



New South Wales

Parole Legislation Amendment Bill 2017

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are to amend the *Crimes (Administration of Sentences) Act 1999* (the *Principal Act*) and the *Children (Detention Centres) Act 1987* as follows:

- (a) to provide for the making of re-integration home detention orders for the release of suitable adult offenders under home detention conditions for a period of not more than 6 months before their parole orders take effect and for procedures for the revocation of those orders,
- (b) to require the State Parole Authority (the *Parole Authority*) and the Children's Court to consider risks to the safety of the community before making changes to parole conditions,
- (c) to impose supervision as a condition of all parole orders and to provide for exemptions from or suspension of supervision in certain circumstances,
- (d) to require the Parole Authority and the Children's Court to consider risks to the safety of the community before revoking a parole order before the release of the offender and to enable the Attorney General, the Minister for Corrections (the *Minister*), the Commissioner of Corrective Services (the *Commissioner*) or a community corrections officer to request such a revocation,
- (e) to require the Parole Authority not to make a parole order unless it is satisfied that it is in the interests of the safety of the community and to set out the principal matters to be considered for that purpose,
- (f) to provide for parole orders (*statutory parole orders*) to be imposed automatically for offenders subject to terms of imprisonment of 3 years or less where a non-parole period is imposed on the sentence,

- (g) to enable the Governor, in exercising the prerogative of mercy, to make a parole order in respect of an offender and to apply the legislative provisions for parole orders (other than those relating to making orders or restricting the making of orders) to any such parole order,
- (h) to provide for notice to be given to registered victims of an adult offender of parole or re-integration home detention events, to provide an opportunity for victims to make submissions in response and to require or enable other information relating to an adult offender to be given to registered victims of the offender,
- (i) to require health service providers to provide information about whether an adult offender on parole has attended a program or other activity as required under the parole order,
- (j) to confer on the Parole Authority power to impose sanctions (up to and including revocation) for the breach of a re-integration home detention order by an adult offender,
- (k) to confer on community corrections officers additional powers to impose sanctions for the breach of a parole order in less serious cases and to set out sanctions that may be imposed by the Parole Authority or Children's Court in more serious cases (up to and including revocation),
- (l) to confer on the Parole Authority and the Children's Court power to revoke a parole order if satisfied that the offender poses a serious and immediate risk to the community that cannot be sufficiently mitigated or, in the case of an adult offender, if there is a breach of an associated re-integration home detention order,
- (m) to provide for separate legislation for the parole system for juvenile offenders,
- (n) to retain the current jurisdiction of the Children's Court to determine matters relating to the parole of juvenile offenders and to provide for parole proceedings before the Court,
- (o) to provide for the promotion of community safety to be the principal matter when considering parole for juvenile offenders, while also recognising that the rehabilitation and re-integration of juvenile offenders may be highly relevant to the safety of the community,
- (p) to make procedures relating to further applications for parole after refusals more flexible than under the adult parole system,
- (q) to re-enact for juvenile offenders provisions relating to terrorism offenders, parole conditions and the Supreme Court's power to give directions to the Children's Court if it finds that a parole order has been revoked on the basis of false, misleading or irrelevant information,
- (r) to make other consequential amendments and to provide for savings and transitional matters consequent on the enactment of the proposed Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Crimes (Administration of Sentences) Act 1999 No 93

Re-integration home detention

Schedule 1 [3] inserts proposed Part 5A into the Principal Act. The proposed Part provides for a scheme for the release of offenders subject to a home detention condition, by order of the Parole Authority (a *re-integration home detention order*), for a period of up to 6 months prior to their release on parole. Offenders serving sentences for certain domestic violence offences, child sexual offences, serious violence offences and terrorism offences will not be eligible for release under the scheme. An order may be made only at the request of a community corrections officer who has prepared an assessment report as to the offender's suitability for the order that states that the

offender is suitable for an order. An assessment that an offender is not suitable for an order is to be referred to the Parole Authority which may request further reconsideration of suitability. An order can be made only if a parole order is also made or a statutory parole order is in force in relation to the offender, the Parole Authority is satisfied that it is in the interests of the safety of the community to make the order and the offender signs an undertaking to comply with the obligations under the order. For the purpose of considering whether to make an order relating to an offender who was sentenced to imprisonment for more than 3 years, the Parole Authority must consider the question of whether to grant a parole order at the same time. The standard conditions of re-integration home detention orders are to be prescribed by the regulations and other conditions may be imposed by the Parole Authority.

All offenders with sentences of more than 3 years, and other offenders recommended by community corrections officers, must be assessed and then considered by the Parole Authority for suitability for release on parole before the parole period commences. After considering suitability, the Parole Authority may revoke the parole order or the re-integration home detention order, change the conditions of either order, impose a home detention condition on the parole order or take no further action.

Regulations may also be made about other matters in connection with re-integration home detention orders, including additional matters for consideration by the Parole Authority when determining whether or not to make an order. **Schedule 1 [2]** makes a consequential amendment.

Schedule 1 [19] inserts proposed Division 2A of Part 7 into the Principal Act. The proposed Division sets out procedures for dealing with breaches of re-integration home detention orders and for revocation of those orders.

Power is conferred on the Parole Authority to conduct an inquiry into a suspected breach of a re-integration home detention order.

The Parole Authority may revoke a re-integration home detention order for a failure by the offender to comply with obligations under the order or impose lesser sanctions, including merely recording the breach, giving a formal warning or changing the conditions of the order. The Parole Authority may also revoke a re-integration home detention order if satisfied that the offender poses a serious and immediate risk to the safety of the community, that there is a serious and immediate risk that the offender will leave New South Wales or that there has been a significant change in the offender's circumstances that warrants revocation or if the offender's re-integration home detention order is revoked. An order may be revoked if an offender fails to appear for an inquiry before the Parole Authority or applies for the order to be revoked.

A revocation order can be made with or without holding an inquiry and can be made by the Parole Authority on its own initiative or on the recommendation of the Commissioner.

Power is conferred on the Commissioner or a judicial member of the Parole Authority to suspend a re-integration home detention order in the same circumstances in which a parole order may be suspended by those persons (those circumstances include a serious and immediate risk of harm to another person).

Schedule 1 [22] applies the requirements that apply to revocation notices for parole orders to revocation notices for re-integration home detention orders.

Schedule 1 [24] provides that an offender has no entitlement to seek a review hearing before the Parole Authority about the revocation of a re-integration home detention order.

Schedule 1 [25] and [26] enable other orders to which an offender is subject to be revoked if a re-integration home detention order for the offender is revoked.

Schedule 1 [27] enables the Parole Authority to issue a warrant to commit an offender to custody if it revokes a re-integration home detention order.

Schedule 1 [28] permits the Parole Authority to exercise functions relating to sanctions and other matters even if a re-integration home detention order has expired.

Schedule 1 [29] confers general power on the Parole Authority to determine matters with respect to the granting of re-integration home detention orders and the conditions of orders.

Schedule 1 [30] authorises a member of the Parole Authority, or a person authorised by the Parole Authority, to have access to an offender whose release under a re-integration home detention order is being considered.

Schedule 1 [31] requires the Commissioner of Corrective Services to provide reports on the character and conduct of an offender who is subject to consideration for a re-integration home detention order or who is subject to such an order.

Schedule 1 [32]–[36] require the Parole Authority to record its reasons for making decisions relating to the making, refusal to make or revocation of a re-integration home detention order in the minutes of its meetings.

Schedule 1 [37] enables the Commissioner to approve of the use of residential facilities for accommodating offenders who are subject to re-integration home detention orders.

Parole orders

Schedule 1 [4], [5], [8] and [14] make amendments that are consequential on the establishment of statutory parole orders.

Schedule 1 [6] requires the Parole Authority, when determining whether to impose a condition on a parole order or to vary or revoke a condition of a parole order, to have regard to whether the change will assist in the management of a risk to community safety arising from the offender's release on parole, the likely effect on any victim of the offender and whether the change will assist in the management of the risk of breaches of parole.

Schedule 1 [7] makes it clear that the powers to change parole conditions after reconsideration of parole where an offender is subject to a re-integration home detention order or where the offender has breached a parole order do not enable a change that affects a standard condition of parole.

Schedule 1 [9] makes it a condition of parole that the offender be subject to supervision for the period specified by the parole order. A person released for exceptional health reasons will be supervised for the whole of the parole period. The Parole Authority may grant exemptions from supervision conditions in exceptional circumstances. A community corrections officer may suspend the operation of a supervision condition for a period or periods or indefinitely. A community corrections officer may also suspend the operation of a non-association, place restriction or curfew condition for a period or periods. Regulations may be made limiting the periods of exemption or suspension and for other purposes. The power to suspend a condition will not apply to an offender subject to lifetime supervision or released on the ground that the offender is dying or there are exceptional extenuating circumstances.

Schedule 1 [10] extends the circumstances in which a parole order may be revoked before the release of the offender to include where the Parole Authority is satisfied that the offender, if released, would pose a serious identifiable risk to the safety of the community and the risk cannot be sufficiently mitigated by directions from a community corrections officer or changing the conditions of parole. A parole order may also be revoked if there has been a failure to comply with a re-integration home detention order or a re-integration home detention order has been revoked.

Schedule 1 [11] enables the Parole Authority to revoke a parole order on its own initiative or on the recommendation of the Commissioner or a community corrections officer. It also enables the Attorney General or the Minister to request the Parole Authority to revoke a parole order before the release of the offender. The grounds for release are limited to those for which the Parole Authority may revoke the order.

Schedule 1 [12] replaces the test for the granting of a parole order with a requirement that the Parole Authority must be satisfied that it is in the interests of the safety of the community. The principal matters to be taken into account for this purpose are the risk to the safety of members of the community of releasing the offender, whether release on parole is likely to address the risk of re-offending and the risk to community safety of releasing the offender at the end of the sentence without a period of supervised parole or for a shorter supervised period. Other matters that are currently to be considered by the Parole Authority have also been retained as matters for consideration. The Parole Authority will not be required to consider parole under the provisions if it determines that parole cannot be granted on terrorism grounds under other provisions relating

to terrorism offenders. The provision setting out requirements or assessment reports is repealed by the amendment and will be re-made under the regulations.

Schedule 1 [13] deems a person to be subject to a statutory parole order, directing the person's release on parole at the end of the person's non-parole period, if the person is serving a sentence of 3 years or less. Release under a statutory parole order is subject to the offender being otherwise entitled to release.

Schedule 1 [15] enables the Governor, when exercising the prerogative of mercy, to make a parole order in respect of an offender, whether or not the offender is eligible for release on parole. Provisions that are generally applicable to parole, including provisions relating to conditions and revocation, apply to parole orders made by the Governor. The Parole Authority is to exercise functions in relation to the parole orders as if the orders had been made by the Parole Authority, subject to any direction by the Governor.

Schedule 1 [16] imposes a duty on a health service provider who provides services to an offender who is on parole to provide information about the offender's attendance or participation in a program, activity or appointment required under the conditions of the parole or by a direction of a community corrections officer, if the provider is requested to do so by a community corrections officer.

Schedule 1 [20] provides for a hierarchy of actions that can be taken in the event of a failure by an offender to comply with a parole order. A community corrections officer may record the non-compliance with no further action, give an informal warning, give or arrange for a formal warning, give a reasonable direction about the non-compliant behaviour or impose a curfew. If the failure to comply is more serious, the Commissioner or a community corrections officer may refer the matter to the Parole Authority. The Parole Authority may deal with a failure to comply with the obligations of a parole order by recording the breach with no further action, giving a formal warning, changing the conditions of the order or revoking the order. Express authority is conferred to impose a condition of home detention, a requirement to submit to the use of an electronic monitoring device and other ancillary related conditions.

The power of the Parole Authority to revoke a parole order is extended to include circumstances where it is satisfied that the offender poses a serious and immediate risk to the safety of the community, or that there is a serious and immediate risk that the offender will leave New South Wales in contravention of the order, and the risk cannot be sufficiently mitigated by directions by a community corrections officer or changing the conditions of parole. A parole order may also be revoked if there has been a failure to comply with a re-integration home detention order.

Schedule 1 [21] enables the Minister to request the Parole Authority to revoke a parole order on the ground that it was obtained on the basis of false, misleading or irrelevant information.

Schedule 1 [23] makes it clear that the Parole Authority may consider the behaviour of the offender, including any offences alleged to have been committed by the offender during parole or after revocation of parole, when reviewing the decision to revoke parole.

Information for victims

Schedule 1 [38] confers on members of staff of the government agency that keeps the Victims Register the function of assisting the Parole Authority to give notice to victims of matters that are required to be notified under proposed sections 256A and 256B (inserted by **Schedule 1 [40]**).

Schedule 1 [39] enables the Serious Offenders Review Council or the Parole Authority to delegate to members of staff of the government agency that keeps the Victims Register any of the functions relating to the provision of information or documents that those staff members are authorised to assist the Serious Offenders Review Council or the Parole Authority with. Functions may only be delegated in relation to adult offenders.

Schedule 1 [40] requires the Parole Authority to give notice to any registered victim of an offender when the offender is due for consideration for release under a re-integration home detention order or if the offender is eligible for or has applied for release on parole. The victim is to be notified that the victim may make a submission to the Parole Authority about the matter and

any submission made by the victim within the period specified for making a submission is to be considered by the Parole Authority.

The amendment also enables the Commissioner, at the request of a registered victim of an adult offender, to provide information relating to the offender, including changes to possible release dates, the correctional centre in which the offender is serving a sentence, the offender's security classification and the death or escape of the offender. The amendment also requires the Parole Authority to notify the victim of an adult offender if a re-integration home detention order or parole order is granted or revoked or if additional conditions are imposed on the order or conditions of the order are changed.

Miscellaneous

Schedule 1 [1] substitutes the definition of *parole order* and inserts definitions of *parole revocation order*, *re-integration home detention order* and *statutory parole order*.

Schedule 1 [17] amends a Part heading as a consequence of the amendments made by the proposed Act.

Schedule 1 [18] omits an introductory note.

