made under the *Proceeds of Crime Act 1987*; or
 - (iii) by a superannuation order made under the *Australian Federal Police Act 1979*; or
 - (iv) by a superannuation order made under the *Crimes (Superannuation Benefits) Act 1989*; or
- (b) to costs or other amounts ordered to be paid by offenders.”.

Arrangements with States, Australian Capital Territory, Northern Territory and Norfolk Island

5. Section 3B of the Principal Act is amended:

- (a) by inserting in subsection (1) “the Australian Capital Territory Executive,” after “Governor of a State,”;
- (b) by omitting paragraph (2) (b) and substituting the following paragraph:

“(b) a reference to a participating Territory:

- (i) is a reference to a Territory other than the Australian Capital Territory, the Northern Territory or Norfolk Island; and
- (ii) if an arrangement is in force under subsection (1) of this section in relation to the Australian Capital Territory—includes a reference to the Australian Capital Territory; and
- (iii) if an arrangement is in force under subsection (1) of this section in relation to the Northern Territory—includes a reference to the Northern Territory; and
- (iv) if an arrangement is in force under subsection (1) of this section in relation to Norfolk Island—includes a reference to Norfolk Island.”;

(c) by adding after subsection (2) the following subsection:

“(3) In this section:

‘State’ does not include the Australian Capital Territory or the Northern Territory.”.

6. Section 17 of the Principal Act is repealed and the following Part heading, Divisions, Division heading and sections are substituted:

**“PART 1B—SENTENCING, IMPRISONMENT AND RELEASE OF
FEDERAL OFFENDERS**

“Division 1—Interpretation

Interpretation

“16. (1) In this Part, unless the contrary intention appears:

‘federal court’ means the High Court or a court created by the Parliament, other than a court of a Territory;

‘federal offence’ means an offence against the law of the Commonwealth;

‘federal offender’ means a person convicted of a federal offence;

‘federal sentence’ means a sentence imposed for a federal offence;

‘fit to be tried’ includes fit to plead;

‘law’, in relation to the Commonwealth, a State or a Territory, includes the common law, and any Imperial Act or order, that comprises a part of that law;

‘licence’ means a licence granted under section 19AP;

‘licence period’, in relation to a person who is released on licence, means:

(a) where the person has not been given a federal life sentence—the period commencing on the day of release on licence and ending:

(i) if the last day of any federal sentence that is, on the day of the release, being served or to be served, after deducting any remission or reduction that is applicable, occurs earlier than 5 years after the day of release on licence—at the end of that last day; or

(ii) in any other case—at the end of the day that occurs 5 years after the day of release on licence; and

(b) where the person has been given a federal life sentence—the period commencing on the day of release on licence and ending at the end of the day specified in the licence as the day on which the licence period ends;

‘maximum penalty’, in relation to an offence at common law, means imprisonment for life;

‘non-parole period’, in relation to a sentence or sentences of imprisonment, means that part of the period of imprisonment for that sentence or those sentences during which the person is not to be released on

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parole, whether that part of the period is fixed or recommended by a court or fixed by operation of law;

'offence' means a federal offence, a State offence or a Territory offence;

'offender' means a federal offender, a State offender or a Territory offender;

'parole' includes probation;

'parole officer' means:

(a) an officer of a State, the Australian Capital Territory, the Northern Territory or Norfolk Island in respect of whom there applies:

(i) an arrangement in force under paragraph 21F (1) (b);
or

(ii) an arrangement having a substantially similar effect in force under section 3B; or

(b) an officer of the Australian Public Service in respect of whom an appointment under subsection 21F (3) is in force;

'parole order' means an order under subsection 19AL (1) or (2);

'parole period', in relation to a person who is released on parole under section 19AL, means:

(a) where the person has not been given a federal life sentence—the period commencing on the day of release on parole and ending:

(i) if the last day of any federal sentence that is, on the day of the release, being served or to be served, after deducting any remission or reduction that is applicable, occurs earlier than 5 years after the day of release on parole—at the end of that last day; or

(ii) in any other case—at the end of the day that occurs 5 years after the day of release on parole; and

(b) where the person has been given a federal life sentence—the period commencing on the day of release on parole and ending at the end of the day specified in the parole order as the day on which the parole period ends;

'pre-release period', in relation to a recognizance release order made in respect of a federal sentence or sentences, means the period of imprisonment specified in that order as the period of imprisonment in respect of that sentence or those sentences after service of which the offender may be released on the giving of security in accordance with that order;

'prescribed authority' means:

(a) a person who holds office as a Magistrate of a State, the Australian Capital Territory, the Northern Territory or Norfolk Island and in respect of whom an arrangement in force under paragraph 21F (1) (a) is applicable; or

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- (b) a person who holds office as a Magistrate of a Territory (other than the Australian Capital Territory, the Northern Territory or Norfolk Island); or
- (c) unless an arrangement has been entered into under paragraph 21F (1) (a) in respect of persons holding office as Magistrates of the Australian Capital Territory—a person who holds office as a Magistrate of the Australian Capital Territory;

'prison' includes gaol, lock-up or other place of detention;

'recognizance release order' means an order made under paragraph 20 (1) (b);

'released on licence' means released from prison under section 19AP;

'released on parole' means released from prison under section 19AL;

'sentence', in sections 16B to 19AZD, means a sentence of imprisonment;

'State' includes the Australian Capital Territory and the Northern Territory;

'State offence' means an offence against the law of a State;

'State offender' means a person convicted of a State offence;

'State sentence' means a sentence imposed for a State offence;

'supervision period', in relation to a person who is released on parole or on licence, means:

- (a) where the person has not been given a federal life sentence—the period commencing on the day of release on parole or licence and ending at the end of a day specified in the parole order or licence as the day on which the supervision period ends, being a day not later than:

- (i) if the last day of any federal sentence of imprisonment that is, on the day of the release, being served or to be served, after deducting any remission or reduction that is applicable, occurs earlier than 3 years after the day of release on parole or licence—that last day; or

- (ii) in any other case—the day that occurs 3 years after the day of release on parole or licence; and

- (b) where the person has been given a federal life sentence—the period commencing on the day of release on parole or licence and ending at the end of the day specified in the parole order or licence as the day on which the supervision ends, being a day not later than the day on which the parole period or licence period ends;

'Territory' does not include the Australian Capital Territory or the Northern Territory;

'Territory offence' means an offence against the law of a Territory;

'Territory offender' means a person convicted of a Territory offence;

'Territory sentence' means a sentence imposed for a Territory offence;

'unfit to be tried' includes unfit to plead.

“(2) In this Part, expressions in the plural do not imply that expressions in the singular do not include the plural.

“Division 2—General Sentencing Principles

Matters to which court to have regard when passing sentence etc.

“16A. (1) In determining the sentence to be passed, or the order to be made, in respect of any person for a federal offence, a court must impose a sentence or make an order that is of a severity appropriate in all the circumstances of the offence.

“(2) In addition to any other matters, the court must take into account such of the following matters as are relevant and known to the court:

- (a) the nature and circumstances of the offence;
- (b) other offences (if any) that are required or permitted to be taken into account;
- (c) if the offence forms part of a course of conduct consisting of a series of criminal acts of the same or a similar character—that course of conduct;
- (d) the personal circumstances of any victim of the offence;
- (e) any injury, loss or damage resulting from the offence;
- (f) the degree to which the person has shown contrition for the offence;
 - (i) by taking action to make reparation for any injury, loss or damage resulting from the offence; or
 - (ii) in any other manner;
- (g) if the person has pleaded guilty to the charge in respect of the offence—that fact;
- (h) the degree to which the person has co-operated with law enforcement agencies in the investigation of the offence or of other offences;
- (j) the deterrent effect that any sentence or order under consideration may have on the person;
- (k) the need to ensure that the person is adequately punished for the offence;
- (m) the character, antecedents, age, means and physical or mental condition of the person;
- (n) the prospect of rehabilitation of the person;
- (p) the probable effect that any sentence or order under consideration would have on any of the person’s family or dependants.

“(3) Without limiting the generality of subsections (1) and (2), in determining whether a sentence or order under subsection 19B (1), 20 (1) or 20AB (1) is the appropriate sentence or order to be passed or made in respect of a federal offence, the court must have regard to the nature and severity of the conditions that may be imposed on, or may apply to, the offender, under that sentence or order.

Court to have regard to other periods of imprisonment required to be served

“16B. In sentencing a person convicted of a federal offence, a court must have regard to:

- (a) any sentence already imposed on the person by the court or another court for any other federal offence or for any State or Territory offence, being a sentence that the person has not served; and
- (b) any sentence that the person is liable to serve because the revocation of a parole order made, or licence granted, under this Part or under a law of a State or Territory.

Fines

“16C. (1) Subject to subsection (2), before imposing a fine on a person for a federal offence, a court must take into account the financial circumstances of the person, in addition to any other matters that the court is required or permitted to take into account.

“(2) Nothing in subsection (1) prevents a court from imposing a fine on a person because the financial circumstances of the offender cannot be ascertained by the court.

No corporal punishment

“16D. (1) A court must not impose any form of corporal punishment for a federal offence.

“(2) A person serving a federal sentence must not be subjected to any form of corporal punishment.

“Division 3—Sentences of imprisonment

Commencement of sentences

“16E. (1) Subject to subsections (2) and (3), the law of a State or Territory relating to the commencement of sentences and of non-parole periods applies to a person who is sentenced in that State or Territory for a federal offence in the same way as it applies to a person who is sentenced in that State or Territory for a State or Territory offence.

“(2) Where the law of a State or Territory has the effect that a sentence imposed on a person for an offence against the law of that State or Territory or a non-parole period fixed in respect of that sentence:

- (a) may be reduced by the period that the person has been in custody for the offence; or
- (b) is to commence on the day on which the person was taken into custody for the offence;

the law applies in the same way to a federal sentence imposed on a person in that State or Territory or to a non-parole period fixed in respect of that sentence.

“(3) Where the law of a State or Territory does not have the effect mentioned in subsection (2), a court (including a federal court) in that State or Territory that imposes a federal sentence on a person or fixes a non-parole period in respect of such a sentence must take into account any period that the person has spent in custody in relation to the offence concerned.

Court to explain sentence

“16F. (1) Where a court imposes a federal sentence on a person and fixes a non-parole period in respect of the sentence, it must explain or cause to be explained to the person, in language likely to be readily understood by the person, the purpose and consequences of fixing that non-parole period including, in particular, an explanation:

- (a) that service of the sentence will entail a period of imprisonment of not less than the non-parole period and, if a parole order is made, a period of service in the community, called the parole period, to complete service of the sentence; and
- (b) that, if a parole order is made, the order will be subject to conditions; and
- (c) that the parole order may be amended or revoked; and
- (d) of the consequences that may follow if the person fails, without reasonable excuse, to fulfil those conditions.

“(2) Where a court imposes a federal sentence on a person and makes a recognizance release order in respect of that sentence, it must explain or cause to be explained to the person, in language likely to be readily understood by the person, the purpose and consequences of making the recognizance release order including, in particular, an explanation:

- (a) that service of the sentence will entail a period of imprisonment equal to the pre-release period (if any) specified in the order and a period of service in the community equal to the balance of the sentence; and
- (b) of the conditions to which the order is subject; and
- (c) of the consequences that may follow if the person fails, without reasonable excuse, to fulfil those conditions; and
- (d) that any recognizance given in accordance with the order may be discharged or varied under section 20AA.

Federal sentence to be adjusted if no State or Territory remission laws apply

“16G. If a federal sentence is to be served in a prison of a State or Territory where State or Territory sentences are not subject to remission or reduction, the court imposing the sentence must take that fact into account in determining the length of the sentence and must adjust the sentence accordingly.”.

Restriction on imposing sentences

7. (1) Section 17A of the Principal Act is amended:

- (a) by omitting from subsection (1) “an offence against the law of the Commonwealth, or of” and substituting “a federal offence, or for an offence against the law of”;
- (b) by inserting after subsection (1) the following subsections:

“(1A) Where:

- (a) a person is convicted of one or more federal offences relating to property, money or both, whose total value does not exceed \$2,000; and
- (b) the person has not previously been sentenced to imprisonment for any federal, State or Territory offence;

the court convicting the person must not, unless in the opinion of the court there are exceptional circumstances that warrant it, pass a sentence of imprisonment for that offence or any of those offences.

“(1B) For the purpose only, under subsection (1A), of aggregating the value of property or money to which federal offences relate, a federal offence of which a person has not been convicted but which a court, with the consent of the person charged, has taken into account in passing sentence on the person for another federal offence, is to be treated as if it were a federal offence of which the person was convicted.”;

- (c) by omitting from subsection (2) “an offence against the law of the Commonwealth, or of” and substituting “a federal offence, or for an offence against the law of”;
- (d) by omitting subsections (4) and (5) and substituting the following subsection:

“(4) This section applies subject to any contrary intention in the law creating the offence.”.

(2) Section 17A of the Principal Act is further amended by omitting from subsections (1) and (2) “the Australian Capital Territory or” (wherever occurring).

Enforcement of fines etc.

8. Section 18A of the Principal Act is amended:

- (a) by inserting in paragraph (1)(a) “, by a court or by any parole officer of that State or Territory,” after “the passing or making”;
- (b) by omitting from subsections (1) and (1A) “offences against laws of the Commonwealth” and substituting “federal offences”;
- (c) by omitting subsection (2) and substituting the following subsections:

“(2) Without limiting the generality of subsection (1), in the application to federal offenders of any State or Territory laws with respect to the enforcement or recovery of fines, a requirement that

the amount of a fine be paid to a State or Territory office or officer is to be treated as a requirement that the amount of the fine be paid in accordance with the law of the Commonwealth.

“(3) Where a court imposes a sentence or sentences of imprisonment on a person in respect of a failure to pay a fine or fines imposed for a federal offence or offences, the court must direct that the sentence, or all the sentences, commence to be served from the earliest practicable day despite the fact that the person may, on that day, already be serving another sentence of imprisonment for a federal, State or Territory offence.

“(4) Despite subsection (3), a court may, where it is of the opinion that, in all the circumstances of the case, it is more appropriate to do so, direct that a period of imprisonment imposed on a person in respect of a failure to pay a fine imposed in respect of a federal offence commence to be served during, or at the end of, a period of imprisonment imposed for a similar failure in respect of another federal offence.”

9. Sections 19 and 19A of the Principal Act are repealed and the following sections, Division and Division heading are substituted:

Cumulative, partly cumulative or concurrent sentences

“19. (1) Where a person who is convicted of a federal offence or federal offences is at the time of that conviction or those convictions, serving, or subject to, one or more federal, State or Territory sentences, the court must, by order, direct when each federal sentence imposed by it for the first-mentioned offence commences, but so that:

- (a) each federal sentence does not commence later than the end of the sentences the commencement of which has already been fixed or the last to end of those sentences; and
- (b) if a non-parole period applies in respect of any State or Territory sentences—the first federal sentence to commence after the end of that non-parole period commences immediately after the end of the period.

“(2) Where:

- (a) a person is convicted of 2 or more federal offences at the same sitting; and
- (b) the person is sentenced to imprisonment for more than one of the offences;

the court must, by order, direct when each sentence commences, but so that no sentence commences later than the end of the sentences the commencement of which has already been fixed or of the last to end of those sentences.

“(3) Where:

- (a) a person is convicted of a federal offence or offences, and a State or Territory offence or offences, at the same sitting; and
- (b) the person is sentenced to imprisonment for more than one of the offences;

the court must, by order, direct when each federal sentence commences but so that:

- (c) each federal sentence does not commence later than the end of the sentences the commencement of which has already been fixed or the last to end of those sentences; and
- (d) if a non-parole period applies in respect of any State or Territory sentences—the first federal sentence to commence after the end of that non-parole period commences immediately after the end of the period.

