

# **Re-supply of Explanatory Notes**

## **FOR**

## **Amendments To Be Moved During Consideration In Detail By The Honourable Mark Ryan MP**

### **Title of the Bill**

The short title of the Bill is the Corrective Services (Parole Board) and Other Legislation Amendment Bill 2017.

### **Objectives of the Amendments**

The amendments to be moved during consideration in detail address technical and operational considerations that have been identified since introduction of the Bill to the Legislative Assembly to ensure the efficient operation of the new Parole Board Queensland. The amendments remain consistent with the Queensland Parole System Review Report's (the review report) fundamental vision of a highly professionalised single Parole Board employing high-calibre and well-informed decision-making on all matters relating to board ordered parole (and the amendment, suspension and cancellation of court-ordered parole).

### **Achievement of the Objectives**

The objectives are achieved by making the following amendments:

- Amending clause 11 of the Bill to amend new section 208C (Parole board must consider suspension) to require the Parole Board to confirm or set aside a decision made under new section 208B (Prescribed board member may suspend parole order and issue warrant) within two business days of the decision being made. The amendment provides greater certainty within the legislation.
- Amending clause 12 of the Bill to amend new section 234 (Meetings about particular matters relating to parole orders) to recast the section to enable a more efficient and effective use of the Parole Board resources and composition.

The amendment is to ensure that the Parole Board (sitting as five members) is not overburdened with matters, which risks the fundamental vision of the review report not being realised given the time pressures that would be created by the volume of work, and to avoid delays in considering applications, which would negatively impact upon the applicants but also, in turn, would impact on

prisoner numbers and has resource implications from a corrective services perspective.

New section 234 will provide that:

- The Parole Board (sitting as five members with its composition comprised of, at a minimum: the President or Deputy President, a professional board member, a community board member, a public service representative and a police representative) must consider an application for a parole order and the cancellation of a parole order for a *prescribed prisoner*;
  - The Parole Board (sitting as three members with its composition comprised of, at a minimum: the President or Deputy President, a professional board member and a community board member) must consider the suspension of a parole order for a *prescribed prisoner*;
  - The Parole Board (sitting as three members with its composition comprised of, at a minimum: a professional board member, a community board member and one other member) must consider the amendment of a parole order for a prisoner, which necessarily includes a *prescribed prisoner*;
  - The Parole Board (sitting as three members with its composition comprised of, at a minimum: a professional board member, a community board member and one other member) must consider an application for a parole order, and the suspension or cancellation of a parole order for a prisoner, other than a *prescribed prisoner*.
- Amending clause 12 of the Bill to amend new section 234 (Meetings about particular matters relating to parole orders) to extend the definition of *prescribed prisoner* to also include a prisoner who is imprisoned for an offence of choking, suffocation or strangulation in a domestic setting under section 315A of the Criminal Code. The impetus for the amendment was the submission made by the Gold Coast Centre Against Sexual Violence Inc. to the Legal Affairs and Community Safety Committee during its consideration of the Bill.

Further, new section 234 is amended to clarify the type of violent offences that will classify a prisoner as a *prescribed prisoner*. The amendment is to put beyond doubt the intended purpose and scope of section 234. That is, a *prescribed prisoner* will include a prisoner who has been convicted of an offence that is listed as a serious violent offence in Schedule 1 of the *Penalties and Sentences Act 1992*.

The reference to section 161A(a)(i) of the Penalties and Sentences Act ensures that the term *prescribed prisoner* is not limited to prisoners who have been sentenced to 10 or more years imprisonment or where the court has declared the person to be convicted of a serious violent offence. It also ensures that a *prescribed prisoner* will include a person convicted of counselling or procuring the commission of, or attempting or conspiring to commit, an offence against a provision mentioned in Schedule 1 of the Penalties and Sentences Act.