Schedule 1 [41] enables the Commissioner to issue a certificate, that may be used as evidence in proceedings, certifying that a person was or was not subject to a re-integration home detention order, that the order did or did not contain specified terms and that the person failed to comply with the person's obligations under the order.

Schedule 1 [42] inserts provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Children (Detention Centres) Act 1987 No 57

Schedule 2 [2] amends the *Children (Detention Centres) Act 1987* (the *Detention Centres Act*) to repeal the provision that applies the parole provisions of the *Crimes (Administration of Sentences) Act 1999* to juvenile offenders.

Schedule 2 [3] inserts proposed Part 4C into the Detention Centres Act, containing parole provisions for juvenile offenders.

Division 1 Preliminary

The proposed Division sets out the principles to be applied by persons exercising parole functions, including that the purpose of parole is to promote community safety, recognising the relevance for that purpose of the rehabilitation and re-integration of children into the community. The parole provisions will apply to offenders who were under 18 years when they committed the offence and when they first become eligible for parole and cease to apply once offenders reach 18 years (unless that age is reached during the last 12 weeks of the parole period). There will be an exception for an offender, or a class of offenders, if the Secretary of the Department of Justice (the *Secretary*) considers it appropriate for those offenders to continue to be dealt with under the juvenile offender provisions. The Children's Court (constituted by the President of the Court or a Children's Magistrate) will have jurisdiction to determine parole matters for juvenile offenders. The proposed Division also re-enacts adult parole provisions relating to eligibility for parole.

Division 2 Making of parole orders

The proposed Division deems a juvenile offender to be subject to a statutory parole order directing the release of a juvenile offender at the end of the offender's non-parole period, if the offender is subject to a detention order for a period of 3 years or less. In the case of a juvenile offender sentenced to a detention order for a period of more than 3 years, the Children's Court is to consider whether to grant parole and must not make an order unless it is satisfied that it is in the interests of the safety of the community, while recognising that the rehabilitation and re-integration of the offender into the community may be highly relevant to promoting community safety. The

principal matters to be considered by the Court when making a decision about granting parole are the risk to the safety of members of the community of release, whether release on parole is likely to address the risk of re-offending and the risk to community safety of releasing the offender without a period of supervised parole or for a shorter supervised period. Other factors that are currently required to be considered, such as the offender's criminal history and post-sentence assistance by the offender, have been re-enacted as factors for consideration. The Children's Court will not be required to consider parole under the provisions if it determines that parole cannot be granted on terrorism grounds under other provisions relating to terrorism offenders. The proposed Division also re-enacts an adult parole provision that enables the making of a parole order by the Court if an offender is dying or there are exceptional extenuating circumstances.

Division 3 Release under parole orders

The proposed Division re-enacts for juvenile offenders machinery provisions relating to the release of offenders on parole, including considerations for the release date, release near public holidays and weekends and the continuance of a detention order while an offender is released on parole.

Division 4 Conditions and obligations of parole orders

The proposed Division provides for the conditions of parole orders, and re-enacts the adult parole condition provisions permitting non-association and place restriction conditions to be imposed. When determining whether to impose a condition or to vary or revoke a condition of a parole order, the Children's Court is to have regard to whether the change will assist in the management of a risk to community safety arising from the juvenile offender's release on parole, the likely effect on any victim of the offender and whether the change will assist in the management of the risk of breaches of parole and supporting the offender's participation in rehabilitation programs and re-integration into the community. It will be a condition of parole that a juvenile offender is to be subject to supervision. The Children's Court may grant exemptions from supervision conditions in exceptional circumstances. A juvenile justice officer may suspend the operation of a supervision condition for a period or periods or indefinitely. A juvenile justice officer may also suspend the operation of a non-association or place restriction condition for a period or periods. Regulations may be made limiting the periods of exemption from or suspension of conditions and for other purposes. The power to suspend a condition will not apply to a juvenile offender released on the ground that the offender is dying or there are exceptional extenuating circumstances.

Division 5 Parole orders for terrorism related offenders

The proposed Division re-enacts adult parole provisions that restrict release on parole for terrorism related offenders.

Division 6 Revocation of parole orders and other sanctions

The proposed Division enables the Children's Court to revoke any parole order before the juvenile offender is released if satisfied that the offender would pose a serious identifiable risk to the community or the offender's safety and that the risk cannot be mitigated sufficiently by directions by a juvenile justice officer or changing the conditions of parole. A parole order may also be revoked on the offender's request or if there has been a substantial change in a matter considered by the Court when making a parole order. The proposed Division also provides for a hierarchy of actions that can be taken in the event of a failure by an offender to comply with a parole order. The Secretary, in the case of non-compliance with a parole order, may record the non-compliance without further action, give an informal warning to the offender or, in a more serious case, refer the matter to the Court with a recommendation as to the action that may be taken. The Court may deal with non-compliance with a parole order by recording the non-compliance without further action, giving a formal warning to the offender, changing the conditions of the parole order or revoking the parole order. The Court may also revoke a parole order after the offender's release if satisfied that the offender poses a serious and immediate risk to the community, or that there is a serious and immediate risk that the offender will leave New South Wales, and that the risk cannot be mitigated sufficiently by directions by a juvenile justice officer or changing the conditions of parole. Other circumstances for revocation by the Court include where the grounds for granting

parole in exceptional circumstances no longer exist, if the offender fails to appear before the Court when required to do so or the offender applies for the revocation. A hearing may be held by the Court at any time into whether an offender has failed to comply with the offender's obligations under a parole order. An order revoking a parole order because of non-compliance is to take effect no earlier than the date of the last occasion on which there was a non-compliance on which the revocation was based. Power is conferred on the Attorney General, the Minister or the Director of Public Prosecutions to request the Court to exercise the power to revoke a parole order for an offender serving a sentence for a serious children's indictable offence on the ground that the order was made on the basis of false, misleading or irrelevant information. The proposed Division also re-enacts the adult parole provision that permits an offender to seek to have the Supreme Court give a direction that information on which a revocation of a parole order was based was false, misleading or irrelevant.

Division 7 Reconsideration of parole

The proposed Division contains provisions relating to the reconsideration of parole. If the Children's Court refuses to make a parole order, the Court must specify a new eligibility date for parole, a new date for a parole hearing or a date after which the juvenile offender may apply for parole. If the Court revokes a parole order, the Court must specify a new eligibility date for parole, a new date for a parole hearing, a date after which the juvenile offender may apply for parole or defer determining any of those matters for up to 3 months. A juvenile offender may apply to the Court for reconsideration of a decision about parole or conditions of parole, or to revoke parole, on or after the specified date (if any) or before the date specified for making an application on the ground that new information has become available or the situation of the offender in relation to granting parole has materially changed since the decision to be reconsidered. If an application for reconsideration is made, the Court may defer making a decision about release on parole for up to 3 months and may defer a decision on 1 or more occasions. On reconsideration of a parole decision, the Court may confirm the original decision or grant, or reinstate, a parole order. On reconsideration of a parole conditions decision, the Court may confirm the original decision, impose new conditions or vary or revoke conditions (other than statutory conditions). The proposed Division also re-enacts the adult parole provision about the release date after an application to grant parole is successful.

Division 8 Procedure at hearings

The proposed Division sets out procedural provisions relating to the exercise of the Children's Court's jurisdiction under the Part. Hearings of the Court must be held with the same persons present as for other children's criminal proceeding, unless the Court otherwise orders. The Court has power to require a juvenile offender on parole to attend the Court at a specified time and place and to require other persons to attend as witnesses and to produce relevant documents. A juvenile offender may make submissions at a hearing as to release on parole and may be represented by an Australian legal practitioner, call witnesses and give evidence on oath. The Court may postpone or adjourn a hearing. A Children's Magistrate may issue a warrant of arrest if a juvenile offender fails to appear in answer to a requirement to attend or if of the opinion that the offender will not attend. A Children's Magistrate may issue a warrant of commitment for a juvenile offender if the offender's parole is revoked. Witnesses at hearings of the Court are entitled to be paid any allowances and expenses that may be determined by the Minister.

Division 9 Prerogative of mercy

The proposed Division enables the Governor, when exercising the prerogative of mercy, to make a parole order in respect of a juvenile offender, whether or not the offender is eligible for release on parole. Provisions that are generally applicable to parole, including provisions relating to conditions and revocation, apply to parole orders made by the Governor. The Children's Court is to exercise functions in relation to the parole orders as if they had been made by the Court, subject to any direction by the Governor.

Division 10 Miscellaneous

The proposed Division contains miscellaneous provisions providing for the following:

- (a) enabling the State to make submissions about the granting of parole to a juvenile offender,
- (b) enabling the Secretary to make submissions to the Court before it makes a final decision about the release of a juvenile offender on parole,
- (c) empowering the Children's Court to exercise functions under the proposed Part even if a parole order has expired,
- (d) requiring the Court to notify juvenile offenders of parole decisions,
- (e) making it clear that a failure by the Court to comply with a procedural requirement does not invalidate a parole order and that a decision by the Court under the proposed Part is final,
- (f) setting out the limits on requirements to provide copies of reports or other documents, or information contained in them, if compliance may affect certain security or safety matters,
- (g) empowering the Secretary to delegate functions under the proposed Part to juvenile justice officers, correctional officers or other persons prescribed by the regulations,
- (h) service of notices under the proposed Part,
- (i) requiring the Court to keep records of parole decisions,
- (j) enabling regulations to be made with respect to parole orders and other matters related to the proposed Part.

Schedule 2 [4] renumbers provisions as a consequence of the insertion of proposed Part 4C. **Schedule 2 [1]** makes a consequential amendment.

Schedule 2 [5] inserts savings and transitional provisions consequential on the enactment of the proposed Act.

Schedule 3 Amendment of other Acts consequential on amendments made to Crimes (Administration of Sentences) Act 1999

Schedule 3.2 [1] repeals the provision that directs a court imposing a sentence of imprisonment for a term of 3 years or less that has a non-parole period to impose a parole order directing the release of the offender at the end of the non-parole period. Parole orders for those sentences will instead be imposed by operation of proposed Division 3 of Part 6 of the *Crimes (Administration of Sentences) Act 1999* (inserted by **Schedule 1 [13]**).

Schedule 3.2 [2]–[4] repeal provisions as a consequence of the repeal made by **Schedule 3.2 [1]**.

Schedules 3.1 and 3.3 update references as a consequence of the amendments made by **Schedule 3.2** and the proposed provisions relating to statutory parole orders.

Schedule 4 Amendment of other Acts consequential on amendments made to Children (Detention Centres) Act 1987

Schedule 4.1 amends the *Children (Criminal Proceedings) Act 1987* to make it clear that restrictions on publication of criminal proceedings involving children also apply to parole-related hearings.

Schedule 4.2 amends the *Children's Court Act 1987* to enable rules to be made for the Children's Court in respect of its juvenile offender parole functions.



New South Wales

Parole Legislation Amendment Bill 2017

Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Amendment of Crimes (Administration of Sentences) Act 1999 No 93	3
Schedule 2	Amendment of Children (Detention Centres) Act 1987 No 57	22
Schedule 3	Amendment of other Acts consequential on amendments to Crimes (Administration of Sentences) Act 1999	42
Schedule 4	Amendment of other Acts consequential on amendments to Children (Detention Centres) Act 1987	43



New South Wales

Parole Legislation Amendment Bill 2017

No. , 2017

A Bill for

An Act to amend the *Crimes (Administration of Sentences) Act 1999* and the *Children (Detention Centres) Act 1987* with respect to parole for adult and juvenile offenders and re-integration home detention orders for adult offenders; and for other purposes.

The Legislature of New South Wales enacts:

1

1 Name of Act

2

This Act is the *Parole Legislation Amendment Act 2017*.

3

2 Commencement

4

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

5

Schedule 1	Amendment of Crimes (Administration of Sentences) Act 1999 No 93	1
		2
[1] Section 3 Interpretation		3
	Omit the definition of <i>parole order</i> from section 3 (1). Insert in alphabetical order:	4
	<i>parole order</i> means an order in force under section 138, 141, 149, 150, 154A, 158 or 160 of this Act.	5
	<i>parole revocation order</i> means an order made under Division 3 of Part 7 revoking a parole order.	6
	<i>re-integration home detention order</i> means an order made under section 124D.	7
	<i>statutory parole order</i> —see section 158.	8
		9
		10
		11
[2] Section 8 Release from custody		12
	Insert “under a re-integration home detention order or” before “on parole” in section 8 (1).	13
[3] Part 5A		14
	Insert before Part 6:	15
		16
	Part 5A Re-integration home detention	16
124A Definitions		17
	In this Part:	18
	<i>assessment report</i> means a report prepared under section 124C (1).	19
	<i>initiating request</i> means a request made by a community corrections officer under section 124C (2) that the Parole Authority make a re-integration home detention order.	20
		21
		22
124B Offenders for whom re-integration home detention order cannot be made		23
	(1) A re-integration home detention order cannot be made for a serious offender or for an offender who is serving a sentence for any of the following offences (an <i>excluded offence</i>):	24
		25
		26
	(a) a domestic violence offence within the meaning of the <i>Crimes (Domestic and Personal Violence) Act 2007</i> ,	27
		28
	(b) a child sexual offence within the meaning of section 21A of the <i>Crimes (Sentencing Procedure) Act 1999</i> ,	29
		30
	(c) a serious sex offence or a serious violence offence within the meaning of the <i>Crimes (High Risk Offenders) Act 2006</i> ,	31
		32
	(d) a terrorism offence within the meaning of Division 3A of Part 6.	33
	(2) Subsection (1) does not prevent:	34
	(a) the carrying out of an assessment of the suitability of an offender (other than a serious offender) for a re-integration home detention order in respect of an offence other than an excluded offence, or	35
		36
		37
	(b) the making of a re-integration home detention order for an offender who has been convicted of an excluded offence (other than a serious offender) if the offender will no longer be serving a sentence for any excluded offence on the commencement of the order.	38
		39
		40
		41