“(4) For the purpose of fixing the commencement of a sentence under this section, a reference in this section to a sentence the commencement of which has already been fixed includes a reference to another sentence imposed at the same time as the first-mentioned sentence.

Detention of person in State or Territory prisons

“19A. A federal offender who is ordered by a court or a prescribed authority to be detained in prison in a State or Territory, may be detained in any prison in that State or Territory and may be removed from one prison to another prison in that State or Territory as if the person were detained as a State offender or Territory offender.

Remissions and reductions of sentences

“19AA. (1) A law of a State or Territory that provides for the remission or reduction of State or Territory sentences (other than such part of the law as relates to the remission or reduction of non-parole periods of imprisonment or of periods of imprisonment equivalent to pre-release periods of imprisonment in respect of recognizance release orders) applies in the same way to the remission or reduction of a federal sentence in a prison of that State or Territory, being a sentence imposed after the commencement of this section.

“(2) Where a law of a State or Territory provides that a person is to be taken to be serving a State or Territory sentence during the period from the time of release under a parole order or licence (however called) until the parole order or licence is, or is taken to be, revoked, the law:

- (a) is, for the purposes of subsection (1), to be taken to be providing for the remission or reduction of sentences; and
- (b) applies to any calculation of the part of a federal sentence remaining to be served at the time of a federal offender’s release under a federal parole order or licence as if the sentence were a State or Territory sentence.

“(3) Where a federal offender who is released on parole or licence and whose parole order or licence has subsequently been revoked does not get the benefit of subsection (2) in calculating the part of any federal sentence of imprisonment remaining to be served at the time of release:

- (a) a court fixing a new non-parole period in respect of such a person under section 19AR; or
- (b) a prescribed authority fixing a non-parole period in respect of such a person under section 19AW;

must have regard to the period of time spent by the person on parole or licence before that parole order or licence is revoked or is to be taken to have been revoked.

“(4) A law of a State or Territory that provides for the remission or reduction, by reason of industrial action taken by prison warders, of the non-parole period of a State or Territory sentence applies in the same way to the remission or reduction:

- (a) of a federal non-parole period to be served in a prison in that State or Territory; and
- (b) of a federal pre-release period to be served in that State or Territory.

“Division 4—The fixing of non-parole periods and the making of recognizance release orders

When court must fix a non-parole period

“19AB. (1) Where:

- (a) a person is convicted of a federal offence or of 2 or more federal offences at the same sitting; and
- (b) the court imposes on the person a life sentence, or a sentence or sentences exceeding, or exceeding in the aggregate, 3 years;

the court must fix a single non-parole period in respect of the sentence or sentences unless it makes a recognizance release order.

“(2) Where:

- (a) while a person is in prison and is serving or subject to a federal sentence, a further federal sentence is imposed on the person; and
- (b) the result is that the person is to serve or to complete a federal life sentence or federal sentences the unserved portion or portions of which exceeds, or exceed in the aggregate, 3 years;

the court imposing the further sentence must fix a single non-parole period in respect of all federal sentences the person is to serve or complete unless it makes a recognizance release order.

“(3) A single non-parole period fixed under subsection (2) must not be such as to render the person eligible to be released earlier than would have been the case if the further sentence had not been imposed.

Persons already subject to a non-parole period or recognizance release order

“19AC. (1) Where:

- (a) a non-parole period (in this section called the ‘**previous non-parole period**’) has been fixed in respect of a federal sentence or federal sentences; and
- (b) while the offender is serving the non-parole period, a court imposes a further federal sentence on the person;

the court must fix a new single non-parole period in respect of all federal sentences the offender is to serve or complete and must not make a recognizance release order in respect of any of them.

“(2) The new single non-parole period fixed at the time of the imposition of the further sentence:

- (a) is to be treated as having superseded the previous non-parole period; and
- (b) must not be such as to allow the person to be released on parole earlier than would have been the case if the further sentence had not been imposed.

“(3) Where:

- (a) a person is subject to a recognizance release order (in this section called the ‘**previous recognizance release order**’) made in respect of a federal sentence or federal sentences; and
- (b) before the person is released under that order, a court imposes a further federal sentence on the person;

the court must:

- (c) make a new recognizance release order in respect of all federal sentences the person is to serve or complete; or
- (d) if subsection 19AB (2) applies—fix a non-parole period in respect of all such sentences.

“(4) The new recognizance release order made, or non-parole period fixed, at the time of the imposition of the further sentence:

- (a) is to be treated as having superseded the previous recognizance release order; and
- (b) must not be such as to allow the person to be released earlier than would have been the case if the further sentence had not been imposed.

When court must make a recognizance release order

“19AD. (1) Where:

- (a) a person is convicted of a federal offence or of 2 or more federal offences at the same sitting; and
- (b) the court imposes on the person a sentence that does not exceed, or sentences that, in the aggregate, do not exceed, 3 years;

the court must make a recognizance release order in respect of the sentence or those sentences and must not fix a non-parole period.

“(2) Where:

- (a) while a person is in prison and is serving or subject to a federal sentence, a further federal sentence is imposed on the person; and
- (b) the result is that the person is to serve or to complete federal sentences the unserved portions of which do not exceed, in the aggregate, 3 years;

the court must make a recognizance release order in respect of all federal sentences to be served or completed by the person and must not fix a non-parole period.

“(3) A recognizance release order made under subsection (2) shall not be such as to render the person eligible to be released earlier than would have been the case if the further sentence had not been imposed.

Court may decline to fix non-parole period or to make recognizance release order in certain cases

“19AE. (1) Where:

- (a) at a particular time, a court would be required by section 19AB, 19AC or 19AD to fix a non-parole period, or make a recognizance release order, in relation to a person; and
- (b) at that time, the person is not already subject to a federal non-parole period;

the court is not required to fix a non-parole period, or make a recognizance release order, if, having regard to the nature and circumstances of the offence or offences concerned and to the antecedents of the person, the court is satisfied that it is not appropriate to do so.

“(2) Where a court decides, under this section, that it is inappropriate either to fix a non-parole period, or to make a recognizance release order, the court:

- (a) shall state its reasons for so deciding; and
- (b) shall cause the reasons to be entered in the records of the court.

Non-parole period or pre-release periods not to exceed remitted sentence

“19AF. (1) Where a court is required to fix a non-parole period or make a recognizance release order in respect of a federal sentence or sentences, the court must fix a non-parole period that ends, or make a recognizance release order such that the pre-release period ends, not later than the end of the sentence, or of the last to be served of the sentences, as reduced by any remissions or reductions under section 19AA.

“(2) This section does not restrict the length of the non-parole period or the pre-release period in respect of a life sentence or sentences that include such a sentence.

Non-applicability of State or Territory remission or reduction laws to be taken into account

“19AG. In calculating a non-parole period or pre-release period, in respect of a federal sentence, the court fixing that period:

- (a) must take into account the fact that, under section 19AA, any non-parole period, or pre-release period specified in a recognizance release order made, in respect of the sentence will not be subject to remission or reduction other than a remission or reduction applying under subsection 19AA (4); and
- (b) must adjust the period accordingly.

Failure to fix non-parole period or make recognizance release order

“19AH. (1) Where a court fails to fix, or properly to fix, a non-parole period, or to make, or properly to make, a recognizance release order, under this Act:

- (a) that failure does not affect the validity of any sentence; and
- (b) the court must, at any time, on application by the Attorney-General, the Director of Public Prosecutions or the person, by order, set aside any non-parole period or recognizance release order that was not properly fixed or made and fix a non-parole period or make a recognizance release order under this Act.

“(2) A court shall not, for the purposes of subsection (1), be taken to have failed to fix a non-parole period in respect of a sentence or sentences in respect of which it has made a recognizance release order or to have failed to make a recognizance release order in respect of a sentence or sentences in respect of which it has fixed a non-parole period.

“(3) Application under subsection (1) to the court that has sentenced a person may be dealt with by that court whether or not it is constituted in the way in which it was constituted when the person was sentenced.

Court may only fix non-parole periods or make recognizance release orders for federal sentences of imprisonment

“19AJ. This Division does not authorise a court to fix a single non-parole period, or make a recognizance release order, in respect both of federal sentences of imprisonment and State or Territory sentences of imprisonment.

Possible deportation no impediment to fixing non-parole period

“19AK. Where a person is convicted of a federal offence, a court is not precluded from fixing a non-parole period in respect of the sentence imposed for that offence merely because the person is, or may be, liable to be deported from Australia.

“Division 5—Conditional release on parole or licence

Release on parole

“19AL. (1) Subject to section 19AM, where there has been imposed on a person a federal sentence of, or federal sentences aggregating, more than 3 years but less than 10 years and a non-parole period has been fixed in relation to the sentence or sentences, the Attorney-General must, by order in writing, direct that the person be released from prison on parole:

- (a) at the end of the non-parole period; or
- (b) if the Attorney-General considers that in all the circumstances it would be appropriate to do so, on a specified day, not being earlier than 30 days before the end of the non-parole period.

“(2) Subject to section 19AM, where there has been imposed on a person a federal life sentence or a federal sentence of, or federal sentences aggregating, 10 years or more and a non-parole period has been fixed in relation to the person in respect of the sentence or sentences, the Attorney-General must, by order in writing:

- (a) direct that the person be released from prison on parole:
 - (i) at the end of the non-parole period; or
 - (ii) if the Attorney-General considers that in all the circumstances it would be appropriate to do so, on a specified day, not being earlier than 30 days before the end of the non-parole period; or
- (b) direct that the person is not to be released on parole at, or at any time before, the end of the non-parole period.

“(3) An order directing that a person not be released at, or at any time before, the end of the non-parole period:

- (a) must not be made later than 3 months before the end of the non-parole period; and
- (b) must include a statement of reasons why the order was made; and
- (c) if the Attorney-General proposes to reconsider, at a later time, the question of the release of the person on parole—must indicate when the Attorney-General proposes to reconsider the question;

and a copy of the order must be given to the person within 14 days after it was made.

“(4) A parole order in relation to a federal sentence:

- (a) if the sentence is imprisonment for life in respect of that federal offence or any of those federal offences—must specify the day on which the parole period ends, being a day not earlier than 5 years after the person is released on parole; and
- (b) if it is proposed that, for any part of the parole period, the person should be subject to supervision—must specify the day on which the supervision period ends, being a day fixed in accordance with

the requirements of the definition of 'supervision period' in subsection 16 (1).

“(5) A parole order directing that a person be released from prison is sufficient authority for the release if, and only if, the person indicates, in writing, his or her acceptance of the conditions to which the order is subject by certifying to that effect either on the original parole order or on a copy of that order.

Person not to be released on parole if still serving State or Territory sentence

“19AM. (1) Where:

- (a) at the time when a federal non-parole period (not being in respect of a life sentence) ends, the offender is serving, or is to serve, a State or Territory sentence (other than a life sentence for which a non-parole period has not been fixed); and
- (b) if a federal parole order were made at that time, the parole period would end while the offender would still be imprisoned in respect of the State or Territory offence;

the parole order must not be made.

“(2) Where:

- (a) at the time when a federal non-parole period (not being in respect of a life sentence) ends, the offender is serving, or is to serve, a State or Territory sentence (other than a life sentence for which a non-parole period has not been fixed); and
- (b) if a federal parole order were made at that time, the parole period would end after the offender was released, or released on parole, in respect of the State or Territory offence;

the Attorney-General must make the parole order, but it does not take effect before the offender is eligible to be so released.

“(3) Where, at the time when a federal non-parole period in respect of a life sentence, or sentences that include a life sentence, ends, the offender is serving, or is to serve, a State or Territory sentence (other than a life sentence for which a non-parole period has not been fixed), the Attorney-General must not make a parole order such that the parole period would end while the offender would still be imprisoned in respect of the State or Territory offence.

“(4) Where, at the time when a federal non-parole period ends, the offender is serving, or is to serve, a State or Territory life sentence for which a non-parole period has not been fixed, a federal parole order must not be made.

Parole order is subject to conditions

“19AN. (1) A parole order under section 19AL:

- (a) is subject to the condition that the offender must, during the parole period, be of good behaviour and not violate any law; and
- (b) if, under subsection 19AL (4), the day on which a supervision period ends is fixed in the parole order—is subject to the condition that the offender must, during the supervision period, be subject to the supervision of a parole officer or other person specified in the order and obey all reasonable directions of that officer or other person; and
- (c) is subject to such other conditions (if any) as the Attorney-General specifies in the order.

“(2) The Attorney-General may, at any time before the end of the parole period, by order in writing, amend a parole order by varying or revoking a condition of the parole order or by imposing additional conditions in the parole order.

“(3) An amendment of the parole order does not have effect until notice in writing of the amendment is given to the offender, being notice given before the end of the parole period.

Release on licence

“19AP. (1) Where a person is serving a federal sentence (whether or not a non-parole period has been fixed, or a recognizance release order made, in relation to that sentence), the Attorney-General may grant a licence under this subsection for the person to be released from prison.

“(2) A person who is serving a federal sentence of imprisonment (whether or not a non-parole period has been fixed, or a recognizance release order made, in relation to that sentence), or another person acting on that person’s behalf, may apply to the Attorney-General for a licence under this subsection for the first-mentioned person to be released from prison.

“(3) An application under subsection (2) must:

- (a) be in writing; and
- (b) specify the exceptional circumstances relied on to justify the grant of the licence.

“(4) The Attorney-General must not grant a licence under this section unless he or she is satisfied that exceptional circumstances exist which justify the grant of the licence.

“(5) The Attorney-General is not required to consider an application under subsection (2) in respect of a person if an application has been made under that subsection in respect of that person within one year before the first-mentioned application.

“(6) A licence in relation to a person:

- (a) if the person is subject to a federal life sentence—must specify the day on which the licence period ends, being a day not earlier than 5 years after the person is released on licence; and
- (b) if it is proposed that, for any part of the licence period, the person should be subject to supervision—must specify the day on which the supervision period ends, being a day fixed in accordance with the requirements of the definition of ‘supervision period’ in subsection 16 (1).

“(7) A licence:

- (a) is subject to the condition that the offender must, during the licence period, be of good behaviour and not violate any law; and
- (b) if, under subsection (6), the day on which a supervision period ends is fixed in the licence—is subject to the condition that the offender must, during the supervision period, be subject to the supervision of a person specified in the licence and obey all reasonable directions of that person; and
- (c) is subject to such other conditions (if any) as the Attorney-General specifies in the licence.

“(8) The Attorney-General may, at any time before the end of the licence period, by order in writing, amend a licence by varying or revoking a condition of a licence or by imposing additional conditions on a licence or by any or all of those means.

“(9) An amendment of a licence does not have effect until notice of the amendment is given to the offender, being notice given before the end of the licence period.

“(10) A licence directing that the offender be released from prison is sufficient authority for the release.

When parole order or licence automatically revoked

“19AQ. (1) Where a person to whom a parole order relates is sentenced to life imprisonment or to a sentence of, or sentences aggregating, more than 3 months in respect of a federal, State or Territory offence committed during the parole period, the parole order is to be taken to have been revoked upon the imposition of the sentence or sentences.

“(2) If, at the time of imposition of the sentence or sentences, the federal parole period has already ended, the parole order is to be taken to have been revoked as from the time immediately before the end of the parole period.

“(3) Where a person to whom a licence relates is sentenced to life imprisonment or to a sentence of, or sentences aggregating, more than 3 months in respect of a federal, State or Territory offence committed during the licence period, the licence is to be taken to have been revoked upon the imposition of the sentence or sentences.

“(4) If, at the time of imposition of the sentence or sentences, the licence period has already ended, the licence is to be taken to have been revoked as from the time immediately before the end of the licence period.

