

# Justice Legislation Amendment Act (No 2) 2019 No 20

[2019-20]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

### Notes—

- **Note**

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### Authorisation

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# Justice Legislation Amendment Act (No 2) 2019 No 20



New South Wales

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# Justice Legislation Amendment Act (No 2) 2019 No 20



New South Wales

An Act to amend various Acts and regulations relating to courts, crimes and other Communities and Justice portfolio matters.

## 1 Name of Act

This Act is the *Justice Legislation Amendment Act (No 2) 2019*.

## 2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by this section.
- (2) Schedule 1.1, 1.10[15], 1.11, 1.12, 1.15, 1.21, 1.24 and 1.25 commence on a day or days to be appointed by proclamation.

## 3 Explanatory notes

The matter appearing under the heading “Explanatory note” in Schedule 1 does not form part of this Act.

## Schedule 1 Amendments

### 1.1 Bail Act 2013 No 26

#### [1] Section 43A

Insert after section 43—

#### **43A Police power to make bail decision—witnesses**

- (1) A police officer may make a bail decision in respect of a person referred to in section 229 or 308 of the *Criminal Procedure Act 1986* if the person is unable to be brought before a court, authorised justice or authorised officer immediately after the person’s arrest.

- (2) Subject to subsection (3), this Act applies to the person as if—
  - (a) the person were accused of an offence, and
  - (b) the proceedings in which the person is required to be examined or produce a document or thing were proceedings for that offence.
- (3) In making a bail decision under this section, a police officer may not impose any bail conditions under this Act.
- (4) Bail may be granted for the period between—
  - (a) the police officer making a bail decision for the purposes of this section, and
  - (b) the person being examined as a witness or producing the document or thing.

**Note—**

See sections 230 and 308 of the *Criminal Procedure Act 1986* for provisions relating to bail decisions made by courts and authorised officers.

**[2] Section 77 Police officers may take actions to enforce bail requirements**

Omit “A police officer” from section 77(1).

Insert instead “Unless section 77A applies, a police officer”.

**[3] Section 77A**

Insert after section 77—

**77A Courts may take action to enforce bail requirement to appear**

- (1) This section applies where bail has been granted in relation to a person who has been sentenced to imprisonment and the execution of the sentence has been stayed under any of the following provisions—
  - (a) section 63(2)(c) of the *Crimes (Appeal and Review) Act 2001*,
  - (b) section 17C(2)(a) of the *Crimes (Sentencing Procedure) Act 1999*,
  - (c) section 69C(2)(a) of the *Supreme Court Act 1970*.
- (2) If the person has failed to appear before a court in accordance with the person’s bail acknowledgment, a court may issue a warrant to apprehend the person and bring the person before a court specified in the warrant.

**Explanatory note**

Item [1] of the proposed amendments enables a police officer to make a bail decision about a witness who is arrested under a warrant for failing to appear before a court or failing to comply with a subpoena if the witness is unable to be brought before a

court, authorised justice or authorised officer immediately after the witness is arrested.

Items [2] and [3] enable a court (instead of a police officer) to enforce a bail requirement to appear where bail has been granted in relation to a person who has been sentenced to imprisonment and the execution of the sentence has been stayed. The court may issue a bench warrant to apprehend the person and bring the person before the court. Currently, police officers may take action to enforce bail requirements under the *Bail Act 2013*.

## **1.2-1.9**

(Repealed)

## **1.10 Criminal Procedure Act 1986 No 209**

**[1]-[14] (Repealed)**

**[15] Schedule 1, Table 1**

Insert after clause 30B—

### **30C Offences involving supply of prohibited drugs on an ongoing basis**

An offence under section 25A(1) of the *Drug Misuse and Trafficking Act 1985*.

#### **Explanatory note**

Item [2] of the proposed amendments provides that female genital mutilation offences under the *Crimes Act 1900* are prescribed sexual offences. Items [1], [8] and [9] make consequential amendments.

Item [3] provides that the offence of concealing a serious indictable offence under the *Crimes Act 1900* is a prescribed sexual offence if the concealed offence is a prescribed sexual offence. Item [10] makes a consequential amendment.

Item [4] removes a requirement for a Magistrate in committal proceedings for indictable offences to give the accused person an oral explanation of the committal process if the accused person is legally represented in those proceedings. A written explanation is still required to be given. Item [5] makes a consequential amendment.

Item [6] inserts a note to clarify that the first return date for a court attendance notice in committal proceedings may be before a registrar of the court (rather than a Magistrate) if the registrar is exercising certain functions of the court pursuant to rules of the court or exercising the functions of an authorised justice under the *Bail Act 2013*. In the section to which the note relates, the first return date marks the start of a 6-month period within which a charge certificate must be filed and served on the accused in the committal proceedings.

Items [7] and [14] insert notes providing cross-references to a proposed new police power (see section 43A as inserted into the *Bail Act 2013* by the proposed Act), which enables police officers to make bail decisions in respect of witnesses who are arrested after failing to appear in court or failing to comply with a subpoena. Courts and authorised officers currently have similar powers under the *Criminal Procedure Act 1986*.

Item [11] inserts a note regarding proposed Part 3B of the *Witness Protection Act 1995*, which is inserted by the proposed Act.

Item [12] provides for a suitable person to consent to the disclosure or the adducing of evidence disclosing a protected confidence in proceedings if the principal protected confider is under 14 years of age. Item [13] provides for the grounds on which the court may determine whether a person is a suitable person.