124C	Assessment of offender	1
(1)	A community corrections officer who considers that an offender may be suitable for a re-integration home detention order may arrange for the preparation of an assessment report as to the suitability of the offender for home detention for the purposes of re-integration into the community.	2 3 4 5
(2)	If an assessment report states that an offender is a suitable person to be subject to home detention for the purposes of re-integration into the community, a community corrections officer:	6 7 8
(a)	may request the Parole Authority to make a re-integration home detention order for the offender, and	9 10
(b)	must provide the report to the Parole Authority before the Parole Authority considers whether or not to make the order.	11 12
(3)	If an assessment report does not state that an offender is a suitable person to be subject to home detention for the purposes of re-integration into the community, the report is to be provided to the Parole Authority. The Parole Authority may refer the matter back to a community corrections officer for further consideration of the offender's suitability for home detention.	13 14 15 16 17
124D	Offenders may be released subject to home detention conditions	18
(1)	The Parole Authority may make an order (a <i>re-integration home detention order</i>) directing that an offender be released subject to a home detention condition if:	19 20 21
(a)	an initiating request has been made relating to the offender, and	22
(b)	the offender is serving at least 1 sentence for which the non-parole period has not expired and would be eligible to be released on parole on the expiry of the re-integration home detention order, and	23 24 25
(c)	the Parole Authority has decided to make a parole order that takes effect at the end of the re-integration home detention order (in the case of a sentence of more than 3 years) or has not revoked the statutory parole order directing the release of the offender on parole (in the case of a sentence of 3 years or less), and	26 27 28 29 30
(d)	the Parole Authority is satisfied that it is in the interests of the safety of the community to make the order, and	31 32
(e)	the assessment report on the offender states that the offender is a suitable person to be subject to home detention for re-integration purposes, and	33 34 35
(f)	the offender has signed an undertaking to comply with the offender's obligations under the order.	36 37
(2)	For the purpose of being satisfied that it is in the interests of the safety of the community to make a re-integration home detention order, the Parole Authority is to consider the matters set out in section 135 (2) and (3) as if they applied to the offender's release under the order.	38 39 40 41
(3)	A re-integration home detention order may be made only in respect of a period that occurs before the parole eligibility date of an offender.	42 43
(4)	An offender's re-integration home detention order is sufficient warrant for any person having custody of the offender to release the offender in accordance with the terms of the order.	44 45 46

124E	Order may be refused despite favourable assessment report	1
	The Parole Authority may, for any reason it thinks fit, refuse to make a re-integration home detention order despite the contents of an assessment report.	2 3 4
124F	Sentences of more than 3 years	5
(1)	This section applies if an initiating request is made relating to an offender serving a sentence of more than 3 years for which a non-parole period has been set.	6 7 8
(2)	The Parole Authority is to consider whether or not to make a parole order for the offender when considering whether or not to make a re-integration home detention order for the offender.	9 10 11
(3)	Despite any other provision of this Act, the Parole Authority may consider whether or not an offender should be released on parole, and may make a parole order, at any time necessary to allow a re-integration home detention order to take effect before the offender's parole eligibility date.	12 13 14 15
124G	Duration of orders	16
(1)	A re-integration home detention order must not take effect earlier than 6 months before the day on which the parole order directing the release of the offender is to take effect.	17 18 19
(2)	A re-integration home detention order takes effect on a day specified by the Parole Authority and ceases to have effect:	20 21
(a)	when a parole order directing the release of the offender takes effect, or	22
(b)	if it is revoked before the parole order takes effect.	23
124H	Conditions of orders	24
(1)	The regulations may prescribe the standard conditions to be imposed on re-integration home detention orders.	25 26
(2)	The Parole Authority may from time to time, by notice given to the offender, impose additional conditions on, or vary or revoke conditions of, a re-integration home detention order.	27 28 29
(3)	The Parole Authority must not take any action under subsection (2) or section 124I (4) or 168D (2) that is inconsistent with the application of conditions prescribed under subsection (1).	30 31 32
124I	Review of suitability for parole during re-integration period	33
(1)	This section applies:	34
(a)	to an offender who is serving a sentence of more than 3 years and who is subject to a re-integration home detention order, or	35 36
(b)	to any offender who is subject to a re-integration home detention order, if a community corrections officer recommends to the Parole Authority that the offender should be subject to a review under this section.	37 38 39
(2)	A community corrections officer is to arrange for the preparation of a report as to the suitability of the offender for release on parole and is to provide the report to the Parole Authority before the re-integration home detention order expires.	40 41 42 43
(3)	The report is to address the matters prescribed by the regulations for the purposes of this section.	44 45

(4)	After considering the report and the suitability of the offender to be released on parole, the Parole Authority may:	1
		2
(a)	take no further action, or	3
(b)	impose additional conditions on the re-integration home detention order or parole order, or	4
		5
(c)	vary or revoke conditions of the re-integration home detention order or parole order, or	6
		7
(d)	without limiting paragraph (b) or (c), make an order amending the parole order to impose a requirement that the offender remain at a specified place of residence for a specified period of home detention, or	8
		9
		10
(e)	make an order revoking the re-integration home detention order, or	11
(f)	make an order revoking the parole order.	12
(5)	Section 124H and any regulations made under section 124J (e) apply to an offender who is subject to a condition of home detention imposed under this section in the same way as they apply to an offender who is subject to a re-integration home detention order.	13
		14
		15
		16
124J	Regulations	17
	Regulations may be made for or with respect to the following matters:	18
(a)	consent to the making of a re-integration home detention order for an offender by or on behalf of a child, or a person who has impaired intellectual functioning (within the meaning of Part 13A), who is to reside with the offender,	19
		20
		21
		22
(b)	additional matters for consideration by the Parole Authority when making a re-integration home detention order,	23
		24
(c)	the matters to be addressed by an assessment report,	25
(d)	the preparation and furnishing of an assessment report,	26
(e)	the obligations of an offender while released on home detention under a re-integration home detention order,	27
		28
(f)	the giving of notice of decisions under this Part to an offender.	29
[4]	Section 128 Conditions of parole generally	30
	Omit section 128 (1) (b).	31
[5]	Section 128 (2) (b)	32
	Omit “or by the sentencing court”.	33
[6]	Section 128 (3)	34
	Omit the subsection. Insert instead:	35
(3)	In determining whether to impose a condition on, or vary or revoke a condition of, a parole order under this section or any other provision of this Act or the regulations, the Parole Authority is to have regard to the following:	36
		37
		38
(a)	whether the new condition, variation or revocation will assist in the management of a risk to community safety arising from the release of the offender on parole,	39
		40
		41
(b)	the likely effect on any victim of the offender, and on any such victim’s family, of the new condition, variation or revocation,	42
		43

(c)	whether the new condition, variation or revocation will assist in the management of the risk of breaches of parole by the offender.	1 2
[7]	Section 128 (4)	3
	Omit “This section does not permit”.	4
	Insert instead “Nothing in this section or section 124I or Division 3 of Part 7 permits”.	5
[8]	Section 128 (4) (b)	6
	Omit “or by the sentencing court”.	7
[9]	Sections 128C–128E	8
	Omit section 128C. Insert instead:	9
128C	Conditions as to supervision	10
(1)	It is a condition of a parole order that the offender is to be subject to supervision, as prescribed by the regulations.	11 12
(2)	The period of supervision is to be the period specified by or under the order or under the regulations, except as provided by subsection (3).	13 14
(3)	The period of supervision for an offender released under a parole order made under section 160 is the whole of the period for which the parole order is in force.	15 16 17
(4)	If the offender is subject to a community supervision order under Part 4A, the conditions of that order prevail to the extent of any inconsistency with conditions imposed by or under this section.	18 19 20
(5)	The condition imposed by subsection (1) does not apply to an offender to whom section 128B applies.	21 22
128D	Parole Authority may exempt from supervision condition in exceptional circumstances	23 24
(1)	The Parole Authority may, by order in writing, exempt an offender for a specified period from the condition imposed by section 128C (1) if the Parole Authority is satisfied that the exceptional circumstances of the case justify the exemption.	25 26 27 28
(2)	The exemption may be unconditional or subject to conditions.	29
(3)	The order is to specify the purpose for which it is granted.	30
(4)	For the purposes of this Act, a failure to comply with a condition of the exemption is taken to be a failure to comply with the obligations of the parole order. This subsection does not limit the power of the Parole Authority to revoke the exemption order.	31 32 33 34
(5)	An offender is not required to comply with the condition imposed under section 128C (1) if the offender is subject to an exemption.	35 36
(6)	The regulations may make provision for or with respect to the following:	37
(a)	the periods for which an exemption may be ordered,	38
(b)	notice to an offender of the making or revocation of an exemption order.	39
128E	Suspension of certain parole conditions	40
(1)	This section applies to the following conditions of a parole order:	41
(a)	a condition referred to in section 128A (1),	42

(b)	a condition referred to in section 128C (1) (a <i>supervision condition</i>),	1
(c)	a curfew.	2
(2)	A community corrections officer may, by order in writing and subject to the regulations, suspend the application of a supervision condition to an offender for a period or periods or indefinitely.	3 4 5
(3)	A community corrections officer may, by order given orally or in writing and subject to the regulations, suspend the application of any other condition to which this section applies to an offender for a period or periods.	6 7 8
(4)	The suspension may be unconditional or subject to conditions.	9
(5)	For the purposes of this Act, a failure to comply with a condition of the suspension is taken to be a failure to comply with the obligations of the parole order. This subsection does not limit the power of the community corrections officer to revoke the suspension order.	10 11 12 13
(6)	The regulations may make provision for or with respect to the following:	14
(a)	the periods for which a condition may be suspended,	15
(b)	notice to an offender of the making or revocation of a suspension order,	16
(c)	requiring the power to make, amend or revoke a suspension order to be exercised subject to and in accordance with any specified conditions.	17 18
(7)	This section does not apply to a condition imposed on the following offenders:	19
(a)	an offender to whom section 128B applies,	20
(b)	an offender released under a parole order made under section 160.	21
[10]	Section 130 Revocation of parole order before release	22
	Omit section 130 (1). Insert instead:	23
(1)	The Parole Authority may, by order in writing, revoke a parole order at any time before the offender to whom the order relates is released under the order, if the Parole Authority is satisfied that:	24 25 26
(a)	the offender, if released, would pose a serious identifiable risk to the safety of the community and that the risk cannot be sufficiently mitigated by directions from a community corrections officer or by changing the conditions of parole, or	27 28 29 30
(b)	the offender, if released, would pose a serious and immediate risk to the offender's safety and that the risk cannot be sufficiently mitigated by directions from a community corrections officer or by changing the conditions of parole, or	31 32 33 34
(c)	the offender has failed to comply with the offender's obligations under a re-integration home detention order, or	35 36
(d)	a re-integration home detention order applying to the offender has been revoked, or	37 38
(e)	the offender has requested the revocation, or	39
(f)	in the case of a parole order made by the Parole Authority, there has been a substantial change to a matter considered by the Parole Authority in making the order, or	40 41 42
(g)	any other circumstance prescribed by the regulations for the purpose of this section exists.	43 44
	Note. A reference to a parole order includes a statutory parole order imposed under section 158 where the sentence is 3 years or less (see definition of <i>parole order</i> in section 3 (1)).	45 46 47

[11] Section 130 (3) and (4)	1
Insert after section 130 (2):	2
(3) The Parole Authority may revoke a parole order under this section on its own initiative or on the recommendation of the Commissioner or a community corrections officer.	3 4 5
Note. Division 3A of Part 6 sets out additional circumstances relating to the safety of the community in which the parole of individuals may be revoked before or after release if there are terrorism concerns.	6 7 8
(4) The Attorney General or the Minister may request the Parole Authority to revoke a parole order under this section and may make any submissions they think fit to support the request.	9 10 11
[12] Section 135	12
Omit sections 135 and 135A. Insert instead:	13
135 General duty of Parole Authority relating to release of offenders	14
(1) The Parole Authority must not make a parole order directing the release of an offender unless it is satisfied that it is in the interests of the safety of the community.	15 16 17
(2) In considering whether it is in the interests of the safety of the community to release an offender, the Parole Authority must have regard to the following principal matters:	18 19 20
(a) the risk to the safety of members of the community of releasing the offender on parole,	21 22
(b) whether the release of the offender on parole is likely to address the risk of the offender re-offending,	23 24
(c) the risk to community safety of releasing the offender at the end of the sentence without a period of supervised parole or at a later date with a shorter period of supervised parole.	25 26 27
(3) In considering whether it is in the interests of the safety of the community to release an offender, the Parole Authority must also have regard to the following matters:	28 29 30
(a) the nature and circumstances of the offence to which the offender's sentence relates,	31 32
(b) any relevant comments made by the sentencing court,	33
(c) the offender's criminal history,	34
(d) the likely effect on any victim of the offender, and on any such victim's family, of the offender being released on parole,	35 36
(e) if applicable, whether the offender has failed to disclose the location of the remains of a victim,	37 38
(f) any report in relation to the granting of parole that has been prepared by a community corrections officer,	39 40
(g) any other report in relation to the granting of parole to the offender that has been prepared by or on behalf of the Review Council or any other authority of the State,	41 42 43
(h) if the Drug Court has notified the Parole Authority that it has declined to make a compulsory drug treatment order in relation to the offender's sentence on the ground that it is not satisfied as to the matters referred	44 45 46

to in section 18D (1) (b) (vi) of the <i>Drug Court Act 1998</i> , the circumstances of that decision to decline to make that order,	1
(i) any other matters that the Parole Authority considers to be relevant.	2
(4) Without limiting subsection (3) (e) or (i), if the offender has provided post-sentence assistance, the Parole Authority may have regard to the following:	3
(a) the nature and extent of the assistance (including the reliability and value of any information or evidence provided by the offender),	4
(b) the degree to which the offender's willingness to provide assistance reflects the offender's progress to rehabilitation.	5
(5) Except in exceptional circumstances, the Parole Authority must not make a parole order for a serious offender unless the Review Council advises that it is appropriate for the offender to be released on parole.	6
(6) A report prepared by a community corrections officer for the purposes of subsection (3) must address the matters prescribed by the regulations for the purposes of this section.	7
(7) The Parole Authority is not required to consider the matters specified by this section in relation to an offender if it determines under Division 3A that it cannot make a parole order for the offender.	8
(8) In this section: <i>post-sentence assistance</i> means assistance in the prevention, detection or investigation of, or in proceedings relating to, any offence, provided by an offender to law enforcement authorities after the offender was sentenced and that was not taken into account or considered by the sentencing court.	9
[13] Part 6, Division 3	10
Omit the Division. Insert instead:	11
Division 3 Parole orders for sentences of 3 years or less	12
158 Statutory parole order	13
(1) An offender who is subject to a sentence of 3 years or less, being a sentence for which a non-parole period has been set, is taken to be subject to a parole order (a <i>statutory parole order</i>) directing the release of the offender on parole at the end of the non-parole period.	14
Note. The provisions of Divisions 1, 3A and 5 of this Part and of Part 7 applying to parole orders, including provisions relating to conditions, revocation and release, apply to statutory parole orders (see definition of <i>parole order</i> in section 3 (1)).	15
(2) A statutory parole order is conditional on the offender being eligible for release on parole in accordance with section 126 at the end of the non-parole period of the sentence.	16
(3) If the offender is not eligible for release at that time, the offender is entitled to be released on parole as soon as the offender becomes so eligible.	17
(4) This section does not authorise the release on parole of an offender who is also serving a sentence of more than 3 years for which a non-parole period has been set unless the offender is entitled to be released under Division 2.	18
[14] Section 159C Limitation on release on parole of terrorism related offenders	19
Omit section 159C (4).	20