“(5) Where the parole order or licence relating to a person is revoked under subsection (1) or (3), the person becomes liable to serve that part of the sentence or each sentence for a federal offence that the person had not served at the time of his or her release under that order or licence, subject to the operation of subsection 19AA (2) and subject (except in the case of a life sentence) to any further remission or reduction of that sentence.

“(6) This section does not apply where the sentence or each sentence referred to in subsection (1) or (3) is a suspended sentence.

Fixing of non-parole period etc. where parole or licence automatically revoked

“19AR. (1) Where:

- (a) a person who is serving or is to serve a federal sentence or federal sentences is released on parole or licence under this Act; and
- (b) the person is later sentenced to life imprisonment or to a term of imprisonment of, or terms of imprisonment aggregating, more than 3 years in respect of a federal offence or federal offences committed during the parole period or licence period; and
- (c) under section 19AQ, because of the imposition of the sentence or sentences referred to in paragraph (b) (in this subsection called the ‘**new sentence or sentences**’):
 - (i) the parole order or licence is to be taken to have been revoked; and
 - (ii) the person becomes liable to serve that part of each of the sentences referred to in paragraph (a) (in this subsection called the ‘**outstanding sentence or sentences**’) that the person had not served at the time of release;

the court imposing the new sentence or sentences must fix a single new non-parole period in respect of the new sentence or sentences and the outstanding sentence or sentences having regard to the total period of imprisonment that the person is liable to serve.

“(2) Where:

- (a) a person who is serving or is to serve a federal sentence or federal sentences is released on parole or licence under this Act; and
- (b) the person is later sentenced to a term of imprisonment of, or terms of imprisonment aggregating, 3 years or less in respect of a federal offence or federal offences committed during the parole period or licence period; and
- (c) under section 19AQ, because of the imposition of the sentence or sentences referred to in paragraph (b) (in this subsection called the ‘**new sentence or sentences**’):
 - (i) the parole order or licence is to be taken to have been revoked; and

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- (ii) the person becomes liable to serve that part of each of the sentences referred to in paragraph (a) (in this subsection called the **'outstanding sentence or sentences'**) that the person had not served at the time of release;

then:

- (d) if one of the outstanding sentences is a sentence of life imprisonment or the new sentence or sentences and the unserved part of the outstanding sentence or sentences aggregate more than 3 years—the court imposing the new sentence or sentences must fix a single new non-parole period in respect of the new sentence or sentences and the outstanding sentence or sentences; and
- (e) if the new sentence or sentences and the unserved part of the outstanding sentence or sentences aggregate 3 years or less—the court imposing the new sentence or sentences must not fix a non-parole period but may make a recognizance release order in respect of the new sentence or sentences and the outstanding sentence or sentences;

and, in doing so, the court must have regard to the total period of imprisonment that the person is liable to serve.

“(3) Where:

- (a) a person who is serving or is to serve a federal sentence or federal sentences is released on parole or licence under this Act; and
- (b) the person is later sentenced to a term or terms of imprisonment in respect of one or more State or Territory offences committed during the parole period or licence period; and
- (c) under section 19AQ, because of the imposition of the sentence or sentences referred to in paragraph (b) (in this subsection called the **'new sentence or sentences'**):
 - (i) the parole order or licence is to be taken to have been revoked; and
 - (ii) the person becomes liable to serve that part of each of the sentences referred to in paragraph (a) (in this subsection called the **'outstanding sentence or sentences'**) that the person had not served at the time of release;

then:

- (d) if one of the outstanding sentences is a life sentence or the unserved part of the outstanding sentence or sentences is or aggregates more than 3 years—the court imposing the new sentence or sentences must fix a single new non-parole period in respect of the outstanding sentence or sentences; and
- (e) if the unserved part of the outstanding sentence or sentences is or aggregates 3 years or less—the court imposing the new sentence or sentences must not fix a non-parole period but may make a recognizance release order in respect of the outstanding sentence or sentences.

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“(4) Where, but for this subsection, the court would be required by subsection (1), (2) or (3) to fix a non-parole period, the court is not required to do so if it is satisfied, having regard to the nature and circumstances of the offence or offences concerned and to the antecedents of the offender, that it is not appropriate to do so.

“(5) Where a court decides, under this section, that it is inappropriate either to fix a non-parole period, or to make a recognizance release order, the court:

- (a) must state its reasons for so deciding; and
- (b) must cause these reasons to be entered in the records of the court.

“(6) Without limiting, by implication, the application of any other provision of Division 4, sections 19AF, 19AG, 19AJ and 19AK apply, according to their terms, in relation to the fixing of non-parole periods or the making of recognizance release orders under this section in the same way as they apply to the fixing of such periods or the making of such orders under Division 4.

“(7) Without limiting, by implication, the application of any other provision of Division 4, section 19AH applies, according to its terms, in relation to the failure to fix, or properly to fix, non-parole periods or the failure to make, or properly to make, recognizance release orders under this section in the same way as it applies to such failures in relation to the fixing of such periods or the making of such orders under Division 4.

Court to issue warrant of detention where person required to serve balance of sentence

“19AS. (1) Where:

- (a) a person who is serving or is to serve a federal sentence or federal sentences is released on parole or licence under this Act; and
- (b) under section 19AQ, because of the imposition of one or more federal State or Territory sentences (in this subsection called the ‘**new sentence or sentences**’):
 - (i) that parole order or licence is to be taken to have been revoked; and
 - (ii) the person becomes liable to serve that part of each of the sentences referred to in paragraph (a) (in this subsection called the ‘**outstanding sentence or sentences**’) that he or she had not served at the time of release;

then:

- (c) the court imposing the new sentence or sentences must issue a warrant authorising the person to be detained in prison to undergo imprisonment for the unserved part of the outstanding sentence or sentences; and
- (d) the person must begin to serve the unserved part of the outstanding sentence or of the first to be served of the outstanding sentences on

the day that the new sentence is, or the new sentences are, imposed;
and

- (e) the unserved part of the outstanding sentence or of each of the outstanding sentences must be served in the State or Territory where the new sentence is, or the new sentences are, imposed.

“(2) Where the court fails to issue a warrant under paragraph (1) (c), the Director of Public Prosecutions may apply to that court for such a warrant.

What happens when later conviction is quashed?

“19AT. (1) Where:

- (a) a person who is serving or is to serve a federal sentence or sentences of imprisonment is released on parole or licence under this Act; and
- (b) under section 19AQ, because of the imposition of one or more federal, State or Territory sentences (in this subsection called the ‘**new sentence or sentences**’):
 - (i) that parole order or licence is to be taken to have been revoked; and
 - (ii) the person becomes liable to serve that part of each of the sentences referred to in paragraph (a) (in this subsection called the ‘**outstanding sentence or sentences**’) that he or she had not served at the time of release;

then:

- (c) if the person appeals against the conviction or each conviction giving rise to a new sentence and is granted bail, pending the hearing of the appeal or appeals:
 - (i) this Act has effect, pending the hearing of that appeal or those appeals, as if the revoked order or licence had not been revoked and as if any warrant for the detention of the person issued under section 19AS were of no effect; and
 - (ii) the person must be released from prison on the day the person is granted bail; and
- (d) if the appeal court sets aside the conviction or each of the convictions and the person concerned is granted bail or bail is extended pending a retrial of the offence or offences concerned:
 - (i) this Act has effect, or continues to have effect, pending the completion of the retrial, as if the revoked order or licence had not been revoked and as if any warrant for the detention of the person issued under section 19AS were of no effect; and
 - (ii) if the person had not already been released from prison under paragraph (c), the person is to be released on the day the person is granted bail or bail is extended; and

- (e) if the conviction or each conviction appealed against is quashed on appeal or the person is found, on a retrial, not to be guilty of the offence or each of the offences:
 - (i) this Act has effect, or continues to have effect, as if the revoked order or licence had not been revoked and as if any warrant for the detention of the person issued under section 19AS were of no effect; and
 - (ii) if the person had not already been released from prison under paragraph (c) or (d), the person must be released from prison on the day the conviction or each conviction is quashed on appeal or the person is found, on a retrial not to be guilty of the offence or offences; and
- (f) if paragraph (c), (d) or (e) applies—the unserved part of the outstanding sentence or sentences shall (except in the case of an outstanding sentence of life imprisonment) be reduced by the period spent in prison after the day the new sentence is or the new sentences are imposed and before the day of the person’s release on bail or, if the person is not so released, before the resolution of the appeal.

“(2) If the appeal against the conviction or each conviction giving rise to a new sentence is unsuccessful, section 19AS applies, with effect from the day the appeal proceedings are completed, as if the new sentence or new sentences were imposed on that day by the court to which the appeal was made.

“(3) Nothing in subsection (1) prevents a person from being detained in prison under any other law.

Attorney-General may revoke parole order or licence

“19AU. (1) The Attorney-General may, by instrument in writing, revoke a parole order or licence at any time before the end of the parole period or licence period:

- (a) if the offender has, during that period, failed to comply with a condition of the order or licence; or
- (b) if there are reasonable grounds for suspecting that the offender has, during that period, so failed to comply;

and the instrument of revocation must specify the condition that was breached or is suspected of having been breached.

“(2) Before revoking a parole order or a licence, the Attorney-General must, subject to subsection (3), by notice in the prescribed form, notify the person to whom the order or licence relates of:

- (a) the condition of the order or licence alleged to have been breached; and
- (b) the fact that the Attorney-General proposes to revoke the order or licence at the end of 14 days after the day the notice is issued unless the person, within that period, gives the Attorney-General written

reasons why the order or licence should not be revoked and those reasons are accepted by the Attorney-General.

“(3) Subsection (2) does not apply where:

- (a) the person’s whereabouts are and remain, after reasonable inquiries on behalf of the Attorney-General, unknown to the Attorney-General; or
- (b) there are circumstances of urgency that, in the opinion of the Attorney-General, require the parole order or licence to be revoked without notice being given to the person; or
- (c) the person has left Australia; or
- (d) in the opinion of the Attorney-General it is necessary, in the interests of the administration of justice, to revoke the parole order or licence without giving notice to the person.

Arrest of person whose parole order or licence revoked by Attorney-General

“19AV. (1) A constable may, without warrant, arrest a person whose parole order or licence has been revoked by the Attorney-General.

“(2) The Attorney-General or the Director of Public Prosecutions may, in relation to a person whose parole order or licence has been revoked by the Attorney-General, apply to a prescribed authority for a warrant in the form prescribed for the purposes of this subsection for the arrest of the person.

“(3) A person who is arrested under subsection (1) or (2), must, as soon as practicable after that arrest, be brought before a prescribed authority in the State or Territory in which the person is arrested.

Where person on parole or licence notified of revocation

“19AW. (1) Where a prescribed authority before whom a person is brought under section 19AV because of an order revoking a parole order or licence is satisfied:

- (a) that the person is the person named in that revocation order; and
- (b) that the person was notified by the Attorney-General of the proposal to make the revocation order; and
- (c) that the revocation order is still in force;

the prescribed authority must issue a warrant, in the prescribed form:

- (d) authorising any constable to take the person to a specified prison in the State or Territory in which the person was arrested; and
- (e) directing that the person be detained in prison in that State or Territory to undergo imprisonment for the unserved part of the sentence, or of each sentence, of imprisonment (in this section called the ‘outstanding sentence or sentences’) that the person was serving or had yet to serve at the time of his or her release; and
- (f) subject to subsection (3), fixing a non-parole period in respect of the outstanding sentence or sentences.

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“(2) If the prescribed authority cannot complete the hearing under subsection (1) immediately, the prescribed authority may issue a warrant for the remand of the person in custody pending completion of the hearing.

“(3) The prescribed authority is not required to fix a non-parole period under paragraph (1) (f) if:

- (a) the prescribed authority considers it inappropriate to do so because of the nature of the breach of the conditions of the order or licence that led to its revocation; or
- (b) the unserved part of the outstanding sentence or sentences is, or aggregates, 3 months or less.

“(4) Where a prescribed authority issues a warrant, the prescribed authority must specify in the warrant the particulars of the unserved part of each outstanding sentence and, if a non-parole period is fixed, particulars of that period.

“(5) A non-parole period fixed under this section has effect as if it had been fixed by a court in respect of the outstanding sentence or sentences and section 19AL applies in relation to that non-parole period according to its terms.

“(6) Where a person brought before a prescribed authority under section 19AV is dealt with in accordance with this section, the unserved part of any outstanding sentence or sentences that the person was serving or had yet to serve at the time of his or her release, is to be reduced by any period of remand under subsection (2).

Where person on parole or licence not notified of revocation

“19AX. (1) Where a prescribed authority before whom a person is brought under section 19AV because of an order revoking a parole order or licence is satisfied that the person so brought is the person named in that revocation order but is not satisfied that the person was notified by the Attorney-General of the proposal to make that revocation order, the prescribed authority must:

- (a) immediately notify the Attorney-General that the person has been brought before that prescribed authority; and
- (b) order that the person be detained in custody until the Attorney-General orders that the revocation order be rescinded or until the completion of proceedings under subsection 19AW (1) as applied by subsection (6) of this section.

“(2) Where the Attorney-General is notified that a person has been brought before a particular prescribed authority, the Attorney-General must, as soon as practicable, notify the person, in writing, of the conditions of the parole order or licence alleged to have been breached and request that the person give him or her, within 14 days of notification of those reasons, a written submission stating why that parole order or licence should not have been revoked.

“(3) If, within 14 days of a person receiving notification under subsection (2), the person fails to make a written submission to the Attorney-General, the Attorney-General must, as soon as practicable after the end of that period, notify the prescribed authority of a decision not to rescind the revocation order.

“(4) If, within 14 days of notification under subsection (2), the person makes a written submission to the Attorney-General, the Attorney-General must decide, as soon as practicable after receiving that submission, and on the basis of that submission and any other material the Attorney-General considers to be relevant, whether or not to rescind the revocation order and must, as soon as practicable after so deciding, inform the prescribed authority and the person, in writing, of the decision.

“(5) If the prescribed authority is notified of a decision to rescind the revocation order, the prescribed authority must immediately order the person to be released from prison.

“(6) If the prescribed authority is notified of a decision not to rescind the revocation order made in respect of the person, subsection 19AW (1) applies to the person so as to authorise the issue of a warrant as if the prescribed authority had been satisfied of the matters referred to in paragraphs 19AW (1) (a), (b) and (c) and subsections 19AW (3), (4), (5) and (6) apply to that person according to their terms.

Appeals in respect of warrants issued under subsection 19AW (1) or that subsection as applied

“19AY. (1) Where a prescribed authority issues a warrant in respect of a person under subsection 19AW (1), or under that subsection as applied by section 19AX, the person may appeal to the Supreme Court of the State or Territory in which the person was arrested against:

- (a) the issue of the warrant; or
- (b) the calculation, for the purposes of the warrant, of the unserved part of any outstanding sentence; or
- (c) the fixing, for the purposes of the warrant, of a non-parole period or the refusal to fix such a period.

“(2) An appeal may be begun by lodging a notice of appeal with the court within 21 days after the day on which the warrant to which the appeal relates was issued.

“(3) An appeal is to be by way of rehearing, but the court may have regard to any evidence given before the prescribed authority.

“(4) The court may, on the application of the person making the appeal, order the release of the person from prison pending the disposal of the appeal, on such conditions as the court determines, and, upon the court’s so doing, the warrant appealed against shall not, unless the person breaks a condition of his or her release, be executed or further executed before the appeal is disposed of.

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“(5) The court must:

- (a) if the appeal is against the issue of the warrant—either confirm or revoke the warrant; or
- (b) if the appeal is against the calculation of the unserved part of any outstanding sentence—either confirm the warrant or vary the warrant, so far as it relates to that calculation, as specified in the order; or
- (c) if the appeal is against the fixing of a non-parole period or the refusal to fix such a period—either confirm the warrant or vary the warrant, if it fixes a non-parole period, as specified in the order.

