

**PRISONS (SERIOUS OFFENDERS REVIEW BOARD)  
AMENDMENT BILL 1989**

NEW SOUTH WALES



**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

This Bill is cognate with the Crimes (Life Sentences) Amendment Bill 1989.

The objects of this Bill are:

- (a) to repeal section 463 of the Crimes Act 1900 which authorises (on the recommendation of the Release on Licence Board) the release on licence of prisoners serving life and other sentences; and
- (b) to constitute the Serious Offenders Review Board, to replace the Release on Licence Board, and to provide for its membership and general procedure; and
- (c) to specify the functions of the Board, including a power to revoke or vary licences that were granted under section 463 of the Crimes Act 1900, and other matters relating to reports on and the management of prisoners serving life sentences and other serious offenders; and
- (d) to specify the procedures that apply in respect of decisions of the Board to revoke or vary licences, particularly a licensee's right to make representations and an appeal to the Court of Criminal Appeal in certain circumstances; and
- (e) to amend the Defamation Act 1974 to create the defence of absolute privilege against defamation proceedings arising out of publications in connection with proceedings of the Board.

---

**Clause 1 specifies the short title of the proposed Act.**

**Clause 2 provides that the proposed Act is to commence on a day or days to be appointed by proclamation.**

## *Prisons (Serious Offenders Review Board) Amendment 1989*

---

Clause 3 is a formal provision that gives effect to the Schedule amending the Prisons Act 1952.

Clause 4 is a formal provision that gives effect to the Schedule amending the Defamation Act 1974.

Clause 5 repeals section 463 of the Crimes Act 1900 and the Eighth Schedule to that Act.

### **SCHEDULE 1 - AMENDMENT OF PRISONS ACT 1952**

Schedule 1 (1) substitutes the definition of "Board" so that it refers to the Serious Offenders Review Board.

Schedule 1 (2) makes provision for the Serious Offenders Review Board by substituting Part 10. Division 1 of the substituted Part contains the following provisions:

Proposed section 59 constitutes the Serious Offenders Review Board (formerly the Release on Licence Board).

Proposed section 60 provides that the Board is to consist of 10 members and specifies the necessary qualifications for a member.

Proposed section 61 sets out the functions of the Board. These are the revocation or variation of licences that have been granted under section 463 of the Crimes Act 1900, the preparation of reports for the Supreme Court in respect of determinations of minimum terms and additional terms for existing life sentences, the preparation of reports to the Offenders Review Board, and certain management functions in relation to prisoners serving life sentences and other serious offenders.

Proposed section 62 gives effect to proposed Schedule 5, which relates to the members and procedure of the Board.

Division 2 of the substituted Part contains the following provisions:

Proposed section 63 preserves any licence to be at large that was granted under section 463 of the Crimes Act 1900 before the repeal of that section and applies the Division to any such licence.

Proposed section 64 provides the Board with the power to revoke or vary an existing licence. If a licence is revoked the person released on licence is to be returned to gaol. The procedure for the issue of warrants and for arrest in connection with such a revocation is retained.

Proposed section 65 provides that a decision by the Board to revoke or vary a licence can only be made if the Chairperson or Deputy Chairperson of the Board attends the meeting when the decision is made and supports the decision.

Proposed section 66 enables the Board, when it is considering whether to revoke or vary a licence, to review the matters considered when the licence was granted and to take into account the licensee's conduct while at large, including any breach of the conditions of the licence, and other matters that the Board considers relevant.

*Prisons (Serious Offenders Review Board) Amendment 1989*

---

Proposed section 67 provides that the Board must notify the licensee that it is to consider making a decision to revoke or vary the licence.

Proposed section 68 requires the Board to notify the licensee in writing if a decision to revoke or vary the licence is made. The notice is to give the licensee the opportunity of a hearing for the purpose of reconsideration of the Board's decision. Copies of the documents used by the Board in making its decision are to be provided. A licensee who advises the Board in the prescribed manner of his or her intention to make representations is entitled to do so.

Proposed section 69 enables the Board, when there is reasonable cause to do so, to revoke or vary a licence without notifying the licensee.

Proposed section 70 prescribes the procedure for serving a notice on the licensee.

Proposed section 71 provides a licensee with a right to apply to the Court of Criminal Appeal for a direction by that Court that the Board's decision to revoke or vary his or her licence was based on false, misleading or irrelevant information.

Proposed section 72 provides that a person returned to gaol following revocation of his or her licence may apply for a determination of a minimum term and an additional term for the life sentence under section 13A of the Sentencing Act 1989.

Schedule 1 (3) substitutes Schedule 5 to the Act. The new Schedule contains provisions relating to the members and procedure of the Serious Offenders Review Board. Proposed clauses 1-17 contain provisions that are generally the same as the provisions that applied to the former Release on Licence Board. The Schedule also contains the following clauses:

Proposed clause 18 enables the Chairperson or Deputy Chairperson to summon a person to appear before the Board to give evidence or to produce documents.

Proposed clause 19 enables the Chairperson or Deputy Chairperson to require a person appearing before the Board to answer questions put to the person.

Proposed clause 20 provides for offences in relation to procedure at meetings. It is an offence (for example) to refuse to comply with a summons to appear or to produce documents, to produce false or misleading documents or to make a false or misleading statement.

Proposed clause 21 provides that a person making submissions to the Board may be legally represented at a meeting as well as being entitled to call and examine any witness (including those called by the Board).

Proposed clause 22 provides for the payment of allowances to witnesses called before the Board.

Proposed clause 23 requires the Board to make a record of the proceedings at a meeting.

Schedule 1 (4) enacts savings and transitional provisions relating to the former Release on Licence Board.

*Prisons (Serious Offenders Review Board) Amendment 1989*

---

**SCHEDULE 2 - AMENDMENT OF DEFAMATION ACT 1974**

Schedule 2 creates a defence of absolute privilege against defamation proceedings arising out of publications in connection with the Serious Offenders Review Board under the Prisons Act 1952. The Schedule retains the existing defence for proceedings of the Offenders Review Board under the Sentencing Act 1989.

---