[15] Part 6, Division 4B	1
Insert after Division 4A of Part 6:	2
Division 4B Prerogative of mercy	3
160AD Governor may make parole order	4
(1) The Governor may, in exercising the prerogative of mercy, make a parole order in respect of an offender.	5 6
(2) The parole order may be made whether or not the offender is eligible for release on parole.	7 8
(3) An offender may be released on parole in accordance with a parole order made by the Governor.	9 10
(4) Division 1 of this Part (other than section 126) and Divisions 3–6 of Part 7 (the <i>applied provisions</i>) apply to a parole order made by the Governor in the same way as they apply to a parole order made by the Parole Authority.	11 12 13
(5) Except to the extent that the Governor otherwise directs, the Parole Authority is to exercise functions under the applied provisions as if the parole order were a parole order made by the Parole Authority.	14 15 16
(6) The Governor may revoke or vary a direction given to the Parole Authority under this section.	17 18
[16] Section 161A	19
Insert after section 161:	20
161A Provision of information by health service providers	21
(1) It is the duty of a health service provider involved in the provision of services to or in respect of an offender to provide the following information on request by a community corrections officer:	22 23 24
(a) whether or not the offender has attended a program or any appointment in which the health service provider is involved that is required by a condition of the offender's parole order or by a direction of a community corrections officer,	25 26 27 28
(b) whether or not the offender has participated in any other activity in which the health service provider is involved as required by a condition of the offender's parole order or by a direction of a community corrections officer.	29 30 31 32
(2) Nothing in this section requires a health service provider to provide any information relating to events that occurred during any treatment, program or activity in which the offender participated.	33 34 35
(3) The offender is taken to have authorised the provision of information in accordance with this section by the health service provider.	36 37
(4) The provision of information under this section by a health service provider does not constitute:	38 39
(a) a contravention of the <i>Health Records and Information Privacy Act 2002</i> or the <i>Privacy and Personal Information Protection Act 1998</i> , or	40 41
(b) a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct.	42 43

(5)	In this section:	1
	<i>health service provider</i> means:	2
(a)	a health service provider within the meaning of the <i>Health Records and Information Privacy Act 2002</i> , or	3
		4
(b)	an individual who provides a health service within the meaning of that Act.	5
		6
[17]	Part 7, heading	7
	Omit the heading. Insert instead:	8
	Part 7 Revocation and reinstatement, and sanctions for breaches, of certain orders	9
		10
[18]	Part 7, introductory note	11
	Omit the note.	12
[19]	Part 7, Division 2A	13
	Insert before Division 3:	14
	Division 2A Re-integration home detention orders	15
168B	Definition of “revocation order”	16
	In this Division:	17
	<i>revocation order</i> means an order made by the Parole Authority under this Division revoking a re-integration home detention order.	18
		19
168C	Conduct of inquiry into suspected breach of obligations	20
(1)	If the Parole Authority has reason to suspect that an offender has failed to comply with the offender’s obligations under a re-integration home detention order, the Parole Authority may, whether or not the order has expired, conduct an inquiry into the matter.	21
		22
		23
		24
(2)	The offender to whom the re-integration home detention order relates may make submissions to the Parole Authority in relation to the matters under inquiry.	25
		26
		27
168D	Actions by Parole Authority on non-compliance with re-integration home detention order	28
		29
(1)	This section applies if the Parole Authority is satisfied that an offender has failed to comply with the offender’s obligations under a re-integration home detention order.	30
		31
		32
(2)	The Parole Authority may take any of the following actions:	33
(a)	record the breach and take no further action,	34
(b)	give a formal warning to the offender,	35
(c)	impose additional conditions on the re-integration home detention order,	36
		37
(d)	vary or revoke conditions of the re-integration home detention order,	38

	(e) make an order revoking the re-integration home detention order.	1
	Note. The Parole Authority may also revoke the offender's parole order if it is satisfied that the offender has failed to comply with the offender's obligations under a re-integration home detention order (see sections 130 (1) (c) and 170B (1) (c)).	2 3 4
	(3) In deciding whether and what action should be taken in respect of the offender's breach of the re-integration home detention order, the Parole Authority may have regard to any action previously taken in respect of the breach or any earlier breaches of the order.	5 6 7 8
168E	Circumstances for revocation in addition to non-compliance with re-integration home detention order	9 10
	(1) The Parole Authority may make an order revoking a re-integration home detention order:	11 12
	(a) if it is satisfied that the offender poses a serious and immediate risk to the safety of the community, or	13 14
	(b) if it is satisfied that there is a serious and immediate risk that the offender will leave New South Wales, or	15 16
	(c) if it is satisfied that there has been a significant change in the circumstances of the offender that warrants revocation of the order, or	17 18
	(d) if the parole order directing the release of the offender is revoked, or	19
	(e) if the offender fails to appear before the Parole Authority when called on to do so under section 180, or	20 21
	(f) if the offender has applied for the order to be revoked.	22
	(2) The Parole Authority may make a revocation order on its own initiative or on the recommendation of the Commissioner or a community corrections officer.	23 24
168F	Revocation orders	25
	(1) A revocation order may be made:	26
	(a) whether or not the offender has been called on to appear before the Parole Authority, and	27 28
	(b) whether or not the Parole Authority has held an inquiry.	29
	(2) A revocation order takes effect, or is taken to have effect, on the date on which it is made or on any earlier date that the Parole Authority thinks fit.	30 31
	(3) If an offender is not taken into custody until after the day on which the revocation order takes effect:	32 33
	(a) the term of the offender's sentence, and	34
	(b) the non-parole period of the sentence,	35
	are, by this subsection, extended by the number of days the person was at large after the order took effect.	36 37
168G	Interim suspension of re-integration home detention order	38
	(1) On the application of the Commissioner, a judicial member of the Parole Authority:	39 40
	(a) may make an order suspending an offender's re-integration home detention order (a <i>suspension order</i>), and	41 42
	(b) if the offender is not then in custody, may issue a warrant for the offender's arrest.	43 44

- (2) An application may be made in person or by telephone, electronic mail or facsimile transmission. 1
2
- (3) The judicial member may only take action under this section if the judicial member is satisfied: 3
4
- (a) that the Commissioner has reasonable grounds for believing: 5
- (i) that the offender has failed to comply with the offender's obligations under the re-integration home detention order, or 6
7
- (ii) that there is a serious and immediate risk that the offender will leave New South Wales in contravention of the conditions of the order, or 8
9
10
- (iii) that there is a serious and immediate risk that the offender will harm another person, or 11
12
- (iv) that there is a serious and immediate risk that the offender will commit an offence, and 13
14
- (b) that, because of the urgency of the circumstances, there is insufficient time for a meeting of the Parole Authority to be convened to deal with the matter. 15
16
17
- (4) If an application under this section is made otherwise than in person, the judicial member may furnish the applicant with a suspension order or arrest warrant: 18
19
20
- (a) by sending a copy of the order or warrant to the applicant by electronic mail or facsimile transmission, or 21
22
- (b) by dictating the terms of the order or warrant to the applicant by telephone. 23
24
- (5) A document: 25
- (a) that contains: 26
- (i) a copy of a suspension order or arrest warrant that the judicial member has sent by electronic mail or facsimile transmission, or 27
28
- (ii) the terms of a suspension order or arrest warrant that the judicial member has dictated by telephone, and 29
30
- (b) that bears a notation as to the identity of the judicial member and as to the time at which the copy was sent or the terms dictated, 31
32
- has the same effect as the original suspension order or arrest warrant. 33
- (6) A suspension order may be revoked by any judicial member of the Parole Authority or by the Commissioner. 34
35
- (7) Unless sooner revoked, a suspension order ceases to have effect at the end of 28 days after it is made or, if the offender is not in custody when it is made, at the end of 28 days after the offender is taken into custody. 36
37
38
- (8) While a suspension order is in force, the re-integration home detention order to which it relates does not have effect. 39
40
- (9) An arrest warrant under this section is sufficient authority for a police officer to arrest the offender named in the warrant, to convey the offender to the correctional centre specified in the warrant and to deliver the offender into the custody of the governor of that correctional centre. 41
42
43
44

[20] Sections 170–171	1
Omit sections 170 and 171. Insert instead:	2
170 Actions by Commissioner or community corrections officer on non-compliance with parole order	3 4
(1) This section applies if the Commissioner or a community corrections officer is satisfied that an offender has failed to comply with the offender’s obligations under a parole order.	5 6 7
(2) A community corrections officer may take any of the following actions:	8
(a) record the breach and take no further action,	9
(b) give an informal warning to the offender,	10
(c) give, or arrange to be given to, the offender a formal warning that further breaches will result in referral to the Parole Authority,	11 12
(d) give a reasonable direction to the offender relating to the kind of behaviour by the offender that caused the breach,	13 14
(e) impose a curfew on the offender of up to 12 hours in any 24 hour period.	15
(3) As an alternative, or in addition, to taking any such action, the Commissioner or a community corrections officer may decide to refer the breach to the Parole Authority because of the serious nature of the breach and may also make a recommendation as to the action that the Parole Authority may take in respect of the offender.	16 17 18 19 20
(4) In deciding whether and what action should be taken in respect of the offender’s breach of the parole order, the Commissioner or a community corrections officer may have regard to any action previously taken in respect of the breach or any earlier breaches of the order.	21 22 23 24
(5) The regulations may make provision for or with respect to any action that may be taken by a community corrections officer under this section.	25 26
170A Actions by Parole Authority on non-compliance with parole order	27
(1) This section applies if the Parole Authority is satisfied that an offender has failed to comply with the offender’s obligations under a parole order.	28 29
(2) The Parole Authority may take any of the following actions:	30
(a) record the breach and take no further action,	31
(b) give a formal warning to the offender,	32
(c) impose additional conditions on the parole order,	33
(d) vary or revoke conditions of the parole order,	34
(e) make an order revoking the parole order.	35
(3) Without affecting the generality of subsection (2), the Parole Authority may impose a condition on the parole order of the following kind:	36 37
(a) a condition imposing a requirement that the offender remain at the offender’s place of residence for a period of home detention of up to 30 days,	38 39 40
(b) a condition that the offender must submit to the use of an electronic monitoring device,	41 42
(c) ancillary conditions relating to any condition imposed under this section.	43 44

- (4) In deciding whether and what action should be taken in respect of the offender's breach of the parole order, the Parole Authority may have regard to any action previously taken in respect of the breach or any earlier breaches of the order. 1
2
3
4
- (5) Section 124H and any regulations made under section 124J (e) apply to an offender who is subject to a condition of home detention imposed under this section in the same way as they apply to an offender who is subject to a re-integration home detention order. 5
6
7
8
- (6) Before determining whether to impose a condition imposing a period of home detention under this section, the Parole Authority is to obtain, and consider, a report prepared by a community corrections officer as to the suitability of the offender for home detention. 9
10
11
12
- 170B Circumstances for revocation in addition to non-compliance with parole order** 13
- (1) The Parole Authority may make an order revoking a parole order after the release of the offender under the order or a re-integration home detention order: 14
15
16
- (a) if it is satisfied that the offender poses a serious and immediate risk to the safety of the community and that the risk cannot be sufficiently mitigated by directions from a community corrections officer or by changing the conditions of parole, or 17
18
19
20
- (b) if it is satisfied that there is a serious and immediate risk that the offender will leave New South Wales in contravention of the conditions of the parole order and that the risk cannot be sufficiently mitigated by directions from a community corrections officer or by changing the conditions of parole, or 21
22
23
24
25
- (c) if it is satisfied that the offender has failed to comply with the offender's obligations under a re-integration home detention order, or 26
27
- (d) if a re-integration home detention order applying to the offender is revoked, or 28
29
- (e) in the case of an offender who has been granted parole on the grounds that he or she is in imminent danger of dying or is incapacitated to the extent that he or she no longer has the physical ability to do harm to any person, as referred to in section 154A (3) (a), if it is satisfied that those grounds no longer exist, or 30
31
32
33
34
- (f) in the case of an offender who has been granted parole under section 160 on the grounds that he or she is dying or because of exceptional extenuating circumstances, if it is satisfied that those grounds or circumstances no longer exist, or 35
36
37
38
- (g) if the offender fails to appear before the Parole Authority when called on to do so under section 180, or 39
40
- (h) if the offender has applied for the order to be revoked. 41
- (2) The Parole Authority may make a parole revocation order on its own initiative or on the recommendation of the Commissioner or a community corrections officer. 42
43
44
- Note.** Division 3A of Part 6 sets out additional circumstances relating to the safety of the community in which the parole of individuals may be revoked if there are terrorism concerns. 45
46
47