“(6) Where a warrant is revoked under paragraph (5) (a), the person to whom the warrant relates, if the court has not already ordered the person’s release under subsection (4), is to be released from prison immediately.

“(7) In this section:

‘outstanding sentence’ has the same meaning as in section 19AW.

Evidence before prescribed authority

“19AZ. (1) A prescribed authority exercising any powers under this Division may take evidence on oath or affirmation and for that purpose may administer an oath or affirmation.

“(2) A prescribed authority exercising any powers under this Division may summon a person to appear before the prescribed authority to give evidence and to produce such documents and articles (if any) as are referred to in the summons.

“(3) A summons under this section shall be served in the same manner as a summons to a witness to appear before a court of summary jurisdiction in the State or Territory where the summons under this section is issued.

Disobedience of summons etc.

“19AZA. (1) A person who has been served with a summons to appear before a prescribed authority must not, without reasonable excuse, fail to appear in obedience to the summons.

“(2) A person who has been served with a summons to produce a document or article to a prescribed authority shall not, without reasonable excuse, fail to produce the document or article.

“(3) A person who appears before a prescribed authority shall not, without reasonable excuse, refuse to be sworn or make an affirmation or refuse to produce documents or articles, or to answer questions, that he or she is required by the prescribed authority to produce or answer.

Penalty: \$1,000.

Can person be released on parole or licence if earlier parole order or licence revoked?

“19AZB. A parole order may be made or a licence granted, even if a previous parole order or licence has been revoked.

Effect of parole order and licence on sentence

“19AZC. (1) Where a parole order is made, or a licence is granted, in relation to a person:

- (a) until the parole period or licence period ends without the parole order or licence being revoked, or until the person is otherwise discharged from imprisonment, the person is to be taken to be still under sentence and not to have served the part of any sentence that remained to be served at the beginning of the parole period or licence period; and
- (b) if the parole period or licence period ends without the parole order or licence being revoked, the person is to be taken to have served the part of any sentence that remained to be served at the beginning of the parole period or licence period and to have been discharged from imprisonment.

“(2) Where a parole order or licence in relation to a person is, under subsection 19AQ (2) or (4), to be taken to have been revoked as from the time immediately before the end of the parole period or licence period, subsection (1) has effect as if the parole period or the licence period had not ended without the parole order or the licence being revoked.

State and Territory laws providing for leave of absence, pre-release etc. to apply to federal offenders

“19AZD. (1) A law of a State or Territory providing for a State or Territory offender to be granted leave of absence from prison, including leave of absence granted by order of a court, applies to a federal offender who is serving a sentence in that State or Territory as if the federal offender were a State or Territory offender serving an equivalent State or Territory sentence in that State or Territory.

“(2) A law of a State or Territory providing for a State or Territory offender imprisoned in that State or Territory to be released:

- (a) up to 24 hours before the time at which his or her sentence would otherwise have ended; or
- (b) where the release day falls on a Saturday, a Sunday or a day which is a public holiday—on the last day before such a day which is not a Saturday, a Sunday or a public holiday;

applies to a federal offender who is serving a sentence in that State or Territory as if the federal offender were a State or Territory offender serving an equivalent State or Territory sentence in that State or Territory.

“(3) A law of a State or Territory providing for a State or Territory offender to be released from prison under a pre-release permit scheme

(however called) that is prescribed for the purposes of this subsection, applies to a federal offender who is serving a sentence in that State or Territory, subject to any conditions relating to eligibility to participate that are specified in the regulations that prescribe that scheme, as if the federal offender were a State or Territory offender serving an equivalent State or Territory sentence in that State or Territory.”.

Discharge of offenders without proceeding to conviction

10. Section 19B of the Principal Act is amended:

- (a) by omitting from paragraph (1) (a) “an offence against a law of the Commonwealth” and substituting “a federal offence or federal offences”;
- (b) by inserting in paragraph (1) (b) “, in respect of that charge or more than one of those charges,” after “satisfied”;
- (c) by inserting in paragraph (1) (c) “or charges in respect of which the court is so satisfied” after “the charge”;
- (d) by inserting in paragraph (d) “in respect of any charge referred to in paragraph (c)” after “conviction”;
- (e) by inserting in subparagraph (1) (d) (ii) “or offences concerned” after “the offence” (wherever occurring);
- (f) by omitting from subparagraph (1) (d) (iii) “the period specified” and substituting “a period, not exceeding 2 years, that is specified”;
- (g) by inserting after subsection (2) the following subsection:

“(2A) A person is not to be imprisoned for a failure to pay an amount required to be paid under an order made under this section.”;
- (h) by omitting from subsection (3) “a charge against a person is dismissed” and substituting “a charge or charges against a person is or are dismissed”;
- (j) by inserting in subsection (3) “or offences concerned” after “the offence” (wherever occurring);
- (k) by inserting in subsection (3) “or sentences” after “a sentence”.

Conditional release of offenders after conviction

11. Section 20 of the Principal Act is amended:

- (a) by omitting “an offence against the law of the Commonwealth” and substituting “a federal offence or federal offences”;
- (b) by inserting in paragraph (1) (a) “or offences” after “offence” (wherever occurring);
- (c) by omitting from subparagraph (1) (a) (iv) “the period specified in the order in accordance with subparagraph (i)” and substituting “a period, not exceeding 2 years, that is specified in the order”;
- (d) by omitting paragraph (1) (b) and substituting the following paragraph:

“(b) sentence the person to imprisonment in respect of the offence or each offence but direct, by order, that the person

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be released, upon giving security of the kind referred to in paragraph (a) either forthwith or after he or she has served a specified period of imprisonment in respect of that offence or those offences that is calculated in accordance with subsection 19AF (1).”;

- (e) by omitting from subsection (2) “, or direct that a person be released in pursuance of an order made under subsection (1)” and substituting “by order made under paragraph (1) (a)”;
- (f) by inserting after subsection (2) the following subsection:

“(2A) A person is not to be imprisoned for a failure to pay an amount required to be paid under an order made under subparagraph (1) (a) (ii).”;
- (g) by inserting in subsection (3) “or each offence” after “the offence”;
- (h) by omitting from subsection (5) “an offence” and substituting “the offence or each offence”.

Failure to comply with condition of discharge or release

12. Section 20A of the Principal Act is amended:

- (a) by omitting from subsection (1) “whether before or after the expiration of the period specified in the order in accordance with subparagraph 19B (1) (d) (i) or 20 (1) (a) (i)” and substituting “before the end of the period specified in the order in accordance with subparagraph 19B (1) (d) (i) or 20 (1) (a) (i) or before the completion of the sentence or last to be served of the sentences imposed under paragraph 20 (1) (b)”;
- (b) by inserting in subsection (5) “or offences” after “the offence” (wherever occurring);
- (c) by inserting in subsection (5) “or those offences” after “that offence” (wherever occurring);
- (d) by omitting from subparagraph (5) (b) “subsection 20 (1)” and substituting “paragraph 20 (1) (a)”;
- (e) by adding at the end of subsection (5) the following word and paragraph:
 - “; or (c) in the case of a person who has been released by an order made under paragraph 20 (1) (b):
 - (i) revoke the order and deal with the person for the offence or offences in respect of which the order was made by ordering that the person be imprisoned for that part of each sentence of imprisonment fixed under paragraph 20 (1) (b) that the person had not served at the time of his or her release; or
 - (ii) take no action.”;

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- (f) by omitting from subsection (6) “the offence” (first occurring) and substituting “the offence or offences”;
- (g) by omitting paragraphs (6) (c) and (d) and substituting the following word and paragraph:
 - “; and (c) any other order made in respect of the offence or offences.”;
- (h) by inserting in subsections (7) and (8) “or offences” after “the offence” (wherever occurring);
- (j) by inserting in subsections (7) and (8) “or those offences” after “that offence” (wherever occurring);
- (k) by inserting in subsection (8) “or sentences” after “sentence” (wherever occurring).

Additional sentencing alternatives

13. Section 20AB of the Principal Act is amended:

- (a) by omitting from subsection (1) “a person convicted of an offence against the law of the State or Territory” and substituting “a State or Territory offender”;
- (b) by omitting from subsection (1) “an offence against the law of the Commonwealth” and substituting “a federal offence”;
- (c) by inserting after subsection (1) the following subsections:
 - “(1A) Where the law of a participating State or a participating Territory requires that before passing a sentence, or making an order, of the kind referred to in subsection (1) a court must first pass another sentence or make another order (whether or not that other sentence or other order is suspended upon the making of the first-mentioned sentence or order), then, a court is not required, before passing or making that first-mentioned sentence or order in respect of a person convicted by that court for a federal offence, to pass that other sentence or make that other order.
 - “(1B) A court is not precluded from passing a sentence, or making an order, under subsection (1) only because the court is empowered under section 20AC, in relation to a person who has failed to comply with such a sentence or order, to take action that is, or may be, inconsistent with action that, under the law of a participating State or participating Territory, a court of that State or Territory is empowered to take for such a failure by a State or Territory offender.”;
- (d) by omitting from subsection (3) “an offence against the law of the Commonwealth” and substituting “a federal offence”.

Failure to comply with sentence passed, or order made, under subsection 20AB (1)

14. Section 20AC of the Principal Act is amended by omitting from subsection (10) “an offence against the law of the Commonwealth” and substituting “a federal offence”.

15. Section 20B of the Principal Act is repealed and the following Divisions are substituted:

“Division 6—Unfitness to be tried

Consequences of preliminary finding that person unfit to be tried

“20B. (1) Where, in proceedings for the commitment of a person for trial of a federal offence on indictment, being proceedings begun after this section commences, the question of the person’s fitness to be tried in respect of the offence, is raised by the prosecution, the person or the person’s legal representative, the magistrate must refer the proceedings to the court to which the proceedings would have been referred had the person been committed for trial.

“(2) If the court to which the proceedings have been referred finds the person charged to be fit to be tried, the court must remit the proceedings to the magistrate and proceedings for the commitment must be continued as soon as practicable.

“(3) Where a court:

- (a) to which proceedings have been referred under subsection (1); or
- (b) before which a person appears in proceedings for trial of a federal offence on indictment, being proceedings begun after this section commences;

finds the person charged unfit to be tried, the court must determine whether there has been established a *prima facie* case that the person committed the offence concerned.

“(4) Where a magistrate refers proceedings to a court under subsection (1), the magistrate may order the person charged to be detained in prison or in hospital for so long only as is reasonably necessary to allow the court to which the person is referred to determine whether it will make an order under subsection (2) remitting the person to the magistrate, an order under section 20BA dismissing the charge or an order under section 20BB detaining the person in prison or hospital or granting the person bail.

“(5) Where a court finds a person, other than a person in respect of whom proceedings have been referred to it by a magistrate under subsection (1), to be unfit to be tried, the court may order the person to be detained in prison or hospital for so long only as is reasonably necessary to allow the court to determine whether it will make an order under section 20BA dismissing the charge or an order under section 20BB detaining the person in prison or hospital or granting the person bail.

“(6) For the purposes of subsection (3), a *prima facie* case is established if there is evidence that would (except for the circumstances by reason of which the person is unfit to be tried) provide sufficient grounds to put the person on trial in relation to the offence.

“(7) In proceedings to determine whether, for the purposes of subsection (3), a *prima facie* case has been established:

- (a) the person may give evidence or make an unsworn statement; and
- (b) the person may raise any defence that could properly be raised if the proceedings were a trial for that offence; and
- (c) the court may seek such other evidence, whether oral or in writing, as it considers likely to assist in determining the matter.

Upon determining *prima facie* case, court to dismiss charge or to determine fitness within 12 months

“20BA. (1) Where the court determines that there has not been established a *prima facie* case that the person committed the offence, the court must, by order, dismiss the charge against the person and, if the person is in custody, order the release of the person from custody.

“(2) Where the court determines that there has been established a *prima facie* case that the person committed the offence, but the court is of the opinion, having regard to:

- (a) the character, antecedents, age, health or mental condition of the person; or
- (b) the extent (if any) to which the offence is of a trivial nature; or
- (c) the extent (if any) to which the offence was committed under extenuating circumstances;

that it is inappropriate to inflict any punishment, or to inflict any punishment other than a nominal punishment, the court must, by order, dismiss the charge and, if the person is in custody, order the release of the person from custody.

“(3) Where the court orders that the person be released from custody, the person must be released accordingly.

“(4) Where the court determines that there has been established a *prima facie* case that the person committed the offence, but the court does not dismiss the charge under subsection (2), the court must, as soon as practicable after making that first-mentioned determination, determine whether, on the balance of probabilities, the person will become fit to be tried, within the period of 12 months after the day the person was found to be unfit to be tried.

“(5) A court must not make a determination under subsection (4) unless the court has obtained, and considered, written or oral evidence from a duly qualified psychiatrist and one other duly qualified medical practitioner.

“(6) Nothing in subsection (5) prevents a court from obtaining written or oral evidence from such other persons, bodies or organisations as the court considers appropriate.

Persons found by a court to be likely to be fit within 12 months

“20BB. (1) Where a court determines, under subsection 20BA (4), that a person charged with a federal offence who was found unfit to be tried will become fit to be tried within a period of 12 months after that finding, the court must, at the time of making that determination, also determine:

- (a) whether the person is suffering from a mental illness, or a mental condition, for which treatment is available in a hospital; and
- (b) if so—whether the person objects to being detained in a hospital.

“(2) Where a court has made a determination under subsection (1), the court must:

- (a) where the court has determined that the person is suffering from a mental illness, or a mental condition, for which treatment is available in a hospital and that the person does not object to being detained in a hospital—order that the person be taken to and detained in a hospital, or continue to be detained in a hospital, as the case requires; or
- (b) otherwise:
 - (i) order that the person be taken to and detained in a place other than a hospital (including a prison); or
 - (ii) grant the person bail on condition that the person live at an address or in a place specified by the court;

for a period ending:

- (c) when the person becomes fit to be tried; or
- (d) when, as soon as practicable after the end of the 12 months referred to in subsection (1), the court makes an order under subsection 20BC (2) or (5) as applied under subsection (4);

whichever happens first.

“(3) Where a court determines, under subsection 20BA (4), that a person charged with a federal offence who was found unfit to be tried will become fit to be tried within 12 months after that finding then, if the person becomes fit within that period:

- (a) if the person had been indicted on the charge before being found unfit—the proceedings on the indictment must be continued as soon as practicable; and
- (b) if proceedings for the commitment of the person had been referred to the court under section 20B—those proceedings must be continued as soon as practicable as if they had not been so referred.

“(4) Where a court determines, under subsection 20BA (4), that a person who was found unfit to be tried will become fit to be tried, within 12 months after that finding but the person does not become fit within that

period, then, at the end of that period, subsections 20BC (2) and (5) apply as if the court had originally determined, at that time, that the person would not become fit to be tried and had made, under subsection 20BC (1), a further determination of the kind that it made under subsection (1) of this section.

“(5) Where subsections 20BC (2) and (5) apply in relation to a person in the circumstances set out in subsection (4), then:

- (a) in an order under subsection 20BC (2) as so applied the court must, in fixing the period of detention, have regard to any period of detention already served under paragraph (2) (a) or (b) of this section; and
- (b) in an order under subsection 20BC (5) as so applied the court must:
 - (i) in the case of a person already on bail—order, in lieu of the person’s release from custody, the continuance of the person’s release on bail; and
 - (ii) in fixing the period of the person’s release for which conditions apply, have regard to any period of detention already served under paragraph (2) (a) or (b) of this section.

“(6) Where a court determines, under subsection 20BA (4), that a person who was found unfit to be tried will become fit to be tried within 12 months after that finding but the person does not become fit within that period, the finding that there is, on the balance of probabilities, a *prima facie* case for the commission of the offence charged acts as a stay against any proceedings, or any further proceedings, against the person in respect of the offence.