- Amending clause 14 (Insertion of new ch 7A, pt 11) to insert an additional transitional provision, new section 490SA (Steps before appointing particular board members). New section 490S provides that a reference in new section 223 (Appointment) to the Minister consulting with the President about the proposed appointment of professional board members and community board members, includes a reference to the Minister consulting, before the proclamation date, with the person whose appointment as the first President takes effect on or after the date of proclamation.

This transitional provision will better facilitate the appointment process for the membership of the new Parole Board Queensland, and provides that the new Parole Board Queensland can be fully constituted at the time of commencement.

## **Alternative Ways of Achieving Policy Objectives**

There are no alternative ways to achieve the policy objectives.

## **Estimated Cost for Government Implementation**

No additional costs have been identified regarding the amendments.

## **Consistency with Fundamental Legislative Principles**

The amendments are consistent with fundamental legislative principles.

## **Consultation**

Stakeholder consultation has not taken place on the amendments, however, the recommendations of the review report, of which the Bill implements in terms of parole order considerations, were informed by extensive stakeholder consultation.

In undertaking his independent review of Queensland's parole system (the parole review), Mr Sofronoff QC (as he was then) consulted with many people working at all levels of the corrections and parole system, attended several meetings of the boards in Queensland, reviewed many recent parole board files, interviewed current and former members of parole boards in Queensland and spoke with researchers and clinicians with experience in actuarial risk assessment and the treatment and management of offenders.

Submissions as to the operation of the parole boards in Queensland were also received by Mr Sofronoff QC from groups and people with a diverse range of experiences with the parole system. A cross-jurisdictional comparison was undertaken, which included attending sittings of the Victorian Adult Parole Board and the New South Wales Parole Authority (refer to page 162 of the review report).

## NOTES ON PROVISIONS

*Amendment 1* amends clause 11, new section 208C (Parole board must consider suspension) to omit the words, ‘*the period prescribed by regulation – confirm - the prescribed board member’s decision*’ and insert the words, ‘*2 business days of the decision being made – (a) confirm the decision; or*’.

*Amendment 2* amends clause 12, new section 234 (Meetings about particular matters relating to parole orders) to omit and replace the section.

The recast section 234 makes provision for the following in relation to the composition of the Parole Board at a meeting depending upon the matter for consideration:

- At a meeting of the Parole Board where the board is to consider an application for a parole order or the cancellation of a parole order for a *prescribed prisoner*, the matter must not be considered unless the following board members are present at the meeting: the President or Deputy President, a professional board member, a community board member, a public service representative and a police representative.
- At a meeting of the Parole Board where the board is to consider the suspension of a parole order for a *prescribed prisoner*, the matter must not be considered unless the following board members are present at the meeting: the President or Deputy President, a professional board member and a community board member.
- At a meeting of the Parole Board where the board is considering the amendment of a prisoner’s parole order; or an application for a parole order or the suspension or cancellation of a parole order for a prisoner, other than a prescribed prisoner, the matter must not be considered unless the following board members are present at the meeting: a professional board member, a community board member and at least one other member.

Additionally, new section 234 is amended to include a prisoner who is imprisoned for the offence of Choking, suffocation or strangulation in a domestic setting under section 315A of the Criminal Code, under the definition of a *prescribed prisoner*.

Also, the definition of a *prescribed prisoner* is amended to replace the term ‘serious violent offence’ with the words ‘an offence mentioned in section 161A (When an offender is convicted of a serious violent offence) subsection (a)(i) of the *Penalties and Sentences Act 1992*’. That is, a *prescribed prisoner* includes a person convicted on indictment of an offence against a provision mentioned in Schedule 1 (Serious violent offences) under the Penalties and Sentences Act; or of counselling or procuring the commission of, or attempting or conspiring to commit, an offence against a provision mentioned in Schedule 1.

*Amendment 3* inserts a new transitional provision, section 490SA (Steps before appointing particular board members) to provide that a reference in new section 223(2)(c)(i) to consulting with the president, includes a reference to the Minister consulting, before commencement, with the person whose appointment as the first president takes effect on or after the commencement.