171 Parole revocation orders	1
(1) A parole revocation order may be made:	2
(a) whether or not the offender has been called on to appear before the Parole Authority, and	3 4
(b) whether or not the Parole Authority has held an inquiry.	5
(2) A parole revocation order takes effect, or is taken to have taken effect, on the date on which it is made or on any earlier date that the Parole Authority thinks fit.	6 7 8
(3) The earliest date on which a parole revocation order resulting from a breach of the obligations of the offender under the parole order may take effect is the date of the first occasion on which it appears to the Parole Authority that the offender failed to comply with the offender's obligations under the parole order.	9 10 11 12 13
(4) If an offender is not taken into custody until after the day on which the parole revocation order takes effect, the term of the offender's sentence is, by this subsection, extended by the number of days the person was at large after the order took effect.	14 15 16 17
[21] Section 172 Request by Attorney General, Minister or DPP to revoke parole	18
Insert “, the Minister” after “The Attorney General”.	19
[22] Section 173 Notice of revocation	20
Insert “, re-integration home detention order” before “or parole order” in section 173 (1).	21
[23] Section 175 Decision after review	22
Insert after section 175 (1A):	23
(2) In determining a review of the revocation of a parole order, and without limiting subsection (1), the Parole Authority may take into account any behaviour of the offender, including whether the offender is alleged to have committed any offences while released on parole or after the revocation of the parole order.	24 25 26 27 28
[24] Section 175A Review not available in certain circumstances	29
Insert at the end of the section:	30
(2) If a re-integration home detention order is revoked, the revocation notice referred to in section 173 is not required to comply with the requirements of section 173 (2) (b) or (c) and the offender is not entitled to seek a review under section 174.	31 32 33 34
[25] Section 179 Consequential revocation of other orders	35
Insert “, re-integration home detention order” before “or parole order” wherever occurring.	36
[26] Section 179 (1)	37
Insert “, re-integration home detention orders” before “or parole orders”.	38
[27] Section 181 Warrants committing offenders to correctional centres	39
Insert “, re-integration home detention order” before “or parole order” in section 181 (1) (a).	40

[28] Section 182 Functions may be exercised after order has expired	1
Insert “, re-integration home detention order” before “or parole order”.	2
[29] Section 185 Functions of Parole Authority	3
Insert after section 185 (1) (a):	4
(a1) to determine matters with respect to the granting of re-integration home detention orders and the conditions on which the orders are granted,	5 6
[30] Section 193 Information concerning offenders and correctional centres	7
Insert “under a re-integration home detention order or” before “on parole” in section 193 (1) (a).	8 9
[31] Section 193 (2) (b)	10
Insert “re-integration home detention order or” before “parole order”.	11
[32] Section 193C Parole Authority decisions	12
Insert “a re-integration home detention order or” before “parole” in section 193C (1) (a).	13
[33] Section 193C (1) (b)	14
Insert “, re-integration home detention order” before “or parole order”.	15
[34] Section 193C (1) (d) (ii)	16
Omit “section 170 (1)”. Insert instead “section 170 (3) or 170B (2)”.	17
[35] Section 193C (1) (e)	18
Insert after section 193C (1) (d):	19
(e) all decisions that result in a refusal to revoke a re-integration home detention order following a recommendation referred to in section 168E (2).	20 21 22
[36] Section 193C (2A)	23
Insert after section 193C (2):	24
(2A) In recording its reasons for a decision relating to re-integration home detention for the purposes of this section, the Parole Authority must address the matters that it is required to consider when making the decision.	25 26 27
[37] Section 236M Accommodation of offenders in residential facilities	28
Insert “a re-integration home detention order,” before “a parole order” in section 236M (5) (b).	29 30
[38] Section 256 Victims Register	31
Omit “sections 67 and 145” from section 256 (4A) (a).	32
Insert instead “sections 67, 145, 256A and 256B”.	33
[39] Section 256 (4B)	34
Insert after section 256 (4A):	35
(4B) The Review Council or the Parole Authority may delegate to members of staff of the government agency that keeps the Victims Register any of the functions of the Review Council or the Parole Authority specified in subsection (4A) (a),	36 37 38

(b) or (c), but only in relation to the victim of an adult offender (whether or not the offender committed the relevant offence as an adult).	1 2
[40] Sections 256A and 256B	3
Insert after section 256:	4
256A Notification to victims of re-integration home detention and parole consideration	5 6
(1) The Parole Authority must give notice to any victim of an offender whose name is recorded in the Victims Register if:	7 8
(a) the offender is due for consideration of whether or not the offender should be released under a re-integration home detention order or on parole, or	9 10 11
(b) the offender is eligible for or has applied for release on parole.	12
(2) The notice is to be given subject to and in accordance with the regulations.	13
(3) Without limiting subsection (2), the notice must contain the following information:	14 15
(a) the matter being notified,	16
(b) that the victim may make a submission to the Parole Authority about the matter,	17 18
(c) the form that a submission may take,	19
(d) the period within which a submission must be made,	20
(e) that the Parole Authority will consider a submission made before the end of that period.	21 22
(4) The Parole Authority must consider any submission made in accordance with this section.	23 24
(5) The Parole Authority is not required to give notice of a matter under this section if the matter is required to be notified to the victim is included in any other requirement to give notice under this Act.	25 26 27
(6) A failure by the Parole Authority to comply with this section does not affect the validity of any decision or order made by the Parole Authority.	28 29
256B Information to be provided to victims	30
(1) The Commissioner may, if requested to do so by a victim of an adult offender whose name is recorded in the Victims Register or at the Commissioner's discretion, provide the following information to the victim of an adult offender who is recorded in the Victims Register:	31 32 33 34
(a) any change to the offender's earliest possible release date,	35
(b) the death of the offender while serving a sentence or released on parole,	36
(c) the name of the correctional centre in which the offender is serving a sentence,	37 38
(d) the escape of the offender while serving a sentence,	39
(e) the security classification of the offender,	40
(f) a decision by the Commissioner to reclassify a serious offender to a low security classification.	41 42

(2)	The Parole Authority must give notice to a victim of an adult offender who is recorded in the Victims Register of the following matters relating to the offender:	1
		2
		3
(a)	that the Authority has made a re-integration home detention order releasing the offender and the date of the release,	4
		5
(b)	any additional conditions placed on the re-integration home detention order,	6
		7
(c)	that the conditions of the re-integration home detention order have been changed, and particulars of the change,	8
		9
(d)	that the offender's re-integration home detention order has been revoked.	10
		11
(3)	The Parole Authority must give notice to a victim of an adult offender who is recorded in the Victims Register of the following matters relating to the offender:	12
		13
		14
(a)	that the Parole Authority or the Governor has made a parole order releasing the offender on parole and the date of the release,	15
		16
(b)	any additional conditions placed on the parole order,	17
		18
(c)	that the conditions of the parole order have been changed, and particulars of the change,	18
		19
(d)	that the offender's parole has been revoked.	20
(4)	The information or notice is to be given in writing to the victim.	21
(5)	Notice of the revocation of an order is not required to be given under this section until any review of that order has been finally determined.	22
		23
(6)	The Commissioner and the Parole Authority are not required to provide information or give notice under this section of any matter if the matter is included in any other requirement to give notice under this Act to the victim.	24
		25
		26
(7)	In this section:	27
	<i>adult offender</i> means an offender who is an adult (whether or not the offender committed the relevant offence as an adult).	28
		29
[41]	Section 260 Evidentiary certificates	30
	Insert “, re-integration home detention order” before “or parole order” wherever occurring.	31
[42]	Schedule 5 Savings, transitional and other provisions	32
	Insert at the end of the Schedule, with appropriate Part and clause numbering:	33
Part	Provisions consequent on enactment of Parole Legislation Amendment Act 2017	34
		35
Definition		36
	In this Part, <i>amending Act</i> means the <i>Parole Legislation Amendment Act 2017</i> .	37
Existing parole orders for sentences of 3 years or less		38
(1)	A parole order made by a court under section 50 of the <i>Crimes (Sentencing Procedure) Act 1999</i> , and in force immediately before the substitution of Division 3 of Part 6 of the Act by the amending Act, is taken to be a statutory parole order within the meaning of this Act.	39
		40
		41
		42

- (2) A condition imposed on a parole order by a sentencing court under section 51 or 51A of the *Crimes (Sentencing Procedure) Act 1999*, as in force before the repeal of those sections by the amending Act, is, for the purposes of this Act, taken to have been imposed by the Parole Authority. 1
2
3
4
- Existing applications for parole** 5
- Section 135, as substituted by the amending Act, extends to the consideration of whether to make a parole order directing the release of an offender in any case in which the Parole Authority was considering whether to make an order, but had not made a decision, before that substitution. 6
7
8
9
- Breaches of existing parole orders** 10
- (1) The amendments made to this Act by the amending Act extend to breaches of parole orders that occurred before the substitution of section 170 by the amending Act and to parole orders in force immediately before that substitution. 11
12
13
14
- (2) However, subclause (1) does not apply to any breach that was finally dealt with under this Act before that substitution. 15
16
- Parole of children** 17
- (1) Parts 6 and 7 of this Act, as in force before the amendment of those Parts by the amending Act, continue to apply to or in respect of the parole of a detainee in accordance with section 29 of the *Children (Detention Centres) Act 1987* as in force before that amendment. 18
19
20
21
- (2) This clause ceases to have effect on the repeal of that section by the amending Act or on any other day that is prescribed by the regulations for the purposes of this clause. 22
23
24

Schedule 2	Amendment of Children (Detention Centres) Act 1987 No 57	1
		2
[1]	Section 9A Certain persons not to be detained in detention centres	3
	Omit “section 38” from section 9A (2) (g).	4
	Insert instead “section 98”.	5
[2]	Section 29 Application of Crimes (Administration of Sentences) Act 1999 to detainees	6
	Omit the section.	7
		8
[3]	Part 4C	9
	Insert after Part 4B:	10
	Part 4C Parole of detainees	11
	Division 1 Preliminary	12
	38 Principles of Part	13
	For the purposes of this Part, the Children’s Court or a person who has functions under this Part is to have regard to the following principles:	14
		15
	(a) the principles set out in section 6 of the <i>Children (Criminal Proceedings) Act 1987</i> ,	16
		17
	(b) that the purpose of parole for children is to promote community safety, recognising that the rehabilitation and re-integration of children into the community may be highly relevant to that purpose.	18
		19
		20
	39 Definitions	21
	In this Part:	22
	<i>detention order</i> includes a sentence of imprisonment.	23
	<i>juvenile offender</i> means:	24
	(a) a person subject to control, or	25
	(b) a person who is serving a sentence of imprisonment and who was under the age of 18 years when the person committed the offence.	26
		27
	<i>serious children’s indictable offence</i> has the same meaning as in the <i>Children (Criminal Proceedings) Act 1987</i> .	28
		29
	<i>statutory parole order</i> —see section 44.	30
	40 Application of Part	31
	(1) This Part applies to a juvenile offender if the offender is under the age of 18 years when the offender first becomes eligible for parole or at any later time when the offender is considered for parole.	32
		33
		34
	(2) This Part ceases to apply to a juvenile offender when the juvenile offender reaches the age of 18 years.	35
		36
	(3) Despite subsection (2), this Part continues to apply to a juvenile offender if:	37
	(a) the offender reaches the age of 18 years while on parole and the birthday occurs during the last 12 weeks of the parole period, or	38
		39

(b)	the Secretary considers that it is appropriate that the offender, or a class of offenders of which the offender is a member, continue to be dealt with under this Part.	1 2 3
(4)	The provisions of the <i>Crimes (Administration of Sentences) Act 1999</i> in respect of parole apply to a juvenile offender if this Part does not apply to the offender.	4 5 6
(5)	For the purposes of subsection (4):	7
(a)	a reference in the <i>Crimes (Administration of Sentences) Act 1999</i> to a correctional centre includes a reference to a detention centre, and	8 9
(b)	a reference in a parole order to a juvenile justice officer or supervision by an officer includes a reference to a community corrections officer or supervision by such an officer under that Act, and	10 11 12
(c)	a parole order made under this Part for an offender is taken to be a parole order made by the State Parole Authority.	13 14
41	Jurisdiction of Children’s Court relating to parole	15
(1)	The Children’s Court has jurisdiction to determine matters relating to parole, and conditions of parole, for juvenile offenders.	16 17
(2)	The jurisdiction of the Children’s Court conferred by or under this Part is to be exercised by:	18 19
(a)	the President of the Court, or	20
(b)	a person appointed as a Children’s Magistrate under section 7 of the <i>Children’s Court Act 1987</i> .	21 22
42	Eligibility for release on parole	23
(1)	A juvenile offender may be released on parole in accordance with this Part.	24
(2)	A juvenile offender is eligible for release on parole only if:	25
(a)	the offender is subject to at least 1 detention order for which a non-parole period has been set, and	26 27
(b)	the offender has served the non-parole period of each such detention order and is not subject to any other detention order.	28 29
(3)	Nothing in this Part authorises the release of a juvenile offender who is required to be kept in custody in relation to an offence against a law of the Commonwealth.	30 31 32
43	Parole order necessary for release	33
	A juvenile offender who is eligible for release on parole may not be released on parole except in accordance with a parole order directing the release of the offender.	34 35 36
Division 2	Making of parole orders	37
44	Statutory parole orders where detention order for period of 3 years or less	38
(1)	A juvenile offender who is subject to a detention order for a period of 3 years or less, being an order for which a non-parole period has been set, is taken to be subject to a parole order (a <i>statutory parole order</i>) directing the release of the offender on parole at the end of the non-parole period.	39 40 41 42