Persons found by a court not to be likely to be fit within 12 months

“20BC. (1) Where a court determines, under section 20BA, that a person who was found unfit to be tried will not become fit to be tried within 12 months after that finding, the court must, at the time of making that determination, also determine:

- (a) whether the person is suffering from a mental illness, or a mental condition, for which treatment is available in a hospital; and
- (b) if so—whether the person objects to being detained in a hospital.

“(2) Where a court has made a determination under subsection (1), the court must:

- (a) if the court has determined that the person is suffering from a mental illness, or a mental condition, for which treatment is available in a hospital and that the person does not object to being detained in a hospital—order that the person be taken to and detained in a hospital, or continue to be detained in a hospital, as the case requires; or
- (b) otherwise—order that the person be detained in a place other than a hospital, including a prison;

for a period specified in the order, not exceeding the maximum period of imprisonment that could have been imposed if the person had been convicted of the offence charged.

“(3) The Attorney-General may, at any time, by order in writing, vary the hospital or other place of detention at which a person is detained under this section.

“(4) Where, for urgent medical or security reasons, it becomes necessary to do so, an officer of the State or Territory in which a person is detained under this section may vary the hospital or other place of detention of that person but, where the officer does so, the officer must forthwith notify the Attorney-General, in writing, of the variation and of the reasons for the variation.

“(5) Despite subsection (2), the court may, if in the court’s opinion it is more appropriate to do so than to make an order under subsection (2), order the person’s release from custody either absolutely or subject to conditions to apply for such period as the court specifies in the order, not exceeding 3 years.

“(6) The conditions may include:

- (a) a condition that the person remain in the care of a responsible person nominated in the order; and
- (b) a condition that the person attend upon a person nominated, or at a place specified, in the order for assessment of the person’s mental illness, mental condition or intellectual disability and, where appropriate, for treatment; and
- (c) any other condition that the court thinks fit.

“(7) Where a person has been released from custody subject to conditions, the person or the Director of Public Prosecutions may, at any time, apply to the court to vary those conditions.

“(8) Where a court determines, under subsection 20BA (4), that a person who was found unfit to be tried will not become fit to be tried, within 12 months after the finding, the finding that there is, on the balance of probabilities, a *prima facie* case for the commission of the offence charged acts as a stay against any proceedings, or any further proceedings, against the person, in respect of the offence.

Review by Attorney-General

“20BD. (1) Where a court makes an order under subsection 20BC (2), the Attorney-General must, at least once in each period of 6 months after the day the person is detained under the order, consider whether or not the person should be released from detention.

“(2) In considering whether the person should be released from detention the Attorney-General:

- (a) must obtain and consider:
 - (i) a report from a duly qualified psychiatrist or psychologist;
 - and

- (ii) a report from another duly qualified medical practitioner;
and
- (b) may obtain and consider such other reports as the Attorney-General considers necessary; and
- (c) must take into account any representations made to the Attorney-General by the person or on the person's behalf.

Attorney-General may order release

“20BE. (1) The Attorney-General may, after considering under subsection 20BD (1) whether or not the person should be released from detention, order that the person be released from detention.

“(2) The Attorney-General must not order a person's release from detention unless the Attorney-General is satisfied that the person is not a threat or danger either to himself or herself or to the community.

“(3) An order:

- (a) must be in writing; and
- (b) remains in force for such period as is specified in the order (being a period equal to the balance of the period fixed by the court for detention under subsection 20BC (2)) or for a period of 5 years, whichever is the lesser; and
- (c) is subject to such conditions (if any) as are specified in the order.

“(4) Without limiting the generality of paragraph (3) (c), the conditions that may be specified in the order may include all or any of the following:

- (a) a condition that the person reside at an address specified in the order;
- (b) a condition that the person present himself or herself for such medical or psychiatric treatment as is specified in the order at such times as are specified in the order;
- (c) a condition that the person undertake such medical or mental health therapy as is specified in the order;
- (d) a condition that the person undertake such social, vocational or educational counselling as is specified in the order;
- (e) a condition that the person participate in such programs relating to financial management, behaviour modification or inter-personal relationships as are specified in the order.

Release order may be revoked

“20BF. (1) The Attorney-General may, by instrument in writing, revoke an order made under subsection 20BE (1) (in this section called a ‘release order’) at any time while that release order remains in force:

- (a) if the person concerned has, during that period, failed, without reasonable excuse, to comply with a condition of the order; or
- (b) if there are reasonable grounds for suspecting that the person has, during that period, failed, without reasonable excuse, so to comply;

and, where the Attorney-General does so, the instrument of revocation must specify the condition of the order that the person has breached or is suspected of having breached.

“(2) Before revoking a release order, the Attorney-General must make all such enquiries and call for all such reports as are reasonably necessary for the purpose of determining whether the circumstances referred to in paragraph (1) (a) or (b) apply.

“(3) Where a release order in relation to a person is revoked:

- (a) a constable may arrest the person without warrant; or
- (b) the Attorney-General or the Director of Public Prosecutions may apply to a prescribed authority for a warrant for the arrest of the person.

“(4) A person who is arrested under subsection (3) must, as soon as practicable after that arrest, be brought before a prescribed authority in the State or Territory in which the person is arrested.

“(5) Subject to subsection (6), where a prescribed authority in a State or Territory before whom a person is brought under subsection (4) is satisfied that:

- (a) the person is the person named in the instrument revoking the release order; and
- (b) the release order has been revoked and the revocation is still in force;

the prescribed authority must issue a warrant:

- (c) authorising any constable to take the person to a specified prison or hospital in the State or Territory; and
- (d) directing that the person be detained in prison or in hospital in that State or Territory for such part of the period fixed by the court to be the period of detention under subsection 20BC (2) as had not elapsed at the time of the making of the release order.

“(6) If the prescribed authority in the State or Territory before whom the person is brought under subsection (4) cannot complete the hearing under subsection (5) immediately, the prescribed authority may issue a warrant for the remand of the person in a prison or hospital in the State or Territory pending completion of the hearing.

“(7) The Attorney-General may, at any time, by order in writing, vary the prison or hospital at which a person is detained under this section.

“(8) Where for urgent medical or security reasons it becomes necessary to do so, an officer of the State or Territory in which a person is detained may vary the prison or hospital at which the person is detained but, where the officer does so, the officer must forthwith notify the Attorney-General, in writing, of the variation and of the reasons for that variation.

Attorney-General to review detention of persons taken back into detention

“20BG. (1) Where, under subsection 20BF (5), a prescribed authority directs that a person be detained in prison or in a hospital, the Attorney-General must, as soon as practicable after the person is so detained, consider (in this section called the ‘initial consideration’) whether or not the person should be released from detention and must, while the person is in detention, reconsider the matter at least once in each period of 6 months after the initial consideration.

“(2) Subsection 20BD (2) and, subject to the modification set out in subsection (3), section 20BE, apply in relation to an initial consideration and to any reconsideration under subsection (1).

“(3) For the purposes of applying section 20BE, subsection 20BE (1) has effect as if the reference in that subsection to subsection 20BD (1) were a reference to subsection (1) of this section.

State or Territory mental health authorities to be notified of certain releases

“20BH. Where a person detained by authority of an order under subsection 20BC (2) or a warrant under subsection 20BF (5) for a specified period in a State or Territory is due to be released because the period of that person’s detention has ended, the Attorney-General must notify the mental health authorities of the State or Territory of the proposed release of the person.

“Division 7—Acquittal because of mental illness

Acquittal where person mentally ill

“20BJ. (1) Where a person has been charged with a federal offence on indictment and the person is acquitted because of mental illness at the time of the offence, the court must order that the person be detained in safe custody in prison or in a hospital for a period specified in the order, not exceeding the maximum period of imprisonment that could have been imposed if the person had been convicted of the offence charged.

“(2) The Attorney-General may, at any time, by order in writing, vary the prison or hospital at which a person is detained under subsection (1).

“(3) Where, for urgent medical or security reasons it becomes necessary to do so, an officer of the State or Territory in which a person is detained under this section may vary the prison or hospital at which the person is detained but, where the officer does so, the officer must forthwith notify the Attorney-General, in writing, of the variation and of the reasons for the variation.

“(4) Despite subsection (1), the court may, if in the court’s opinion it is more appropriate to do so than to make an order under subsection (1), order the person’s release from custody either absolutely or subject to

conditions to apply for such period as the court specifies in the order, not exceeding 3 years.

“(5) The conditions may include:

- (a) a condition that the person remain in the care of a responsible person nominated in the order; and
- (b) a condition that the person attend upon a person nominated, or at a place specified, in the order for assessment of the person’s mental illness, mental condition or intellectual disability and, where appropriate, for treatment.

“(6) Where a person has been released from custody subject to conditions, the person or the Director of Public Prosecutions may, at any time, apply to the court to vary those conditions.

Review by Attorney-General

“20BK. (1) Where, under subsection 20BJ (1), a court orders that a person be detained in safe custody in prison or in a hospital, the Attorney-General must, as soon as practicable after the person is so detained, consider (in this section called the ‘initial consideration’) whether or not the person should be released from detention and must, while the person is in detention, reconsider the matter at least once in each period of 6 months after the initial consideration.

“(2) In considering whether a person should be released from custody the Attorney-General:

- (a) must obtain and consider:
 - (i) a report from a duly qualified psychiatrist or psychologist; and
 - (ii) a report from another duly qualified medical practitioner; and
- (b) may obtain and consider such other reports as the Attorney-General considers necessary; and
- (c) must take into account any representations made to the Attorney-General by the person or on the person’s behalf.

Attorney-General may order release

“20BL. (1) The Attorney-General may, after considering under subsection 20BK (1) whether or not the person should be released from custody, order that the person be released from custody.

“(2) The Attorney-General must not order a person’s release from detention unless the Attorney-General is satisfied that the person is not a threat or danger either to himself or herself or to the community.

“(3) An order:

- (a) must be in writing; and
- (b) remains in force for such a period as is specified in the order (being a period equal to the balance of the period fixed by the court for

detention in safe custody under subsection 20BJ (1)) or for a period of 5 years, whichever is the lesser; and

(c) is subject to such conditions (if any) as are specified in the order.

“(4) Without limiting the generality of paragraph (3) (c), the conditions that may be specified in the order may include all or any of the following:

- (a) a condition that the person reside at an address specified in the order;
- (b) a condition that the person present himself or herself for such medical or psychiatric treatment as is specified in the order at such times and places as are specified in the order;
- (c) a condition that the person undertake such medical or mental health therapy as is specified in the order;
- (d) a condition that the person undertake such social, vocational or educational counselling as is specified in the order;
- (e) a condition that the person participate in such programs relating to financial management, behaviour modification or inter-personal relationships as are specified in the order.

Release order may be revoked

“20BM. (1) The Attorney-General may, by instrument in writing, revoke an order made under subsection 20BL (1) (in this section called a ‘release order’) at any time while that release order remains in force:

- (a) if the person concerned has, during that period, failed, without reasonable excuse, to comply with a condition of the order; or
- (b) if there are reasonable grounds for suspecting that the person has, during that period, failed, without reasonable excuse, so to comply;

and, where the Attorney-General does so, the instrument of revocation must specify the condition of the order that the person has breached or is suspected of having breached.

“(2) Before revoking a release order, the Attorney-General must make all such enquiries and call for all such reports as are reasonably necessary for the purpose of determining whether the circumstances referred to in paragraph (1) (a) or (b) apply.

“(3) Where a release order in relation to a person is revoked:

- (a) a constable may arrest the person without warrant; or
- (b) the Attorney-General or the Director of Public Prosecutions may apply to a prescribed authority for a warrant for the arrest of the person.

“(4) A person who is arrested under subsection (3) must, as soon as practicable after that arrest, be brought before a prescribed authority in the State or Territory in which the person is arrested.

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“(5) Subject to subsection (6), where a prescribed authority in a State or Territory before whom a person is brought under subsection (4) is satisfied that:

- (a) the person is the person named in the instrument revoking the release order; and
- (b) the release order has been revoked and the revocation is still in force;

the prescribed authority may issue a warrant:

- (c) authorising any constable to take the person to a specified prison or hospital in the State or Territory; and
- (d) directing that the person be detained in prison or in hospital in the State or Territory for such part of the period fixed by the court to be the period of detention in safe custody under subsection 20BJ (1) as had not elapsed at the time of the making of the release order.

“(6) If the prescribed authority in the State or Territory before whom the person is brought under subsection (4) cannot complete the hearing under subsection (5) immediately, the prescribed authority may issue a warrant for the remand of the person in a prison or hospital in the State or Territory pending completion of the hearing.

“(7) The Attorney-General may, at any time, by order in writing, vary the prison or hospital at which a person is detained under this section.

“(8) Where, for urgent medical or security reasons it becomes necessary to do so, an officer of the State or Territory in which the person is detained may vary the prison or hospital at which the person is detained but, where the officer does so, the officer must forthwith notify the Attorney-General, in writing, of the variation and of the reasons for that variation.

Attorney-General to review detention of persons taken back into detention

“20BN. (1) Where, under subsection 20BM (5), a prescribed authority directs that a person be detained in prison or in a hospital, the Attorney-General must, as soon as practicable after the person is so detained, consider (in this section called the ‘initial consideration’) whether or not the person should be released from detention and must, while the person is in detention, reconsider the matter at least once in each period of 6 months after the initial consideration.

“(2) Subsection 20BK (2) and, subject to the modification in subsection (3), section 20BL, apply in relation to an initial consideration and a reconsideration under subsection (1).

“(3) For the purposes of applying section 20BL, subsection 20BL (1) has effect as if the reference in that subsection to subsection 20BK (1) were a reference to subsection (1) of this section.

State or Territory authorities to be notified of certain releases

“20BP. Where a person detained by authority of an order under subsection 20BJ (1) or a warrant under subsection 20BM (5) for a specified period in a State or Territory is due to be released because the period of the person’s detention has ended, the Attorney-General must notify the mental health authorities of that State or Territory of the proposed release of the person.

“Division 8—Summary disposition of persons suffering from mental illness or intellectual disability

Person suffering from mental illness or intellectual disability

“20BQ. (1) Where, in proceedings in a State or Territory before a court of summary jurisdiction in respect of a federal offence, it appears to the court:

- (a) that the person charged is suffering from a mental illness within the meaning of the civil law of the State or Territory or is suffering from an intellectual disability; and
- (b) that, on an outline of the facts alleged in the proceedings, or such other evidence as the court considers relevant, it would be more appropriate to deal with the person under this Division than otherwise in accordance with law;

the court may, by order:

- (c) dismiss the charge and discharge the person:
 - (i) into the care of a responsible person, unconditionally, or subject to conditions, for a specified period that does not exceed 3 years; or
 - (ii) on condition that the person attend on another person, or at a place, specified by the court for an assessment of the first-mentioned person’s mental condition, or for treatment, or both, but so that the total period for which the person is required to attend on that other person or at that place does not exceed 3 years; or
 - (iii) unconditionally; or
- (d) do one or more of the following:
 - (i) adjourn the proceedings;
 - (ii) remand the person on bail;
 - (iii) make any other order that the court considers appropriate.

“(2) Where a court makes an order under paragraph (1) (c) in respect of a person and a federal offence with which the person has been charged, the order acts as a stay against any proceedings, or any further proceedings, against the person in respect of the offence.

“(3) Where a court makes an order under subsection (1) in respect of a person and a federal offence with which the person has been charged, the court must not make an order under section 19B, 20, 20AB or 21B in respect of the person in respect of the offence.

Means by which court may be informed

“20BR. For the purposes of this Division, a court of summary jurisdiction may inform itself as the court thinks fit, but not so as to require the person charged to incriminate himself or herself.

