

# SENTENCING (AMENDMENT) ACT 1992 No. 56

NEW SOUTH WALES



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**SENTENCING (AMENDMENT) ACT 1992 No. 56**

NEW SOUTH WALES



**Act No. 56, 1992**

An Act to amend the Sentencing Act 1989 with respect to the detention in custody of persons suspected of a breach of parole and with respect to the composition of the Offenders Review Board; and for other purposes.  
[Assented to 8 October 1992]

*Sentencing (Amendment) Act 1992 No. 56*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Sentencing (Amendment) Act 1992.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Sentencing Act 1989 No. 87**

3. The Sentencing Act 1989 is amended as set out in Schedule 1.

**Savings and transitional provisions**

4. (1) Section 25 of the Sentencing Act 1989, as amended by this Act, applies in respect of sentences of imprisonment imposed before or after the commencement of Schedule 1 (1).

(2) The amendments made by this Act to section 36 of the Sentencing Act 1989 do not apply to a warrant issued before the commencement of Schedule 1 (2).

(3) Nothing in this Act affects the validity of the appointment, or continuity in office, of any member of the Offenders Review Board holding office immediately before the commencement of Schedule 1 (3).

(4) The persons who, immediately before the commencement of Schedule 1 (3), held office as the members of the Offenders Review Board referred to in section 45 (2) (b) and (c) of the Sentencing Act 1989 are taken to hold office under section 45 (1) (b) of that Act, as amended by this Act.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

(1) Section 25 (**Making of parole orders by Board**):

From section 25 (1) (b), omit “and the remainder of the sentence exceeds 6 months”.

(2) Section 36 (**Warrants**):

From section 36 (3), omit “the warrant was issued”, insert instead “the person was returned to prison or removed to a place of custody, or to court, pursuant to the warrant”.

SCHEDULE 1—AMENDMENTS—*continued*

## (3) Section 45:

Omit the section, insert instead:

**Composition of the Board**

45. (1) The Board is to consist of:

- (a) 7 members appointed by the Governor; and
- (b) 2 ex-officio members, one being a police officer nominated by the Commissioner of Police and one being an officer of the Community Corrections Service of the Department of Courts Administration nominated by the Director-General of that Department.

(2) Of the appointed members:

- (a) 3 are each to be either a Judge of the District Court or a retired Judge of the Supreme Court or the District Court; and
- (b) 4 are to reflect as closely as possible the composition of the community at large.

(4) Schedule 1 (**Provisions Relating to the Members of the Board, Divisions of the Board and Procedure**):

- (a) From clause 3 (4), omit “non-judicial member” where firstly occurring, insert instead “non-judicial appointed member”.
- (b) From clause 3 (4), omit “non-judicial member” where secondly occurring, insert instead “member”.
- (c) After clause 3, insert:

**Deputies**

3A. (1) The Commissioner of Police or the Commander, State Intelligence Group may from time to time appoint a person to be the deputy of the ex-officio member nominated by that Commissioner, and each may revoke such an appointment at any time.

(2) The Director-General of the Department of Courts Administration may from time to time appoint a person to be the deputy of the ex-officio member nominated by that Director-General, and may revoke such an appointment at any time.

SCHEDULE 1—AMENDMENTS—*continued*

- (3) In the absence of an ex-officio member, the member's deputy:
- (a) may, if available, act in the place of the member; and
  - (b) while so acting, has all the functions of the member and is to be taken to be a member.
- (d) From clauses 4 and 8, omit "member". wherever occurring, insert instead "an appointed member".
- (e) From clause 5, omit "A member", insert instead "An appointed member".
- (f) From ~~clause (i)~~ ~~clause (j)~~ (i) excepted), omit "a member" wherever occurring, insert instead "an appointed member".
- (g) Omit clause 6 (i) and (j).
- (h) After clause 6, insert:

**Withdrawal of nomination as ex-officio member**

6A. (1) The Commissioner of Police may at any time revoke the nomination of a police officer made for the purposes of section 45 (1) (b).

(2) The Director-General of the Department of Courts Administration may at any time revoke the nomination of an officer of the Community Corrections Service made for the purposes of section 45 (1) (b).

(3) On a revocation under this clause the office, as a Board member, of the person affected is taken to be vacant.

- (i) In clause 7, after "appointed", insert "nominated".
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*[Minister's second reading speech made in—  
Legislative Assembly on 9 April 1992  
Legislative Council on 23 September 1992]*