- (2) A statutory parole order is conditional on the juvenile offender being eligible for release on parole in accordance with section 42 at the end of the non-parole period of the detention order. 1
2
3
- (3) If the juvenile offender is not eligible for release at that time, the offender is entitled to be released on parole as soon as the offender becomes so eligible. 4
5
- (4) This section does not authorise the release on parole of a juvenile offender who is also subject to a detention order for a period of more than 3 years for which a non-parole period has been set unless the offender is otherwise entitled to be released under this Division. 6
7
8
9
- 45 Parole orders where detention order for period of more than 3 years** 10
- (1) At least 60 days before the parole eligibility date for a juvenile offender who is subject to a detention order for a period of more than 3 years, the Children’s Court must consider whether the offender should be released on parole. 11
12
13
- (2) Despite subsection (1), the Children’s Court may defer consideration of a juvenile offender’s case until not less than 21 days before the offender’s parole eligibility date if it is of the opinion that: 14
15
16
- (a) it is unable to complete its consideration because it has not been furnished with a report required to be made to it, or 17
18
- (b) there are other relevant matters requiring further consideration. 19
- 46 General duty of Children’s Court relating to release of offenders** 20
- (1) The Children’s Court must not make a parole order directing the release of a juvenile offender unless it is satisfied that it is in the interests of the safety of the community. 21
22
23
- (2) In considering whether it is in the interests of the safety of the community to release a juvenile offender, the Children’s Court must have regard to the following principal matters relating to the promotion of community safety, while recognising that the rehabilitation and re-integration of the offender into the community may be highly relevant to the promotion of community safety: 24
25
26
27
28
- (a) the risk to the safety of members of the community of releasing the offender on parole, 29
30
- (b) whether the release of the offender on parole is likely to address the risk of the offender re-offending, 31
32
- (c) the risk to community safety of releasing the offender at the end of the sentence without a period of supervised parole or at a later date with a shorter period of supervised parole. 33
34
35
- (3) In considering whether it is in the interests of the safety of the community to release a juvenile offender, the Children’s Court must also have regard to the following matters: 36
37
38
- (a) the nature and circumstances of the offence to which the offender’s sentence relates, 39
40
- (b) any relevant comments made by the sentencing court, 41
- (c) the offender’s criminal history, 42
- (d) the likely effect on any victim of the offender, and on any such victim’s family, of the offender being released on parole, 43
44
- (e) if applicable, whether the offender has failed to disclose the location of the remains of a victim, 45
46

(f)	any report in relation to the granting of parole that has been prepared by or on behalf of the Department,	1 2
(g)	any other report in relation to the granting of parole to the offender that has been prepared by or on behalf of any authority of the State,	3 4
(h)	any other matters that the Children's Court considers to be relevant.	5
(4)	Without limiting subsection (3) (e) or (h), if the juvenile offender has provided post-sentence assistance, the Children's Court may have regard to the following:	6 7 8
(a)	the nature and extent of the assistance (including the reliability and value of any information or evidence provided by the offender),	9 10
(b)	the degree to which the offender's willingness to provide assistance reflects the offender's progress to rehabilitation.	11 12
(5)	A report prepared by or on behalf of the Department for the purposes of subsection (3) must address the matters prescribed by the regulations for the purposes of this section.	13 14 15
(6)	The Children's Court is not required to consider the matters specified by this section in relation to a juvenile offender if it determines under Division 5 that it cannot make a parole order for the offender.	16 17 18
(7)	In this section: <i>post-sentence assistance</i> means assistance in the prevention, detection or investigation of, or in proceedings relating to, any offence provided by a juvenile offender to law enforcement authorities after the offender was sentenced and that was not taken into account or considered by the sentencing court.	19 20 21 22 23 24
47	Parole orders in exceptional circumstances	25
(1)	The Children's Court may make an order directing the release of a juvenile offender on parole who (but for this section) is not otherwise eligible for release on parole if the offender is dying or if the Court is satisfied that it is necessary to release the offender on parole because of exceptional extenuating circumstances.	26 27 28 29 30
(2)	Sections 44, 45 and 46 do not apply to a parole order under this section.	31
Division 3	Release under parole orders	32
48	Application of Division	33
	This Division applies to a statutory parole order and any parole order directing the release of a juvenile offender made by the Children's Court under this Part.	34 35
49	Date of release on parole of serious offenders	36
(1)	In determining when a juvenile offender who has been convicted of an offence involving violence should be released, the Children's Court must take into account the potential trauma to a victim and the victim's family if the offender is released on the anniversary of the commission of the offence against the victim.	37 38 39 40 41
(2)	The following offences are <i>offences involving violence</i> for the purposes of this section:	42 43
(a)	a prescribed sexual offence within the meaning of the <i>Criminal Procedure Act 1986</i> ,	44 45

(b)	an offence under sections 27–30 of the <i>Crimes Act 1900</i> (attempts to murder),	1 2
(c)	an offence under section 33 of the <i>Crimes Act 1900</i> (wounding etc with intent to do grievous bodily harm or resist arrest),	3 4
(d)	an offence under section 35 (1) or (2) of the <i>Crimes Act 1900</i> (infliction of grievous bodily harm),	5 6
(e)	an offence under sections 86–91 of the <i>Crimes Act 1900</i> (abduction or kidnapping),	7 8
(f)	an offence under sections 94–98 of the <i>Crimes Act 1900</i> (robbery),	9
(g)	an offence the elements of which include the commission of, or an intention to commit, an offence referred to in any of the above paragraphs,	10 11 12
(h)	an offence that, at the time it was committed, was an offence involving violence for the purposes of this section,	13 14
(i)	any other offence that involves an act of actual or threatened violence that is prescribed by the regulations for the purposes of this section.	15 16
50	Release under parole order	17
(1)	A juvenile offender’s parole order is sufficient warrant for any person having custody of the offender to release the offender in accordance with the terms of the order.	18 19 20
(2)	A juvenile offender who is released on parole under this Part is to be released from custody on the day specified in the relevant parole order in that regard (the <i>parole date</i>).	21 22 23
(3)	A juvenile offender may be released from custody:	24
(a)	at any time on the parole date, or	25
(b)	if the parole date is a Saturday or Sunday and the offender so requests, at any time on the Friday preceding the Saturday or Sunday, if it is not a public holiday, or during the next day after the parole date that is not a Saturday, Sunday or public holiday, or	26 27 28 29
(c)	if the parole date is a public holiday and the offender so requests, at any time on the day preceding the public holiday, if it is not a Saturday or Sunday or a public holiday, or during the next day after the parole date that is not a Saturday, Sunday or public holiday.	30 31 32 33
51	Sentence continues to run while juvenile offender on parole	34
	A juvenile offender who, while subject to a detention order, is released on parole in accordance with the terms of a parole order is taken to be subject to the detention order during the period:	35 36 37
(a)	that begins when the offender is released, and	38
(b)	that ends when the detention order expires or (if the parole order is sooner revoked) when the parole order is revoked.	39 40
Division 4	Conditions and obligations of parole orders	41
52	Application of Division	42
	This Division applies to a statutory parole order and any parole order directing the release of a juvenile offender made by the Children’s Court under this Part.	43 44

53	Conditions of parole generally	1
(1)	A parole order is subject to the standard conditions imposed by this Part or the regulations.	2 3
(2)	The Children's Court may from time to time, by written notice given to the juvenile offender:	4 5
(a)	impose additional conditions on a parole order, or	6
(b)	vary or revoke any additional conditions imposed by it.	7
(3)	The conditions of a parole order for an offender subject to a detention order for a period of more than 3 years include conditions giving effect to a post-release report, prepared by the Department and adopted by the Children's Court (with or without changes), in relation to the juvenile offender.	8 9 10 11
(4)	In determining whether to impose a condition on, or vary or revoke a condition of, a parole order under this section or any other provision of this Act or the regulations, the Children's Court is to have regard to the following:	12 13 14
(a)	whether the new condition, variation or revocation will assist in the management of a risk to community safety arising from the release of the juvenile offender on parole,	15 16 17
(b)	the likely effect on any victim of the offender, and on any such victim's family, of the new condition, variation or revocation,	18 19
(c)	whether the new condition, variation or revocation will assist in the management of risk of breaches of parole by the offender,	20 21
(d)	whether the new condition, variation or revocation will assist in supporting participation by the offender in rehabilitation programs and managing re-integration into the community.	22 23 24
(5)	Nothing in this Parts permits the Children's Court:	25
(a)	to revoke or vary any standard conditions imposed by this Part or the regulations, or	26 27
(b)	to impose any additional conditions, or vary any additional conditions imposed by it, so as to be inconsistent with any standard conditions imposed by this Part or the regulations.	28 29 30
54	Conditions of parole as to non-association and place restriction	31
(1)	The conditions to which a parole order is subject may include either or both of the following:	32 33
(a)	provisions prohibiting or restricting the juvenile offender from associating with a specified person,	34 35
(b)	provisions prohibiting or restricting the offender from frequenting or visiting a specified place or district.	36 37
(2)	A condition referred to in subsection (1) is suspended:	38
(a)	while the juvenile offender is in lawful custody (otherwise than while unescorted by a juvenile justice officer or correctional officer), and	39 40
(b)	while the offender is under the immediate supervision of a person employed in the Department.	41 42
(3)	A juvenile offender does not contravene a prohibition or restriction as to his or her association with a specified person:	43 44
(a)	if the offender does so in compliance with an order of a court, or	45

(b)	if, having associated with the person unintentionally, the offender immediately terminates the association.	1 2
(4)	A juvenile offender does not contravene a requirement not to frequent or visit a specified place or district if the offender does so in compliance with an order of a court.	3 4 5
(5)	In this section, <i>associate with</i> means:	6
(a)	to be in company with, or	7
(b)	to communicate with by any means (including by post, telephone, facsimile, email or other means of electronic communication).	8 9
55	Conditions as to supervision	10
(1)	It is a condition of a parole order that the juvenile offender is to be subject to supervision, as prescribed by the regulations.	11 12
(2)	The period of supervision is to be the period specified by or under the order or under the regulations, except as provided by subsection (3).	13 14
(3)	The period of supervision for a juvenile offender released under a parole order made under section 47 is the whole of the period for which the parole order is in force.	15 16 17
(4)	The condition imposed by subsection (1) does not apply to an offender in the circumstances (if any) prescribed by the regulations for the purposes of this subsection.	18 19 20
56	Children’s Court may exempt from supervision condition in exceptional circumstances	21 22
(1)	The Children’s Court may, by order in writing, exempt a juvenile offender for a specified period from the condition imposed by section 55 (1) if the Court is satisfied that the exceptional circumstances of the case justify the exemption.	23 24 25
(2)	The exemption may be unconditional or subject to conditions.	26
(3)	The order is to specify the purpose for which it is granted.	27
(4)	For the purposes of this Act, a failure to comply with a condition of the exemption is taken to be a failure to comply with the obligations of the parole order. This subsection does not limit the power of the Children’s Court to revoke the exemption order.	28 29 30 31
(5)	A juvenile offender is not required to comply with the condition imposed under section 55 (1) if the offender is subject to an exemption.	32 33
(6)	The regulations may make provision for or with respect to the following:	34
(a)	the periods for which an exemption may be ordered,	35
(b)	notice to an offender of the making or revocation of an exemption order.	36
57	Suspension of certain parole conditions	37
(1)	This section applies to the following conditions of a parole order:	38
(a)	a condition referred to in section 54 (1),	39
(b)	a condition referred to in section 55 (1) (a <i>supervision condition</i>).	40
(2)	A juvenile justice officer may, by order in writing and subject to the regulations, suspend the application of a supervision condition to a juvenile offender for a period or periods or indefinitely.	41 42 43

- (3) A juvenile justice officer may, by order given orally or in writing and subject to the regulations, suspend the application of any other condition to which this section applies to a juvenile offender for a period or periods. 1
2
3
- (4) The suspension may be unconditional or subject to conditions. 4
- (5) For the purposes of this Act, a failure to comply with a condition of the suspension is taken to be a failure to comply with the obligations of the parole order. This subsection does not limit the power of the juvenile justice officer to revoke the suspension order. 5
6
7
8
- (6) The regulations may make provision for or with respect to the following: 9
- (a) the periods for which a condition may be suspended, 10
 - (b) notice to a juvenile offender of the making or revocation of a suspension order, 11
12
 - (c) requiring the power to make, amend or revoke a suspension order to be exercised subject to and in accordance with any specified conditions. 13
14
- (7) This section does not apply to a condition imposed on an offender released on parole under section 47. 15
16

Division 5 Parole orders for terrorism related offenders 17

58 Definitions 18

- (1) In this Division: 19
- terrorism offence* means a terrorism offence within the meaning of the Crimes Act 1914 of the Commonwealth or an offence under section 310J of the Crimes Act 1900. 20
21
22
- terrorism related offender* means a juvenile offender to whom this Division applies. 23
24
- terrorist act* has the same meaning as it has in Part 5.3 of the Commonwealth Criminal Code. 25
26
- (2) A reference in this Division to a juvenile offender engaging in, or inciting or assisting others to engage in, terrorist acts or violent extremism includes a reference to an offender doing so in this State, in any other part of Australia or in any other country. 27
28
29
30

59 Juvenile offenders to whom Division applies 31

- (1) This Division applies to a juvenile offender: 32
- (a) who is subject to a detention order for a terrorism offence, who has previously been convicted of a terrorism offence or who has been charged with a terrorism offence, or 33
34
35
 - (b) who is the subject of a control order made under Part 5.3 of the Commonwealth Criminal Code, or 36
37
 - (c) who has any associations with a terrorist organisation (within the meaning of Division 102 of Part 5.3 of the Commonwealth Criminal Code), or 38
39
40
 - (d) who has made statements or carried out activities advocating support for terrorist acts or violent extremism, or 41
42
 - (e) who has any associations or affiliation with any persons or groups advocating support for terrorist acts or violent extremism. 43
44