“Division 9—Sentencing alternatives for persons suffering from mental illness or intellectual disability

Hospital orders

“20BS. (1) Where a person is convicted in a State or Territory, on indictment, of a federal offence and the court before which the person is convicted is satisfied that:

- (a) the person is suffering from a mental illness within the meaning of the civil law of that State or Territory; and
- (b) the illness contributed to the commission of the offence by the person; and
- (c) appropriate treatment for the person is available in a hospital in that State or Territory; and
- (d) the proposed treatment cannot be provided to the person other than as an inmate of a hospital in the State or Territory;

the court may, without passing sentence on the person, make an order (in this section called a ‘**hospital order**’) that the person be detained in a hospital specified in the order for a period specified in the order for the purposes of receiving treatment specified in the order.

“(2) A court must not make a hospital order unless, but for the mental illness of the person, the court would have sentenced the person to a term of imprisonment.

“(3) A court must not specify a period of detention in a hospital that is longer than the period of imprisonment to which the person would have been sentenced had the hospital order not been made.

“(4) Where the court orders a person to be detained in a hospital for a specified period, the court may fix a lesser period of detention during which the person is not to be eligible to be released from the hospital.

“(5) Before reaching an opinion on the matters specified in subsection (1) in relation to a person, the court must obtain and consider the reports of 2 duly qualified psychiatrists with experience in the diagnosis and treatment of mental illness.

“(6) A court may make a hospital order in respect of a person even if the person is serving a federal sentence at the time when, under the order, the person is to begin to be detained in hospital and, where a hospital order is made in such circumstances:

- (a) the hospital order is sufficient authority for the person to be detained outside the prison during the period of involuntary hospitalisation under the order; and

- (b) the person is to be treated, for the purposes of that sentence, as serving that sentence during the period of involuntary hospitalisation under the order; and
- (c) if the person is still liable to serve a part of that sentence when the hospital order ends or is discharged, the person is to be returned for that purpose to the prison where he or she was serving that sentence before the making of the order.

“(7) Subsection (4) does not enable a court, in the case of a person who is serving a federal sentence at the time when the hospital order begins, to fix a lesser period of detention ending:

- (a) if a non-parole period has been fixed in respect of the sentence—before the end of that non-parole period; and
- (b) otherwise—before the end of that sentence.

Lesser periods of imprisonment fixed under hospital orders

“20BT. (1) Where a lesser period of detention is fixed under subsection 20BS (4) in relation to a person detained in hospital under a hospital order, the Attorney-General must, at the end of the lesser period, obtain and consider the reports of 2 duly qualified psychiatrists with experience in the diagnosis and treatment of mental illness so as to determine whether or not to release the person from the detention.

“(2) Unless:

- (a) either of the reports of the psychiatrists recommends that the person not be released because of a continuing need for hospital treatment; or
- (b) the person continues, at the end of the lesser period of detention, to be required to serve a federal sentence of imprisonment that the person was serving at the time when the hospital order began;

the Attorney-General must order the person to be released on such conditions (including conditions relating to release into the care of another person specified in the order) for the balance of the period of the hospital order as the Attorney-General considers appropriate having regard to the reports and to such other matters as he or she considers relevant.

“(3) Sections 20BM and 20BN apply in relation to a person released from involuntary hospitalisation by order under subsection (2) as if:

- (a) the order under that subsection were a release order made under subsection 20BL (1); and
- (b) the references in each of those sections to detention in a prison or a hospital were references only to detention in a hospital; and
- (c) the reference in subsection 20BM (5) to the period of detention in safe custody under subsection 20BJ (1) were a reference to the period of detention in a hospital specified in the order under subsection 20BS (1).

Discharge of hospital orders

“20BU. (1) Where a person is subject to a hospital order, the person or the Director of Public Prosecutions may, at any time while the order is in force, apply to the court that imposed the order to discharge the order and to impose such other sentence as the court thinks appropriate, being a sentence that could have been imposed when the order was made.

“(2) The court must not discharge a hospital order unless the court is satisfied:

- (a) that the person has sufficiently recovered from mental illness no longer to require involuntary hospitalisation; or
- (b) that the mental illness will not respond or respond further to hospital treatment.

“(3) Where the court discharges a hospital order and imposes another sentence instead of the order:

- (a) the new sentence must commence on the date of commencement of the order; and
- (b) the length of the new sentence must not exceed the length of the order; and
- (c) if the sentence is a sentence of imprisonment—the person concerned is to be treated as having served that part of the sentence during which he or she was subject to involuntary hospitalisation.

“(4) Before reaching an opinion on the matters specified in subsection (2) in relation to a person, the court:

- (a) must obtain and consider the reports of 2 duly qualified psychiatrists with experience in the diagnosis and treatment of mental illness; and
- (b) if the person has been released, under section 20BR, into the care of another person for the balance of the hospital order—must obtain and consider the report of that other person; and
- (c) may obtain and consider such other information as it thinks relevant.

“(5) An application under subsection (1) to the court that made a hospital order may be dealt with by that court whether or not it is constituted in the way in which it was constituted when the order was made.

Psychiatric probation orders

“20BV. (1) Where a person is convicted in a State or Territory of a federal offence and the court is satisfied that:

- (a) the person is suffering from a mental illness within the meaning of the civil law of that State or Territory; and
- (b) the illness contributed to the commission of the offence by the person; and
- (c) appropriate psychiatric treatment for the person is available in a hospital or other place in the State or Territory; and

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(d) the person consents to the order being made;
the court may, without passing sentence on the person, make an order (in this section called a **'psychiatric probation order'**) that the person reside at, or attend at, a specified hospital or other place for the purpose of receiving that psychiatric treatment.

“(2) The court must not make an order unless the person, or the person’s legal guardian, consents to the proposed treatment.

“(3) An order is subject to the following additional conditions.

- (a) that the person will, during such period, not exceeding 2 years, as the court specifies in the order, be subject to the supervision of a probation officer appointed in accordance with the order and obey all reasonable directions of a probation officer so appointed;
- (b) that the person will be of good behaviour for such period, not exceeding 5 years, as the court specifies in the order.

“(4) The court may, on the application of the person, of the probation officer appointed to supervise the person or of the person in charge of the hospital or other place where the treatment is being undertaken, vary the treatment that the person is to undertake.

Breach of psychiatric probation orders

“20BW. (1) Where an order has been made under section 20BV and information is laid before a magistrate, whether before or after the end of the period referred to in paragraph 20BV (3) (a) or (b), alleging that the person has, without reasonable excuse, failed to comply with a condition of the order, the magistrate may:

- (a) issue a summons directing the person to appear, on a date, and at a time and place, fixed in the summons, before the court by which the order was made; or
- (b) if the information is laid on oath and the magistrate is of the opinion that proceedings against the person by summons might not be effective—issue a warrant for the arrest of the person.

“(2) Where:

- (a) a person who is served with a summons issued under subsection (1) fails to attend before the court as required by the summons; or
- (b) a person who has been admitted to bail under subsection (4) fails to attend before the court as required by the conditions of that bail;

the court may issue a warrant for the arrest of the person.

“(3) A warrant for the arrest of a person issued under subsection (1) or (2) also authorises the bringing of the person before the court as soon as practicable after the person’s arrest and the detention of the person in custody until the person is released by order of the court or under subsection (4).

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“(4) Where a person is arrested under a warrant issued under subsection (1) or (2) and the court before which the person is to be brought is not sitting at the time of the arrest, the person must be brought before a magistrate who may:

- (a) remand the person to bail on such recognizance (with or without sureties) as the magistrate thinks fit and on the condition that the person appears before the court on such date, and at such time and place, as the magistrate specifies; or
- (b) direct that the person be kept in custody in accordance with the warrant.

Enforcement of psychiatric probation orders

“20BX. (1) Where a person who is subject to an order under section 20BV appears before the court by which the order was made and the court is satisfied that the person has, without reasonable excuse, failed to comply with a condition of the order, the court may:

- (a) without prejudice to the continuance of the order, impose a pecuniary penalty not exceeding \$1,000 on the person; or
- (b) discharge the order and make an order under section 20; or
- (c) revoke the order and, subject to subsection (2), deal with the person for the offence in respect of which the order was made, in any way in which the person could have been dealt with for that offence if the order had not been made and the person was before the court for sentence in respect of the offence; or
- (d) take no action.

“(2) Where a person who is subject to an order under section 20BV is dealt with under subsection (1) for the offence in respect of which the order was made, the court must, in so dealing with the person, in addition to any other matters, take into account:

- (a) the fact that the order was made; and
- (b) anything done under the order; and
- (c) any other order made in respect of the offence.

“(3) Where a person who has been released in accordance with an order under section 20BV is dealt with under subsection (1) for the offence in respect of which the order was made, the person has such rights of appeal in respect of the way in which the person was dealt with for that offence as the person would have if:

- (a) the court had, immediately before so dealing with the person, convicted the person of the offence; and
- (b) the manner in which the person is dealt with had been a sentence passed upon that conviction.

“(4) A pecuniary penalty imposed on a person under paragraph (1) (a) is to be treated, for the purposes of the laws of the Commonwealth, and of the States and Territories, with respect to the enforcement and recovery of

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finer ordered to be paid by offenders, as a fine imposed on the person because of the person's conviction for an offence against a law of the Commonwealth.

Program probation orders

"20BY. (1) Where a person is convicted in a State or Territory of a federal offence and the court before which the person is convicted is satisfied that:

- (a) the person is suffering from an intellectual disability; and
- (b) the disability contributed to the commission of the offence by the person; and
- (c) an appropriate education program or treatment is available for the person in that State or Territory;

the court may, without passing sentence on the person, order that the person be released, on condition that the person undertake the program or treatment specified in the order for a period specified in the order.

"(2) Subsections 20BV (2), (3) and (4) and sections 20BW and 20BX apply to a person in respect of whom an order has been made under subsection (1) of this section in the same way as they apply to a person in respect of whom an order has been made under subsection 20BV (1) and, for that purpose, references in those provisions to treatment have effect as if they were references to an education program or treatment of the kind referred to in subsection (1) of this section.

"Division 10—Miscellaneous"

Taking other offences into account

16. Section 21AA of the Principal Act is amended:

- (a) by omitting from subsection (1) "an offence or offences against the law of the Commonwealth" and substituting "a federal offence or federal offences";
- (b) by omitting paragraph (1) (b) and substituting the following paragraph:
 - "(b) the document contains a list of other federal offences, or offences against the law of an external Territory that is prescribed for the purposes of this section, which the person convicted is believed to have committed";
- (c) by omitting from subparagraph (1) (c) (iii) "offences against the laws of the Commonwealth" and substituting "federal offences".

Reparation for offences

17. Section 21B of the Principal Act is amended:

- (a) by omitting from subsection (1) "an offence against the law of the Commonwealth" (wherever occurring) and substituting "a federal offence";

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(b) by adding at the end the following subsections:

“(2) A person is not to be imprisoned for a failure to pay an amount required to be paid under an order made under subsection (1).

“(3) Where:

- (a) the court orders a federal offender to make reparation to the Commonwealth, to a public authority of the Commonwealth or to any other person by way of payment of an amount of money; and
- (b) the clerk, or other appropriate officer, of the court signs a certificate specifying:
 - (i) the amount of money to be paid by way of reparation; and
 - (ii) the identity of the person to whom the amount of money is to be paid; and
 - (iii) the identity of the person by whom the amount is to be paid; and
- (c) the certificate is filed in a court (which may be the first-mentioned court) having civil jurisdiction to the extent of the amount to be paid;

the certificate is enforceable in all respects as a final judgment of the court in which it is filed in favour of the Commonwealth, of that public authority or of that person.”.

Prerogative of mercy and other Commonwealth laws unaffected

18. Section 21D of the Principal Act is amended by adding at the end the following subsection:

“(2) This Part does not affect the operation of any other law of the Commonwealth, or of any law in force in a Territory, relating to the release of offenders.”.

19. After section 21D of the Principal Act the following sections are inserted:

Director of Public Prosecutions may appeal against reductions where promised co-operation with law enforcement agencies refused

“21E. (1) Where a federal sentence, or a federal non-parole period, is reduced by the court imposing the sentence or fixing the non-parole period because the offender has undertaken to co-operate with law enforcement agencies in proceedings, including confiscation proceedings, relating to any offence, the court must:

- (a) if the sentence imposed is reduced—specify that the sentence is being reduced for that reason and state the sentence that would have been imposed but for that reduction; and

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- (b) if the non-parole period is reduced—specify that the non-parole period is being reduced for that reason and state what the period would have been but for that reduction.

“(2) Where:

- (a) a federal sentence is imposed or a federal non-parole period is fixed; and
- (b) the sentence or non-parole period is reduced because the offender has undertaken to co-operate with law enforcement agencies as described in subsection (1); and
- (c) after sentence, the offender, without reasonable excuse, does not co-operate in accordance with the undertaking;

the Director of Public Prosecutions may, at any time while the offender is under sentence, if the Director of Public Prosecutions is of the opinion that it is in the interests of the administration of justice to do so, appeal against the inadequacy of the sentence or of the non-parole period.

“(3) Where an appeal is begun under this section against the inadequacy of a sentence, or of a non-parole period, that was reduced because of a person’s undertaking to co-operate with law enforcement agencies, the court hearing the appeal:

- (a) if it is satisfied that the person has failed entirely to co-operate in accordance with the undertaking—must substitute for the reduced sentence or reduced non-parole period the sentence, or non-parole period, that would have been imposed on, or fixed in respect of, the person but for that reduction; and
- (b) if it is satisfied that the person has failed in part to co-operate in accordance with the undertaking—may substitute for the reduced sentence or reduced non-parole period such a sentence, or such a non-parole period, not exceeding in length the sentence that could be imposed, or the non-parole period that could be fixed, under paragraph (a), as it thinks appropriate.

“(4) In subsection (1):

‘confiscation proceedings’ includes a reference to proceedings for forfeiture orders, pecuniary penalty orders and restraining orders under the *Proceeds of Crime Act 1987* and to restraining orders and pecuniary penalty orders under Part XIII of the *Customs Act 1901*.

Prescribed authorities and parole officers

“21F. (1) Subject to subsection (2), the Governor-General may arrange with the Governor of a State, the Australian Capital Territory Executive, the Administrator of the Northern Territory or the Administrator of Norfolk Island:

- (a) for the performance by persons who hold office as Magistrates in that State or Territory of the functions of a prescribed authority under this Part; and

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(b) for the performance by officers of that State or Territory of the functions of a parole officer under this Part.

“(2) Subsection (1) does not authorise an arrangement of the kind referred to in paragraph (1) (a) to be entered into between the Governor-General and the Australian Capital Territory Executive before 1 July 1990.

“(3) The Attorney-General may appoint officers of the Australian Public Service to be parole officers for the purposes of this Part.

“(4) Notice of an arrangement under subsection (1) must be published in the *Gazette*.

“(5) In this section:

‘State’ does not include the Australian Capital Territory or the Northern Territory.”.

Interpretation of Part

20. Section 85ZL of the Principal Act is amended by inserting after paragraph (b) of the definition of “Commonwealth authority” the following paragraph:

“(ba) the Defence Force;”.

Exclusions

21. Section 85ZZH of the Principal Act is amended:

(a) by omitting paragraphs (a) and (b) and substituting the following paragraphs:

“(a) a law enforcement agency, for the purpose of making decisions in relation to prosecution or sentencing or of assessing:

(i) prospective employees or prospective members of the agency; or

(ii) persons proposed to be engaged as consultants to, or to perform services for, the agency or a member of the agency;

(b) an intelligence or security agency, for the purpose of assessing:

(i) prospective employees or prospective members of the agency; or

(ii) persons proposed to be engaged as consultants to, or to perform services for, the agency or a member of the agency;”;

(b) by omitting paragraph (h) and substituting the following paragraph:

“(h) the Cash Transaction Reports Agency, for the purpose of assessing:

(i) prospective officers or prospective members of the Agency; or

- (ii) persons proposed to be engaged as consultants to, or to perform services for, the Agency;”.