(2)	This Division applies to a statutory parole order and any other parole order directing the release of a juvenile offender made by the Children’s Court under this Part.	1 2 3
60	Limitation on release on parole of terrorism related offenders	4
(1)	The Children’s Court must not make a parole order directing the release of a juvenile offender who is known to the Court to be a terrorism related offender unless:	5 6 7
(a)	the Court is satisfied that the offender will not engage in, or incite or assist others to engage in, terrorist acts or violent extremism, and	8 9
(b)	the offender is otherwise eligible under this Act to be released on parole.	10
(2)	The grounds on which the Children’s Court may revoke the parole order of a juvenile offender who is known to the Court to be a terrorism related offender include that the Court has become aware that the offender may engage in, or incite or assist others to engage in, terrorist acts or violent extremism.	11 12 13 14
(3)	The grounds on which the Children’s Court may suspend the parole order of a juvenile offender who is known to the Court to be a terrorism related offender include that the Court has become aware that the offender may engage in, or incite or assist others to engage in, terrorist acts or violent extremism.	15 16 17 18
(4)	A statutory parole order directing the release of a juvenile offender who is known to the court as a terrorism related offender may be revoked by the Children’s Court in accordance with this section at any time before or after the release of the offender on parole.	19 20 21 22
61	General provisions relating to terrorism related offenders	23
(1)	In deciding whether or not to release a terrorism related offender on parole, the Children’s Court is to:	24 25
(a)	have regard to any credible information it has on the risk that the offender may engage in, or incite or assist others to engage in, terrorist acts or violent extremism under the terms of the proposed parole order and in the future, and	26 27 28 29
(b)	have regard in particular to whether the nature of any associations or affiliation that the offender has with any persons or groups advocating support for terrorist acts or violent extremism gives rise to any such risk.	30 31 32
(2)	The Children’s Court may, for the purposes of this Division, have regard to advice received from the NSW Police Force or from any other public authority (whether of this or any other State or Territory or of the Commonwealth) established for law enforcement, security or anti-terrorist purposes.	33 34 35 36
(3)	This Division applies in addition to, and despite anything to the contrary in, any other provision of or made under this Part.	37 38
(4)	However, this Division does not limit the operation of section 47.	39
Division 6	Revocation of parole orders and other sanctions	40
62	Application of Division	41
	This Division applies to a statutory parole order and any parole order directing the release of a juvenile offender made by the Children’s Court under this Part.	42 43

63	Revocation of parole before release	1
(1)	The Children’s Court may make an order revoking a parole order at any time before the offender to whom the order relates is released under the order, if the Court is satisfied that:	2
		3
		4
(a)	the offender, if released, would pose a serious identifiable risk to the safety of the community and the risk cannot be sufficiently mitigated by directions from a juvenile justice officer or by changing the conditions of parole, or	5
		6
		7
		8
(b)	the offender, if released, would pose a serious and immediate risk to the offender’s safety and the risk cannot be sufficiently mitigated by directions from a juvenile justice officer or by changing the conditions of parole, or	9
		10
		11
		12
(c)	the offender has requested the revocation, or	13
(d)	in the case of a parole order made by the Court, there has been a substantial change to a matter considered by the Court in making the order, or	14
		15
		16
(e)	any other circumstance prescribed by the regulations for the purpose of this section exists.	17
		18
(2)	The Children’s Court may revoke a parole order under this section on its own initiative or on the recommendation of a juvenile justice officer.	19
		20
	Note. Division 5 sets out additional circumstances relating to the safety of the community in which the parole of individuals may be revoked before or after release if there are terrorism concerns.	21
		22
		23
(3)	The Attorney General, the Minister or the Secretary may request the Children’s Court to revoke a parole order under this section and may make any submissions they think fit to support the request.	24
		25
		26
64	Actions by Secretary on non-compliance	27
(1)	This section applies if the Secretary is satisfied that a juvenile offender has failed to comply with the offender’s obligations under a parole order.	28
		29
(2)	The Secretary may take any of the following actions:	30
(a)	record the non-compliance and take no further action,	31
(b)	give an informal warning to the juvenile offender.	32
(3)	As an alternative to taking any such action, the Secretary can decide to refer the failure to comply to the Children’s Court because of the serious nature of the non-compliance and may also make a recommendation as to the action that the Court may take in respect of the juvenile offender.	33
		34
		35
		36
(4)	In deciding whether and what action should be taken in respect of the juvenile offender’s failure to comply with obligations under the parole order, the Secretary may have regard to any action previously taken in respect of the failure to comply or any earlier failures to comply with the order.	37
		38
		39
		40
65	Actions by Children’s Court on non-compliance	41
(1)	This section applies if the Children’s Court is satisfied that a juvenile offender has failed to comply with the offender’s obligations under a parole order.	42
		43
(2)	The Children’s Court may take any of the following actions:	44
(a)	record the non-compliance and take no further action,	45
(b)	give the juvenile offender a formal warning,	46

(c)	impose additional conditions on the parole order,	1
(d)	vary or revoke conditions of the parole order (other than conditions imposed by this Act or the regulations),	2 3
(e)	make an order revoking the parole order.	4
	Note. The Children's Court may issue a notice requiring a juvenile offender to attend the Court for the purposes of this Part (see section 78 (1)).	5 6
66	Circumstances for revocation in addition to non-compliance	7
(1)	The Children's Court may make an order revoking a parole order at any time after the release of a juvenile offender:	8 9
(a)	if it is satisfied that the offender poses a serious and immediate risk to the safety of the community and that the risk cannot be sufficiently mitigated by directions from a juvenile justice officer or by changing the conditions of parole, or	10 11 12 13
(b)	if it is satisfied that there is a serious and immediate risk that the offender will leave New South Wales in contravention of the conditions of the parole order and that the risk cannot be sufficiently mitigated by directions from a juvenile justice officer or by changing the conditions of parole, or	14 15 16 17 18
(c)	in the case of an offender who has been granted parole under section 47 on the grounds that the offender is dying or because of exceptional extenuating circumstances, if it is satisfied that those grounds or circumstances no longer exist, or	19 20 21 22
(d)	if the offender fails to appear before the Children's Court when required to do so under this Part, or	23 24
(e)	if the offender has applied for the order to be revoked.	25
(2)	The Children's Court may make a parole revocation order on its own initiative or on the recommendation of the Secretary or a juvenile justice officer.	26 27
	Note. Division 5 sets out additional circumstances relating to the safety of the community in which the parole of individuals may be revoked if there are terrorism concerns.	28 29 30
67	Hearings as to non-compliance and revocation	31
(1)	The Children's Court may, at any time, hold a hearing into whether a juvenile offender has failed to comply with the offender's obligations under a parole order or whether there are other grounds to revoke the order.	32 33 34
	Note. Division 8 sets out procedures for hearings.	35
(2)	The Children's Court is not required to hold a hearing before it decides to revoke a parole order directing the release of a juvenile offender or to take any other action in relation to non-compliance with an order.	36 37 38
(3)	If the Children's Court revokes a parole order without holding a hearing, the Court is required to hold a hearing within 28 days of giving notice to the juvenile offender of the revocation.	39 40 41
(4)	If a hearing is held under subsection (3), the Children's Court may make any decision that it could make on a reconsideration application under section 74 (1).	42 43 44
68	Effect of revocation order	45
(1)	An order revoking a parole order takes effect, or is taken to have effect, on the day on which it is made or on any earlier day specified in the order.	46 47

(2)	The earliest day on which the revocation of a parole order on the grounds of non-compliance may be taken to have effect is the date of the last occasion on which there was a failure by the juvenile offender to comply with obligations under the parole order that constituted all or part of the grounds for the revocation.	1 2 3 4 5
(3)	If the juvenile offender is not taken into custody until after the day on which the order revoking the parole order takes effect, the term of the offender's detention order is, by this subsection, extended by the number of days the person was at large after the order took effect.	6 7 8 9
	Note. Division 7 sets out rights and procedures for reconsideration where a parole order is revoked.	10 11
69	Request by Attorney General, Minister, DPP to revoke parole order	12
	The Attorney General, the Minister or the Director of Public Prosecutions may request the Children's Court to exercise its powers to revoke a parole order in relation to a juvenile offender who is serving a sentence of imprisonment for a serious children's indictable offence on the ground that the order has been made on the basis of false, misleading or irrelevant information.	13 14 15 16 17
70	Application to Supreme Court by juvenile offender	18
(1)	If:	19
(a)	the Children's Court revokes a parole order, and	20
(b)	the juvenile offender to whom the parole order relates alleges that the order has been revoked on the basis of false, misleading or irrelevant information,	21 22 23
	the offender may, in accordance with rules of court, apply to the Supreme Court for a direction to be given to the Children's Court as to whether the information was false, misleading or irrelevant.	24 25 26
(2)	The Supreme Court may give any directions with respect to the information that it thinks fit.	27 28
(3)	An application under this section is to be considered by the Supreme Court if and only if it is satisfied that the application is not an abuse of process and that there appears to be sufficient evidence to support the application.	29 30 31
(4)	This section does not give the Supreme Court jurisdiction to consider the merits of the Children's Court's decision otherwise than on the grounds referred to in subsection (1).	32 33 34
(5)	At the hearing or determination of an application under this section, a juvenile offender is not entitled to appear in person, except by leave of the Supreme Court.	35 36 37
Division 7	Reconsideration of parole	38
71	Application of Division	39
	This Division applies to a statutory parole order and any parole order directing the release of a juvenile offender made by the Children's Court under this Part.	40 41
72	Reconsideration options after refusal of parole	42
	If the Children's Court refuses to make a parole order directing the release of a juvenile offender, the Court must specify one of the following:	43 44
(a)	a new date on which the offender will be eligible for parole,	45

(b)	a date for a hearing to reconsider whether or not the offender should be released on parole,	1
		2
(c)	a date on or after which the offender may apply to the Court to be released on parole.	3
		4
73	Reconsideration options after revocation of parole	5
(1)	If the Children's Court revokes a parole order, the Court must do one of the following:	6
		7
(a)	specify a new date on which the offender will be eligible for parole,	8
(b)	specify a date for a hearing to reconsider whether or not the offender should be released on parole,	9
		10
(c)	specify a date on or after which the offender may apply to the Court to be released on parole,	11
		12
(d)	defer determining any of the matters referred to in paragraph (a), (b) or (c) for a specified period (not being for more than 3 months).	13
		14
(2)	The Children's Court may defer determining any of those matters on 1 or more occasions.	15
		16
74	Application for reconsideration of parole decision or revocation	17
(1)	A juvenile offender may apply to the Children's Court for the granting of parole after a decision to refuse or revoke, or to defer a decision about, parole:	18
		19
(a)	on or after a day specified by the Court for the making of any such application by the offender, or	20
		21
(b)	at any time after the decision on the ground that:	22
(i)	new information has become available that is relevant to the granting of parole or a condition of parole, or	23
		24
(ii)	the situation of the offender, or in relation to the granting of parole, has materially changed since the decision.	25
		26
(2)	A juvenile offender may apply to the Children's Court for the reconsideration of a decision about the conditions of parole at any time after the decision on the ground that:	27
		28
		29
(a)	new information has become available that is relevant to the granting of parole or a condition of parole, or	30
		31
(b)	the situation of the offender, or in relation to the granting of parole, has materially changed since the decision.	32
		33
(3)	An application under this section may be accompanied by written submissions in support of the application.	34
		35
(4)	On an application being made, the Children's Court:	36
(a)	must set a date (occurring as soon as practicable) on which the hearing will be conducted, and	37
		38
(b)	must give notice to the juvenile offender of the date, time and place for the hearing.	39
		40
(5)	The Children's Court may refuse to consider an application made under subsection (1) (b) or (2) if it considers the application to be frivolous, vexatious or to have no prospect of success.	41
		42
		43

75	Decisions on reconsideration	1
(1)	On the hearing of an application under section 74 (1), the Children’s Court may:	2
		3
(a)	defer the making of a decision as to whether or not the juvenile offender should be released on parole for a specified period (not being for more than 3 months), or	4
		5
		6
(b)	confirm the decision being reconsidered, or	7
(c)	make or reinstate a parole order for the juvenile offender.	8
(2)	On the hearing of an application under section 74 (2), the Children’s Court may:	9
		10
(a)	confirm the decision being reconsidered, or	11
(b)	vary or revoke the conditions of parole or impose new conditions of parole.	12
		13
(3)	The Children’s Court may defer making a decision as to a juvenile offender on 1 or more occasions.	14
		15
76	Date of parole after reconsideration	16
	The period specified for release in a parole order directing the release of a juvenile offender made after an application under this Division is to be:	17
		18
(a)	if the order is made before the offender’s parole eligibility date, a period that begins on or after the eligibility date and ends no later than 35 days after that date, or	19
		20
		21
(b)	if the order is made after the offender’s parole eligibility date, a period that begins on the date on which the order is made and ends no later than 35 days after that date.	22
		23
		24
Division 8	Procedure at hearings	25
77	Hearings	26
(1)	The Children’s Court may conduct hearings for the purposes of exercising its jurisdiction under this Part.	27
		28
(2)	Hearings under this Part are to be held in accordance with section 10 of the <i>Children (Criminal Proceedings) Act 1987</i> , unless otherwise ordered by the Children’s Court.	29
		30
		31
78	Power to require attendance of juvenile offenders and witnesses and production of documents	32
		33
(1)	A Children’s Magistrate may, at any time, by notice in writing given to a juvenile offender who has been released on parole require the offender to attend at a specified time and place for the purposes of this Part.	34
		35
		36
(2)	A Children’s Magistrate may, by notice in writing given to a person, require the person on whom the notice is served:	37
		38
(a)	to appear before the Children’s Court for the purpose of giving evidence in proceedings under this Part, or	39
		40
(b)	to produce to the Children’s Court any document (including a document in the custody or under the control of the person and in the possession of or the property of the Crown) that is relevant to any proceedings of the Children’s Court under this Part,	41
		42
		43
		44
	at a time, date and place specified in the instrument.	45

- (3) A Children's Magistrate may require a person who appears before the Children's Court to be sworn for the purpose of giving evidence on oath and may administer an oath accordingly. 1
2
3
- (4) If a document is produced to the Children's Court, the Court may take possession of the document for any period that it considers necessary for the purposes of the proceedings before it. 4
5
6
- (5) This section does not require a person to produce to the Children's Court any document the production of which the Minister certifies in writing: 7
8
- (a) may endanger an offender or any other person, or 9
- (b) may otherwise be contrary to the public interest. 10
- 79 Submissions by juvenile offenders at hearings** 11
- (1) At any hearing relating to a juvenile offender conducted by the Children's Court under this Part, the offender may make submissions to the Court as to whether or not the offender should be released on parole. 12
13
14
- (2) Submissions may be made orally or in writing and, if in writing, may be given to the Children's Court either before or at the hearing. 15
16
- 80 Rights of parties making submissions** 17
- Any person (including the State) who is entitled under this Part to make submissions at a hearing to the Children's Court may, at the hearing: 18
19
- (a) be represented by an Australian legal practitioner or, with the consent of the Court, by any other person, and 20
21
- (b) call and examine any witness who attends, including any witness called by the Court, and 22
23
- (c) produce documents and exhibits to the Court, and 24
- (d) give evidence on oath, and 25
- (e) otherwise adduce, orally or in writing, to the Court any matters, and address the Court on any matters, that are relevant to the proceedings before the Court. 26
27
28
- 81 Adjournments** 29
- The Children's Court may postpone or adjourn a hearing for any reason that seems appropriate to it. 30
31
- 82 Warrants** 32
- (1) A Children's Magistrate may issue a warrant for the arrest of a juvenile offender if: 33
34
- (a) the offender fails to appear before the Children's Court after a notice has been issued to the offender under section 78, or 35
36
- (b) the Court is of the opinion that the offender will not appear if given such a notice. 37
38
- (2) If the Children's Court revokes a parole order, a Children's Magistrate may issue a warrant committing the juvenile offender to a detention centre or correctional centre to serve the remainder of the detention order to which the order relates by way of full-time detention. 39
40
41
42
- (3) The Children's Court may, by order, recall or suspend any warrant that it has issued under this section. 43
44

(4)	A warrant for the arrest of a juvenile offender under this section is sufficient authority for any police officer to arrest, or to have custody of, the juvenile offender named in the warrant, to convey the offender to the place specified in the warrant and to deliver the offender into the custody of the Children's Court.	1 2 3 4 5
(5)	A warrant committing a juvenile offender to a detention centre or correctional centre under this section is sufficient authority:	6 7
(a)	for any police officer to arrest, or to have custody of, the juvenile offender named in the warrant, to convey the offender to the place specified in the warrant and to deliver the offender into the custody of the person in charge of that place, and	8 9 10 11
(b)	for the person in charge of that place to have custody of the offender named in the warrant for the remainder of the detention order to which the warrant relates.	12 13 14
(6)	The regulations may make provision for or with respect to the form of any warrants issued for the purposes of this section.	15 16
83	Witnesses' expenses	17
	A person who is required to appear or give evidence before the Children's Court under this Part (other than a juvenile offender in respect of whom the proceedings are being held) is entitled to be paid any allowances and expenses that the Minister may determine in respect of the person.	18 19 20 21
Division 9	Prerogative of mercy	22
84	Governor may make parole order	23
(1)	The Governor may, in exercising the prerogative of mercy, make a parole order in respect of a juvenile offender.	24 25
(2)	The parole order may be made whether or not the juvenile offender is eligible for release on parole.	26 27
(3)	A juvenile offender may be released on parole in accordance with a parole order made by the Governor.	28 29
(4)	The following provisions of this Part (the <i>applied provisions</i>) apply to a parole order made by the Governor in the same way as they apply to a parole order made by the Children's Court:	30 31 32
(a)	Division 1 (other than sections 41 and 42),	33
(b)	Divisions 3, 4, 6, 7, 8 and 10 (other than sections 92 and 93).	34
(5)	Except to the extent the Governor otherwise directs, the Children's Court is to exercise functions under the applied provisions as if the parole order were a parole order made by the Children's Court.	35 36 37
(6)	The Governor may revoke or vary a direction given to the Children's Court under this section.	38 39
Division 10	Miscellaneous	40
85	Application of Division	41
	This Division applies to a statutory parole order and any parole order directing the release of a juvenile offender made by the Children's Court under this Part.	42 43

86	Submissions by State	1
(1)	The State may at any time make submissions to the Children’s Court concerning the release on parole of a serious offender.	2 3
(2)	If the State makes any such submission before the Children’s Court makes a final decision concerning the release of the offender, the Court must not make such a decision without taking the submission into account.	4 5 6
(3)	If the State makes any such submission after the Children’s Court makes a final decision concerning the release of the offender, but before the offender is released, the Court must consider whether or not it should exercise its power under section 63 to revoke the relevant parole order.	7 8 9 10
(4)	The regulations may make provision for or with respect to submissions by the State under this section, including provisions relating to the application of this Part in connection with any such submission.	11 12 13
(5)	The powers of the State under this section may be exercised by the Secretary and by any other authority of the State.	14 15
(6)	In this section: <i>serious offender</i> means a juvenile offender who belongs to a class of offenders prescribed by the regulations for the purposes of this section.	16 17 18
87	Submissions by Secretary	19
(1)	The Secretary may at any time make submissions to the Children’s Court concerning the release on parole of a juvenile offender.	20 21
(2)	If the Secretary makes a submission before the Children’s Court makes a final decision concerning the release of the juvenile offender, the Court must not make the decision without taking the submission into account.	22 23 24
(3)	The regulations may make provision for or with respect to submissions by the Secretary under this section.	25 26
88	Functions may be exercised after order has expired	27
	The Children’s Court may exercise any function under this Part in relation to a parole order, even if the order has expired.	28 29
89	Notice of parole decisions	30
(1)	The Children’s Court must give notice to a juvenile offender of a decision under this Part relating to the grant or revocation of parole, including any decision relating to the conditions of parole.	31 32 33
(2)	The notice is to contain any matters that are prescribed by the regulations for the purposes of this section.	34 35
90	Parole order not invalidated by failure to comply with procedural requirements	36
	A parole order is not invalid merely because of a failure by the Children’s Court or another court to comply with any procedural requirement imposed by or under this Act.	37 38 39
91	Security of certain information	40
(1)	This section applies if a provision of this Part or the regulations (an <i>information requirement</i>) requires a person to be provided with a copy of a report or another document (or any part of the report or document) or information contained in a report or document.	41 42 43 44

- (2) A person is not required to comply with an information requirement to provide a copy of a report or other document if compliance with the requirement may, in the opinion of a Children’s Magistrate:
- (a) adversely affect the security, discipline or good order of a detention centre or correctional centre, or
 - (b) endanger the person or any other person, or
 - (c) jeopardise the conduct of any lawful investigation, or
 - (d) prejudice the public interest, or
 - (e) adversely affect the supervision of any juvenile offender who has been released on parole.
- (3) A person is not required to comply with an information requirement to provide information about any part of the content of a report or other document if a copy of the report or document cannot be provided because of subsection (2) and, in the opinion of a Children’s Magistrate:
- (a) not providing the information to the person is necessary in the public interest, and
 - (b) the public interest outweighs any right to procedural fairness that may be denied by not providing the information.
- (4) Subsection (2) does not permit the Minister to be denied access to any document held by the Children’s Court.
- 92 Delegation of functions by Secretary**
- The Secretary may delegate any of the Secretary’s functions under this Part, other than this power of delegation, to any of the following persons:
- (a) a juvenile justice officer,
 - (b) a correctional officer,
 - (c) any other person, or a member of a class of persons, prescribed by the regulations.
- 93 Recommendations to Secretary**
- (1) The Children’s Court may at any time make recommendations to the Secretary concerning the preparation of juvenile offenders for release on parole, either generally or in relation to any particular offender or class of offenders.
- (2) The Secretary must have regard to, but is not bound by, any such recommendation in exercising functions.
- 94 Service of notices**
- (1) Any notice required by or under this Part to be given to a person in respect of whom a parole order is in force, or any other person, may be given:
- (a) personally, or
 - (b) by posting it, addressed to the person, to the address specified by the person for that purpose.
- (2) Any such notice may be served on a person in custody by giving the notice to the person in whose custody the person is held, and is to be dealt with in accordance with the regulations.
- (3) The means of giving a notice authorised by this section are in addition to any other means that are sufficient for valid service of the notice.

95	Records of decisions	1
(1)	The Children’s Court must record its reasons for the following decisions:	2
(a)	decisions that result in the granting or refusal of parole,	3
(b)	decisions that result in the suspension or revocation of a parole order,	4
(c)	decisions that result in the refusal to revoke a parole order following a submission by the State, the Attorney General, the Minister, the Director of Public Prosecutions or the Secretary under this Part or a recommendation by a juvenile justice officer.	5 6 7 8
(2)	In recording its reasons for a decision that a juvenile offender should or should not be released on parole, the Children’s Court must address the matters required to be taken into account by it under this Part when making the decision.	9 10 11 12
(3)	Copies of any records made under this section are to be supplied to the Minister, the Secretary, the juvenile offender concerned and the Department on request.	13 14 15
96	Decision final	16
	Subject to this Act, a decision by the Children’s Court under this Part is final.	17
97	Regulations	18
	The regulations may make provision for or with respect to the following matters:	19 20
(a)	the form, management, control, administration and supervision of parole orders,	21 22
(b)	the standard conditions to be imposed on parole orders,	23
(c)	the giving of notices to a juvenile offender,	24
(d)	the functions of juvenile justice officers under this Part,	25
(e)	the transfer of supervision of a person who has ceased to be a juvenile offender to whom this Part applies,	26 27
(f)	the notification of parole decisions by or on behalf of the Children’s Court to persons other than juvenile offenders.	28 29
[4]	Sections 38–45	30
	Renumber the sections as sections 98–109.	31
[5]	Schedule 1 Savings and transitional provisions	32
	Insert at the end of the Schedule, with appropriate Part and clause numbering:	33
Part	Provisions consequent on enactment of Parole Legislation Amendment Act 2017	34 35
	Definitions	36
(1)	In this Part:	37
	<i>former parole provisions</i> means the provisions of the <i>Crimes (Administration of Sentences) Act 1999</i> , as applied by section 29 of this Act before its repeal by the 2017 amending Act.	38 39 40
	<i>the 2017 amending Act</i> means the <i>Parole Legislation Amendment Act 2017</i> .	41

(2) Words and expressions used in this Part have the same meaning as in Part 4C of this Act.	1 2
General savings	3
(1) Any act, matter or thing done or omitted to be done under any of the former parole provisions and having any force or effect immediately before the commencement of a provision of Part 4C of this Act that replaces that former parole provision is, on that commencement, taken to have been done or omitted to be done under the provision of Part 4C of this Act.	4 5 6 7 8
(2) This clause does not apply:	9
(a) to the extent that its application is inconsistent with any other provision of this Schedule or a provision of a regulation made under this Schedule, or	10 11 12
(b) to the extent that its application would be inappropriate in a particular case.	13 14
Existing proceedings	15
The former parole provisions continue to apply to or in respect of the following proceedings, if commenced before the repeal of the former parole provisions:	16 17 18
(a) any proceedings before any court relating to the revocation of parole or a breach of parole,	19 20
(b) any proceedings before the Supreme Court relating to the granting of parole.	21 22
Terrorism matters	23
Division 5 of Part 4C, as inserted by the 2017 amending Act, extends to applications for parole orders pending on the commencement of that Division and to parole orders made before that commencement.	24 25 26
Existing parole orders for detention orders of 3 years or less	27
(1) A parole order made by a court in respect of a detention order for a period of 3 years or less, and in force before the commencement of section 44 as inserted by the 2017 amending Act, is taken to be a statutory parole order.	28 29 30
(2) A condition imposed by a court on any such parole order is, for the purposes of this Act, taken to have been imposed by the Children's Court.	31 32
Existing applications for parole	33
Section 46, as inserted by the 2017 amending Act, extends to the consideration of whether to make a parole order directing the release of a juvenile offender in any case in which the Children's Court was considering whether to make an order, but had not made a decision, before the commencement of that section.	34 35 36 37
Non-compliance with existing parole orders	38
(1) The amendments made to this Act by the 2017 amending Act extend to non-compliance with the obligations of a parole order by a juvenile offender that occurred before the commencement of Division 6 of Part 4C of this Act and to parole orders for juvenile offenders in force immediately before that commencement.	39 40 41 42 43
(2) However, subclause (1) does not apply to any non-compliance that was finally dealt with under the former parole provisions before that commencement.	44 45

Schedule 3	Amendment of other Acts consequential on amendments to Crimes (Administration of Sentences) Act 1999	1
		2
		3
3.1	Crimes (Interstate Transfer of Community Based Sentences) Act 2004 No 72	4
		5
	Section 5 Definitions	6
	Omit the definition of <i>parole order</i> . Insert instead:	7
	<i>parole order</i> means an order in force under section 138, 141, 149, 150, 154A, 158 or 160 of the Crimes (Administration of Sentences) Act 1999.	8
		9
3.2	Crimes (Sentencing Procedure) Act 1999 No 92	10
[1]	Section 50 Making of parole orders by court	11
	Omit the section.	12
[2]	Section 51 Conditions on parole orders	13
	Omit the section.	14
[3]	Section 51A Conditions of parole as to non-association and place restriction	15
	Omit the section.	16
[4]	Section 51B Certain information not to be published or broadcast	17
	Omit the section.	18
3.3	Drug Court Act 1998 No 150	19
[1]	Sections 7A (4), 7B (5) and 7C (5)	20
	Omit “, 50, 51 and 51A” wherever occurring.	21
[2]	Sections 18D (2) (a) and 18G (b)	22
	Omit “parole order made under section 50 of the <i>Crimes (Sentencing Procedure) Act 1999</i> ” wherever occurring.	23
		24
	Insert instead “statutory parole order under section 158 of the <i>Crimes (Administration of Sentences) Act 1999</i> ”.	25
		26

Schedule 4	Amendment of other Acts consequential on amendments to Children (Detention Centres) Act 1987	1
		2
		3
4.1	Children (Criminal Proceedings) Act 1987 No 55	4
	Section 15A Publishing and broadcasting of names prohibited	5
	Insert after section 15A (6):	6
	(6A) A reference in this Division to criminal proceedings includes a reference to a hearing under Part 4C of the <i>Children (Detention Centres) Act 1987</i> .	7
		8
4.2	Children’s Court Act 1987 No 53	9
	Section 23 Rules	10
	Insert “, Part 4C of the <i>Children (Detention Centres) Act 1987</i> ” after “this Act” wherever occurring in section 23 (1).	11
		12