Further exclusions—law enforcement agencies

22. Section 85ZZJ of the Principal Act is amended by adding at the end the following subsection:

“(2) In this section:

‘employee’, in relation to a law enforcement agency, includes a person engaged as a consultant to, or to perform services for, the agency or a member of the agency.”.

Division 2—Amendments consequential on the amendments made in Division 1 of this Part

Interpretation

23. (1) In this Division:

“commencing day” means the day on which section 9 of this Act commences;

“Principal Act” has the same meaning as in Division 1 of this Part.

(2) In this Division, an offence is to be taken to be a federal offence if it is an offence that would, if committed on or after the commencing day, be a federal offence for the purposes of Part 1B of the Principal Act as amended by this Act, despite the fact that the offence was committed before the commencing day.

Licences granted under section 19A of the Principal Act

24. Any licence granted under section 19A of the Principal Act being a licence in force immediately before the commencing day, continues in force, with effect from that commencing day:

- (a) as if it had been granted under section 19AP of the Principal Act as amended by this Act; and
- (b) if the period of the licence exceeds 5 years—as if the licence period ended on the commencing day or 5 years after the licence was granted, whichever happens last.

Licences revoked or cancelled under section 19A of the Principal Act before commencing day

25. (1) Where a person sentenced to a term of imprisonment in respect of a federal offence has had a licence granted under the Principal Act in respect of that sentence revoked under paragraph 19A (5) (b) of the Principal Act before the commencing day, then, whether or not the person has been arrested and brought before a prescribed authority before that day, the Principal Act continues to apply in relation to that person and that sentence, on and after that day, until that sentence is fully served, as if the amendments made by Division 1 of this Part had not been made.

(2) Where a person sentenced to a term of imprisonment in respect of a federal offence has had a licence granted under the Principal Act cancelled by a prescribed authority under subsection 19A (7) of the Principal Act before the commencing day, the Principal Act continues to apply in relation to that person and that sentence, on and after that day, until that sentence is fully served, as if the amendments made by Division 1 of this Part had not been made.

Sentences and orders under subsection 19B (1), 20 (1) or 20AB (1) of the Principal Act

26. (1) Where an order that has been made under subsection 19B (1) or 20 (1) of the Principal Act is in force immediately before the commencing day, that order has effect, on and after that day, as if it had been made under subsection 19B (1) or 20 (1) of the Principal Act as amended by this Act.

(2) Where orders have been made under paragraph 20 (1) (b) of the Principal Act in respect of more than one offence committed by the same person, then, despite subsection (1), those orders shall be treated, on and after the commencing day, as if they were a single order made under paragraph 20 (1) (b) of the Principal Act as amended by this Act, sentencing the person to the respective terms of imprisonment fixed in respect of each sentence but directing that the person be released at the expiration of the last to expire of the periods of imprisonment required to be served under those first-mentioned orders.

(3) Where a sentence or order that has been passed or made under subsection 20AB (1) of the Principal Act is in force immediately before the commencing day, that sentence or order has effect, on and after that day, as if it had been passed or made under subsection 20AB (1) of the Principal Act as amended by this Act.

Section 20B of the Principal Act to continue to apply for A.C.T. purposes on and after commencing day

27. (1) Despite the repeal of section 20B of the Principal Act under section 15 of this Act, that section is to be treated, on and after the commencing day, for the purposes of section 33G of the Interpretation Ordinance of the Australian Capital Territory, as if it had not been repealed.

(2) Where a law of the Australian Capital Territory is expressed to include a provision that makes, or provisions that make, the operation of subsection (1) redundant, then, with effect from the commencement of that provision or those provisions, subsection (1) ceases to be in force.

Non-parole periods for life sentences imposed before commencing day

28. (1) Where, before the commencing day, a sentence of life imprisonment has been imposed on a person in respect of a federal offence, the Attorney-General, the Director of Public Prosecutions or the person

may, whether or not the person has begun to serve that sentence, on or after that day, apply to the court by which the person was sentenced:

- (a) if the sentence of life imprisonment is the only sentence imposed on the person for a federal offence, or is the only such sentence the term of which has not been served when the application under this subsection is made—to fix a non-parole period in respect of the sentence of life imprisonment; or
- (b) if the sentence of life imprisonment is cumulative on, or concurrent or partly concurrent with, another federal sentence of imprisonment or other federal sentences of imprisonment imposed on the person, being a sentence or sentences not yet served when the application under this subsection is made—to fix a single non-parole period in respect of all the sentences.

(2) Subject to subsection (4), if a non-parole period is fixed as a result of an application under paragraph (1) (a), that non-parole period is to be treated as having commenced on the commencement of the sentence of life imprisonment and is not to be such as would render the person concerned eligible to be released on parole before the commencing day.

(3) Subject to subsection (4), if a non-parole period is fixed as a result of an application under paragraph (1) (b), that non-parole period is to be treated as having commenced on the commencement of the first to commence of the sentences of imprisonment referred to in that paragraph and is not to be such as would render the person concerned eligible to be released on parole before:

- (a) the commencing day; or
- (b) the day on which the person would have been eligible for release if the sentence of life imprisonment had not been imposed;

whichever is the later.

(4) Where, in relation to any sentence of imprisonment referred to in paragraph (1) (b) other than a sentence of life imprisonment, a non-parole period (in this subsection called a “**previous non-parole period**”) has been fixed but that non-parole period has not been served when the application under subsection (1) is made, the single non-parole period fixed in accordance with that subsection:

- (a) is to be treated as having superseded that previous non-parole period; and
- (b) is to be treated as having commenced on the commencement of that previous non-parole period; and
- (c) is not to be such as would render the person eligible to be released on parole before:
 - (i) the commencing day; or

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- (ii) the day on which that previous non-parole period would have been served;

whichever is the later.

(5) A non-parole period that is fixed in accordance with this section is to be taken, for the purposes of the Principal Act as amended by this Act, to have been fixed under Part 1B of the Principal Act as so amended.

(6) A court is not precluded from fixing a non-parole period in respect of a sentence or sentences on an application under this section by virtue only of the fact that the person is, or may be, liable to be deported from Australia.

(7) An application under subsection (1) to the court that has imposed a sentence of life imprisonment on a person for a federal offence may be dealt with by that court whether or not it is constituted in the way in which it was constituted when the person was so sentenced.

Repeal of *Commonwealth Prisoners Act 1967*

29. The *Commonwealth Prisoners Act 1967* is repealed.

Lesser terms of imprisonment fixed under *Commonwealth Prisoners Act 1967* before commencing day

30. (1) Where:

- (a) a person was sentenced before the commencing day to a term of imprisonment for a federal offence; and
- (b) a court had fixed or purported to fix a lesser term of imprisonment under section 4 of the *Commonwealth Prisoners Act 1967* as the period during which the person is not eligible to be released on parole; and
- (c) on that day, that lesser period of imprisonment had not been served or, if it had been served, the person's release on parole had been deferred for whatever reason;

that lesser term is to be treated, on and after that day, for all purposes of the Principal Act as amended by this Act, as if it were a non-parole period that had been duly fixed in respect of that sentence under Division 4 of the Principal Act as so amended.

(2) Where:

- (a) a person was sentenced before the commencing day to terms of imprisonment for more than one federal offence; and
- (b) a court had fixed or purported to fix lesser terms of imprisonment under section 4 of the *Commonwealth Prisoners Act 1967* of the kind referred to in paragraph (1) (b) in respect of more than one of those sentences; and
- (c) the lesser periods were concurrent, partly concurrent or cumulative and, on that day, the aggregate period required to be served to satisfy all of those lesser periods had not been served or, if that

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aggregate period had been served, the person's release on parole had been deferred for whatever reason;

that aggregate period is to be treated, on and after that day, for all purposes of the Principal Act as amended by this Act, as if it were a single non-parole period that had been duly fixed, in respect of all the sentences in respect of which it was fixed, under Division 4 of the Principal Act as so amended.

(3) Where the term of a sentence of imprisonment in respect of which a lesser term of imprisonment was fixed under section 4 of the *Commonwealth Prisoners Act 1967*, or the aggregate term of a number of sentences of imprisonment in respect of which lesser terms of imprisonment were fixed under that section, is 3 years or less, then, for the purpose of the application of the provisions of the Principal Act as amended by this Act, that term, or the aggregate of those terms, as the case requires, is to be taken to be more than 3 years but less than 10 years.

(4) Where, in relation to a federal sentence of imprisonment imposed upon a person before the day when section 9 of this Act commences, a minimum term of imprisonment (however described) has purportedly been fixed by operation of State or Territory legislation, that purported minimum term of imprisonment is to be treated, for the purpose of this section, in the same way as if it were a lesser term of imprisonment fixed by a court under section 4 of the *Commonwealth Prisoners Act 1967* in relation to that first-mentioned sentence.

Parole orders made under *Commonwealth Prisoners Act 1967* before commencing day

31. A parole order made under section 5 of the *Commonwealth Prisoners Act 1967*, being a parole order in force immediately before the commencing day, continues in force, with effect from the commencing day:

- (a) as if it had been made under section 19AL of the Principal Act as amended by this Act; and
- (b) if the period of the parole order exceeds 5 years—as if the parole period ended on the commencing day or 5 years after the licence was granted, whichever happens last.

Parole orders revoked or cancelled under *Commonwealth Prisoners Act 1967* before commencing day

32. (1) Where a person sentenced to a term of imprisonment in respect of a federal offence has had a parole order made under the *Commonwealth Prisoners Act 1967* in respect of that sentence revoked under paragraph 5 (5) (b) of that Act, or by operation of subsection 5 (7) of that Act, before the commencing day, then, whether or not the person has been arrested and brought before a prescribed authority before that day, that Act continues to apply in relation to that person and that sentence on and after that day, until that sentence is fully served, as if that Act had not been repealed and the amendments made by Division 1 of this Part had not been made.

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(2) Where a person sentenced to a term of imprisonment in respect of a federal offence has had a parole order made under the *Commonwealth Prisoners Act 1967* in respect of that sentence cancelled by a prescribed authority under section 6 of that Act before the commencing day, that Act continues to apply in relation to that person and that sentence, on and after the commencing day, until that sentence is fully served, as if that Act had not been repealed and the amendments made by Division 1 of this Part had not been made.

Application of State or Territory remission or reduction laws to certain federal non-parole periods

33. Nothing in this Part shall be taken to affect the application of a law of a State or Territory providing for the remission or reduction of State or Territory non-parole periods of imprisonment to federal non-parole periods of imprisonment fixed in respect of federal sentences of imprisonment imposed before the commencing day.

Further consequential amendments

34. The Acts set out in the Schedule are amended as set out in the Schedule.

Relocation of sections etc.

35. (1) Sections 18A, 21, 21A, 21C, 22 and 23 of the Principal Act as amended by this Act are relocated so that they appear in Part IA after section 15 of the Principal Act as amended by this Act, and are renumbered as sections 15A, 15B, 15C, 15D, 15E and 15F respectively.

(2) Section 21AA of the Principal Act as amended by this Act is relocated so that it appears in Division 2 of Part IB after section 16B of the Principal Act as amended by this Act, and is renumbered as section 16BA.

(3) A reference in a law of the Commonwealth or of a Territory, or in an instrument or document, to a section of the Principal Act that has been renumbered under this section shall be read as a reference to that section as so renumbered.

**PART 3—AMENDMENTS OF THE CASH TRANSACTION
REPORTS ACT 1988**

Principal Act

36. In this Part, “Principal Act” means the *Cash Transaction Reports Act 1988*.

Interpretation

37. Section 3 of the Principal Act is amended:

- (a) by omitting “person” from paragraph (c) of the definition of “account” in subsection (1) and substituting “person other than the cash dealer”;

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- (b) by adding at the end of the definition of “account” in subsection (1) “or for any other form of safe deposit”;
- (c) by inserting “, or a person engaged under section 40A, who is” after “Agency” in the definition of “authorised officer” in subsection (1);
- (d) by omitting “(including a totalisator agency board)” from paragraph (n) of the definition of “cash dealer” in subsection (1) and substituting “, including a totalisator agency board and any other person who operates a totalisator betting service”;
- (e) by inserting “, (5A)” after “18 (5)” in the definition of “CTR information” in subsection (1);
- (f) by omitting from subsection (1) the definition of “acceptable referee” and substituting the following definition:
 - “‘acceptable referee’ means a person in a class of persons declared by the Minister, by notice in the *Gazette*, to be acceptable referees for the purposes of this definition;”;
- (g) by inserting in subsection (1) the following definition:
 - “‘identifying cash dealer’ means a cash dealer in respect of whom a declaration under section 8A is in force;”.

38. After section 8 of the Principal Act the following section is inserted:

Identifying cash dealers

“8A. (1) A cash dealer may apply in writing to the Director to be declared an identifying cash dealer.

“(2) An application must be accompanied by a written undertaking in the approved form, by which the applicant undertakes:

- (a) to carry out the verification procedures under subsection 20 (8), where that subsection applies, and to take all reasonable steps to complete the procedures promptly in each case; and
- (b) to report under section 16 in relation to information obtained by the applicant as a result of carrying out the procedures mentioned in paragraph (a); and
- (c) to give the Director, in respect of such periods as are determined by the Director, written reports on the applicant’s compliance with this Act; and
- (d) to do such other things (if any) as are specified in the form.

“(3) An application, and the undertaking accompanying it, must be signed by the applicant personally or, if the applicant is a body corporate, by its principal executive officer.

“(4) On receipt of an application and an undertaking, the Director may, by notice in the *Gazette*, declare the applicant to be an identifying cash dealer if satisfied that such a declaration would not be inconsistent with the objects of this Act.

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“(5) The Director may, by notice in the *Gazette*, revoke a declaration, or suspend it for a specified period or until a specified act is done, if satisfied that the relevant identifying cash dealer has failed to honour the undertaking given by the cash dealer under this section.

“(6) A declaration stops being in force on its revocation or during a period when it is suspended.

“(7) The Director may, for the purposes of this section, approve different forms to be used by different classes of applicants.

“(8) In this section:

‘principal executive officer’, in relation to a body corporate means the person who is for the time being its principal executive officer, whether or not the person is a director of the body corporate.”.

39. After section 14 of the Principal Act the following section is inserted:

Inspection of record systems etc.

“14A. (1) The Director may, by written notice to a cash dealer, require the dealer to give the authorised officer specified in the notice access to the dealer’s premises so specified on the day and during the hours so specified.

“(2) The hours specified in a notice to a cash dealer must occur during the dealer’s normal business hours.

“(3) A cash dealer must comply with a notice given to the dealer.

“(4) Where an authorised officer is given access to premises in compliance with a notice, the officer may:

- (a) for the purposes of monitoring the cash dealer’s compliance with section 7, inspect:
 - (i) any records relating to significant cash transactions to which the dealer is a party, being records kept on, or accessible from, the premises; and
 - (ii) any system used by the dealer at those premises for keeping such records; and
- (b) for the purposes of monitoring the cash dealer’s compliance with any undertaking given by it under section 8A, inspect:
 - (i) any records relating to the verification procedures carried out by the cash dealer under subsection 20 (8), being records kept on, or accessible from, the premises; and
 - (ii) any system used by the dealer at those premises for keeping such records.”.

Reports in relation to transfer of currency into or out of Australia

40. (1) Section 15 of the Principal Act is amended by inserting in subparagraph (1) (a) (i) “Australian currency or” after “transfers”.

(2) Section 15 of the Principal Act is amended:

- (a) by omitting from subsection (1) “before the transfer takes place”;

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- (b) by omitting paragraph (7) (d) and substituting the following paragraph:

“(d) be given to:

(i) if the transfer is effected by a person taking the currency out of, or bringing it into, Australia with the person—a customs officer; and

(ii) in any other case—the Director or a customs officer.”;

- (c) by inserting after subsection (7) the following subsection:

“(7A) A report under this section, other than a report mentioned in paragraph (5) (c) or (d), must be given:

(a) if subparagraph (7) (d) (i) applies—at the time the currency concerned is brought into, or taken out of, Australia; and

(b) in any other case—at any time before the transfer takes place.”;

- (d) by omitting from subsection (8) “or police officer”.

Information to be provided where bank account etc. opened

41. Section 18 of the Principal Act is amended:

- (a) by inserting in subparagraph (1) (a) (i) “or for any other form of safe deposit” after “box”;

- (b) by inserting in subparagraph (1) (b) (i) “or for any other form of safe deposit” after “box”;

- (c) by inserting after subsection (2) the following subsections:

“(2A) If, where the account is with an identifying cash dealer, the unverified signatory gives the cash dealer (whether before, on or after the infringement day) a verification statement that is not accompanied by an identification reference in accordance with section 21, the account becomes, or remains, blocked by force of this section until:

(a) the cash dealer, having completed the verification procedures prescribed for the purposes of subsection 20 (8), verifies the identity of the signatory; or

(b) the signatory gives the cash dealer an identification reference in accordance with section 21; or

(c) the Director gives a notice under subsection 19 (2).

“(2B) Subsection (2A) does not apply if:

(a) the cash dealer has verified the identity of the signatory under subsection 20 (8) in respect of another account with the cash dealer; or

(b) the cash dealer holds an identification reference in accordance with section 21 for the signatory in respect of another account with the cash dealer;

and the verification statement specifies that other account in sufficient detail for the other account to be identified.”;

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(d) by omitting subsection (5) and substituting the following subsections:

“(5) Where an account becomes blocked under subsection (2), the cash dealer commits an offence against this subsection at the end of the day after the infringement day unless it has given the Director written notice stating:

- (a) the reasons why the account became blocked; and
- (b) the name and address of the unverified signatory and sufficient details of the account for the account to be identified.

“(5A) Where an account becomes blocked under subsection (2A), the cash dealer commits an offence against this subsection at the end of 14 days after the infringement day unless:

- (a) the account was previously blocked under subsection (2) and it had given the Director a written notice under subsection (5); or
- (b) in any other case—it has given the Director a written notice stating the matters mentioned in paragraphs (5) (a) and (b).”;

(e) by inserting in paragraph (7) (a) “or (5A)” after “(5)”;

(f) by omitting paragraph (7) (b) and substituting the following paragraph:

“(b) after the notice is given or sent by the cash dealer the account becomes unblocked because the unverified signatory gives the cash dealer a verification statement or an identification reference, or the cash dealer verifies the identity of the signatory under subsection 20 (8).”;

(g) by omitting from subsection (7) “statement has been given” and substituting “account has become unblocked for the reason specified in the notice”;

(h) by inserting in subsection (9) “(5A)” after “(5).”;

(j) by adding at the end of paragraph (10) (a) “or”;

(k) by adding at the end of subsection (10) the following word and paragraph:

“or; (d) a period instead of the period specified in subsection (5A).”.

Unblocking or forfeiture of account

42. Section 19 of the Principal Act is amended by omitting paragraph (2) (b) and substituting the following paragraph:

“(b) the unverified signatory has given a verification statement or identification reference and the account should not, as a result, be blocked; or”.

Form of statement

43. Section 20 of the Principal Act is amended:

- (a) by omitting from subsections (2) and (3) “subsection (4)” and substituting “this section”;
- (b) by inserting after subsection (4) the following subsection:

“(4A) A statement in relation to an account with a cash dealer need not be accompanied by an identification reference for a signatory to the account if the cash dealer has verified the identity of the signatory under subsection (8) in respect of another account with the cash dealer.”;

- (c) by adding at the end the following subsections:

“(7) A statement in relation to an account with an identifying cash dealer need not be accompanied by an identification reference under paragraph (2) (b) or (3) (b).

“(8) Subject to subsection (9), where a statement of the kind mentioned in subsection (7) is not accompanied by an identification reference for a signatory to the account concerned, the cash dealer must carry out the prescribed verification procedure for the purpose of identifying the signatory.

“(9) Where a statement of the kind mentioned in subsection (7) is not accompanied by an identification reference for a signatory to the account concerned but an identification reference for that signatory is subsequently given to the cash dealer, the cash dealer need not carry out, or continue to carry out, the verification procedure mentioned in subsection (8).”.

Identification references

44. Section 21 of the Principal Act is amended:

- (a) by omitting from subsection (1) “statutory declaration by an acceptable referee” and substituting “written reference by an acceptable referee, signed by the referee and”;
- (b) by omitting from paragraphs (1) (a) and (b) “declaration” and substituting “reference”;
- (c) by omitting from subsection (3) “a declaration by the referee to the effect that the statement” and substituting “a statement by the referee to the effect that the reference”;
- (d) by inserting after subsection (3) the following subsection:

“(3A) An acceptable referee, or any other person, must not, knowingly or recklessly:

- (a) make a statement in an identification reference that is false or misleading in a material particular; or

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- (b) omit from an identification reference any matter or thing without which the reference is misleading in a material particular.

Penalty: \$10,000 or imprisonment for 4 years, or both.”.

Cash dealer to keep documents

45. Section 23 of the Principal Act is amended:

- (a) by inserting after subsection (1) the following subsection:

“(1A) Where a cash dealer makes or obtains a record of any information in the course of carrying out a verification procedure under subsection 20 (8), the cash dealer must retain the record for the period of 7 years after the day on which the relevant account is closed.”;

- (b) by omitting from paragraph (2) (b) “or”;
- (c) by inserting after paragraph (2) (b) the following paragraph:

“(ba) if the cash dealer does not hold an identification reference for the person at the time when the record is made and the cash dealer (whether before or after that time) carries out a verification procedure in relation to the person under subsection 20 (8)—retain the record, together with any record of information made or obtained in the course of carrying out the verification procedure, for the period for which the record of information must be retained; or”;

- (d) by inserting in paragraph (2) (c) “and paragraph (ba) does not apply” after “record is made”;
- (e) by inserting in subsection (3) “, (1A)” after “(1)”;
- (f) by inserting in paragraph (4) (b) “or (8)” after “20 (4)”;
- (g) by inserting after subsection (4) the following subsection:

“(4A) Where:

- (a) a cash dealer makes or obtains a record of any information in the course of carrying out a verification procedure under subsection 20 (8); and
- (b) the relevant account is identified, under subsection 20 (4) or (8), in a statement in relation to another account with the cash dealer;

subsection (1A) applies as if the reference to the day on which the account is closed were a reference to the day on which the last of those accounts is closed.”;

- (h) by inserting in subsection (5), (6) and (7) “, (1A)” after “(1)”.

Secrecy

46. Section 25 of the Principal Act is amended by inserting after paragraph (1) (b) the following paragraph:

“(ba) a person engaged under section 40A;”.

Access to CTR information

47. Section 27 of the Principal Act is amended:

- (a) by adding at the end of subsection (14) the following word and paragraph:
 - “; and (c) the Australian Securities Commission.”;
- (b) by omitting from paragraph (15) (f) “and”;
- (c) by adding at the end of subsection (15) the following paragraphs:
 - “(h) a member or acting member of the Australian Securities Commission; and
 - (j) a member of the staff of the Australian Securities Commission.”;
- (d) by adding at the end of subsection (16) “and to the State Drug Crime Commission of New South Wales”;
- (e) by omitting from paragraph (17) (b) “and”;
- (f) by adding at the end of subsection (17) the following paragraphs:
 - “(d) the Chairperson or acting Chairperson of the State Drug Crime Commission of New South Wales;
 - (e) a member or acting member of that Commission; and
 - (f) a member of the staff of that Commission.”.

Failure to provide information

48. Section 28 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“(1) A cash dealer commits an offence against this section if the cash dealer refuses or fails:

- (a) to communicate information to the Director when and as required under Part II or III; or
- (b) to comply with a notice under subsection 14A (1).”.

False or misleading information

49. Section 29 of the Principal Act is amended by inserting after paragraph (4) (a) the following paragraph:

“(aa) misleading an identifying cash dealer in the carrying out of a verification procedure under subsection 20 (8);”.

Questioning and search powers

50. (1) Section 33 of the Principal Act is amended by inserting in paragraphs (1) (a), (b), (c) and (d) “Australian currency or” before “foreign currency”.

(2) Section 33 of the Principal Act is amended:

- (a) by omitting subsection (3) and substituting the following subsections:
 - “(3) An officer may, with such assistance as is reasonable and necessary, examine an article which a person has with him or her if the person:
 - (a) is about to leave Australia or has arrived in Australia; or

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(b) is about to board or leave, or has boarded or left, any ship or aircraft;

for the purpose of finding out whether the person has with him or her any currency in respect of which a report under section 15 is required.

“(3A) A police officer or a customs officer (being an officer in respect of whom a declaration under section 196 of the *Customs Act 1901* is in force) may, with such assistance as is reasonable and necessary, search a person if:

(a) the person is about to leave Australia, or has arrived in Australia, or the person is about to board or leave, or has boarded or left, any ship or aircraft; and

(b) the officer has reasonable grounds to suspect that there is on the person, or in clothing being worn by the person, currency in respect of which a report under section 15 is required;

for the purpose of finding out whether the person has with him or her any such currency.”;

(b) by inserting in subsection (4) “or (3A)” after “(3)”;

(c) by omitting from subsection (5) “(3)” and substituting “(3A)”;

(d) by inserting in subsection (6) “, (3A)” after “(3)”;

(e) by inserting after subsection (7) the following subsection:

“(7A) An officer may, with such assistance as is reasonable and necessary, go onto or enter any prescribed place and examine the place, and any goods found at or in it, for the purpose of finding out whether there is at or in the place, or the goods, any currency in respect of which a report under section 15 is required.”;

(f) by inserting in subsection (8) “or (7A)” after “(7)”;

(g) by inserting in subsection (10) the following definition:

“‘prescribed place’ means:

(a) a place for the examination of goods on landing, being a place appointed under section 17 of the *Customs Act 1901*; or

(b) a warehouse in respect of which a warehouse licence, within the meaning of Part V of that Act, is in force; or

(c) a port, airport, wharf or boarding station appointed under section 15 of that Act.”.

51. After section 33 of the Principal Act the following section is inserted:

Arrest without warrant

“33A. (1) Where an officer has reasonable grounds to believe that a person is guilty of an offence against section 15, the officer may arrest the person without warrant.

“(2) Where an officer has reasonable grounds to believe that a person has assaulted any officer in the execution of that officer’s duties, the first-mentioned officer may arrest the person without warrant.

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“(3) A person must not resist, obstruct or prevent the arrest of any person under this section.

Penalty: \$1,000.

“(4) Where a person is arrested under this section, sections 212 and 213 of the *Customs Act 1901* apply as though the person had been arrested under section 210 of that Act.

“(5) In this section:

‘**offence against section 15**’ and ‘**officer**’ have the same respective meanings as in section 33.”.

52. After section 40 of the Principal Act the following section is inserted in Part VI:

Consultants

“40A. (1) The Director may engage, under written agreements, persons having suitable qualifications and experience to perform services as consultants to the Agency.

“(2) The terms and conditions of engagement of persons mentioned in subsection (1) are such as the Director determines from time to time.”.

53. After section 42 of the Principal Act the following section is inserted:

Amendment of Schedules by regulations

“42A. The regulations may amend Schedule 1, 2, 3 or 4:

- (a) by varying or omitting any of the details referred to in the Schedule or any other matter contained in the Schedule; and
- (b) by inserting new details, or other matter, in the Schedule.”.

PART 4—AMENDMENT OF THE NATIONAL CRIME AUTHORITY ACT 1984

Principal Act

54. In this Part, “Principal Act” means the *National Crime Authority Act 1984*.

Warrant for arrest of witness

55. Section 31 of the Principal Act is amended:

- (a) by inserting in subsection (1) “or of the Supreme Court of a State or Territory” after “Federal Court”;
- (b) by inserting in subsection (3) “or of the Supreme Court of a State or Territory” after “Federal Court”;
- (c) by inserting in subsection (4) “or of the Supreme Court of a State or Territory” after “Federal Court”.

SCHEDULE

Section 34

FURTHER CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

Commonwealth Places (Application of Laws) Act 1970

The Schedule

Omit item 1, substitute:

“1. Sections 8A, 9, 10, 13, 14, 15, 15A, 15B, 15C, 15D and 16BA all the provisions of Divisions 1 to 9 (inclusive) of Part 1B, and sections 20C, 21B and 21E of the *Crimes Act 1914*.”.

Crimes at Sea Act 1979

Subsection 5 (4):

(a) Omit paragraph (a), substitute:

“(a) Sections 8A, 9, 10, 13, 14, 15, 15A, 15B, 15C, 15D and 16BA, all the provisions of Divisions 1 to 9 (inclusive) of Part 1B, and sections 20C, 21B and 21E of the *Crimes Act 1914*; and”.

(b) Omit from paragraph (b) “1903; and”, substitute “1903.”.

(c) Omit paragraph (c).

Defence Force Discipline Act 1982

Section 72:

Omit the section, substitute the following section:

Application of certain provisions of *Crimes Act 1914*

“72. (1) Sections 16, 19A to 19AZD (other than section 19AH), 20, 20A and 20AA apply in relation to a service tribunal that imposes a punishment of imprisonment for a specific period on a convicted person as if the service tribunal were a court of, and the person was convicted in, the Australian Capital Territory.

“(2) The fixing of a non-parole period by a service tribunal under the provisions of the *Crimes Act 1914* as applied by virtue of subsection (1) to the service tribunal shall be taken, for the purposes of this Act, to be an order fixing that non-parole period made by the service tribunal under this Part.”.

Subsection 162 (6):

(a) Omit “lesser term of imprisonment” (wherever occurring), substitute “non-parole period”.

(b) Omit “sections 4 (1) and 2 of the *Commonwealth Prisoners Act 1967* in its application”, substitute “the provisions of the *Crimes Act 1914* in their application”.

SCHEDULE—continued

Subsection 162 (7):

Omit “lesser term of imprisonment”, substitute “non-parole period”.

Transfer of Prisoners Act 1983

Section 23:

Omit “section 19 of the *Commonwealth Prisoners Act 1967*”, substitute “section 19AA of the *Crimes Act 1914*”.

NOTES

1. No. 12, 1914, as amended. For previous amendments, see No. 6, 1915; No. 54, 1920; No. 9, 1926; No. 13, 1928; No. 30, 1932; No. 5, 1937; No. 6, 1941; No. 77, 1946; No. 80, 1950; No. 10, 1955; No. 11, 1959; No. 84, 1960; No. 93, 1966; Nos. 33 and 216, 1973; No. 56, 1975; No. 37, 1976; Nos. 19 and 155, 1979; No. 70, 1980; No. 122, 1981; Nos. 67, 80 and 153, 1982; Nos. 91, 114 and 136, 1983; Nos. 10, 63 and 165, 1984; No. 193, 1985; Nos. 76, 102 and 168, 1986; No. 73, 1987; No. 120, 1987; and Nos. 63 and 108, 1989.
2. No. 64, 1988.
3. No. 41, 1984, as amended. For previous amendments, see Nos. 123 and 165, 1984; Nos. 104 and 193, 1985; Nos. 89 and 141, 1987; Nos. 65 and 66, 1988; and No. 108, 1989.

[*Minister's second reading speech made in—
House of Representatives on 30 October 1989
Senate on 19 December 1989*]