Item [15] provides that the indictable offence of supplying a prohibited drug on an ongoing basis under the *Drug Misuse and Trafficking Act 1985* is to be dealt with summarily unless the prosecutor or person charged elects to have the offence dealt with on indictment.

## 1.11 Firearms Act 1996 No 46

### [1] Section 4 Definitions

Insert in alphabetical order in section 4(1)—

**community correction order** has the same meaning as in the *Crimes (Sentencing Procedure) Act 1999*.

**conditional release order** has the same meaning as in the *Crimes (Sentencing Procedure) Act 1999*.

### [2] Sections 11(5)(d) and 29(3)(d)

Omit the paragraphs. Insert instead—

- (d) is subject to one of the following in relation to an offence prescribed by the regulations—
- (i) a good behaviour bond, whether entered into in New South Wales or elsewhere,
  - (ii) a community correction order imposed in New South Wales,
  - (iii) a conditional release order imposed in New South Wales, or

### [3] Section 44A Prescribed persons not to be involved in firearms dealing business

Omit section 44A(3)(e). Insert instead—

- (e) is subject to one of the following in relation to an offence prescribed by the regulations—
- (i) a good behaviour bond, whether entered into in New South Wales or elsewhere,
  - (ii) a community correction order imposed in New South Wales,
  - (iii) a conditional release order imposed in New South Wales, or

### [4] Schedule 3 Savings and transitional provisions

Insert at the end of the Schedule, with appropriate Part and clause numbering—

## Part Provisions consequent on enactment of **Justice**

## Legislation Amendment Act (No 2) 2019

### Application of eligibility amendments

- (1) This clause applies to the amendments made to sections 11(5), 29(3) and 44A of this Act and clauses 5, 42 and 129 of the *Firearms Regulation 2017* by the *Justice Legislation Amendment Act (No 2) 2019* (the **eligibility amendments**).
- (2) Any licence or permit that would have been validly issued or not issued during the transitional period if the eligibility amendments had been in force at the relevant time is taken to have been validly issued or not issued (as the case requires).
- (3) Subclause (2) does not affect the validity of any decision made during the transitional period to issue or refuse to issue a licence or permit if the decision would have been valid even without the eligibility amendments.
- (4) To avoid doubt, the eligibility amendments extend to an application for a licence or permit made, but not finally determined, before the commencement of this clause.
- (5) In this clause—

**transitional period** means the period commencing on 24 September 2018 and ending immediately before the day this clause commences.

#### Note—

The *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017* commenced on 24 September 2018. It included transitional provisions that converted good behaviour bonds into community correction orders and conditional release orders.

#### Explanatory note

Items [2] and [3] of the proposed amendments update references to good behaviour bonds as a consequence of changes to community-based sentencing options made by the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017* to include community corrections orders and conditional release orders. The effect of the amendments is that a person who is subject to a community correction order or conditional release order imposed in New South Wales in respect of a prescribed offence is not eligible for a firearms licence or permit and cannot be involved in a firearms dealing business. Items [2] and [3] also make it clear that a person subject to a good behaviour bond entered into outside of New South Wales in respect of a prescribed offence continues to be ineligible for a licence or permit and cannot be involved in a firearms dealing business. Item [1] makes a consequential amendment.

Item [4] provides that certain licences and permits issued between 24 September 2018 and the commencement of the proposed amendments are taken to be valid. A pending application for a licence or permit is to be dealt with under the amended provisions.

### 1.12 Firearms Regulation 2017

#### [1] Clauses 5(1A) and 42(1A)

Insert after clauses 5(1) and 42(1), respectively—

(1A) In subclause (1)—

- (a) a reference to a good behaviour bond includes a reference to a community correction order or a conditional release order, but only if it was imposed in NSW, and
- (b) a reference to a term of imprisonment (whether or not suspended) includes a reference to an intensive correction order, but only if it was imposed in NSW.

**[2] Clauses 5(2) and 42(2)**

Insert “in respect of a person subject to a good behaviour bond” after “are prescribed”, wherever occurring.

**[3] Clause 5 Offences that disqualify applicants**

Insert after clause 5(2)—

(3) **Persons subject to community correction orders or conditional release orders** For the purposes of sections 11(5)(d) and 29(3)(d) of the Act, the following offences are prescribed in respect of a person subject to a community correction order or a conditional release order—

- (a) an offence referred to in subclause (1)(a), (c), (e) or (g)-(k),
- (b) an offence in respect of a prohibited plant or prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*, or a prescribed restricted substance within the meaning of the *Poisons and Therapeutic Goods Regulation 2008*,
- (c) an offence involving any of the following—
  - (i) the infliction of actual bodily harm on a person,
  - (ii) kidnapping or abduction,
  - (iii) stalking or intimidation,
  - (iv) fraud, dishonesty or stealing,
- (d) an offence of attempting to commit, threatening to commit or conspiring to commit an offence referred to in paragraph (c)(i)-(iii).

**[4] Clause 42 Offences that prevent persons from being involved in firearms dealing business**

Insert after clause 42(2)—



- (3) **Persons subject to community correction orders or conditional release orders** For the purposes of section 44A(3)(e) of the Act, the following offences are prescribed in respect of a person subject to a community correction order or a conditional release order—
- (a) an offence referred to in subclause (1)(a), (c), (e) or (g)–(k),
  - (b) an offence in respect of a prohibited plant or prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*, or a prescribed restricted substance within the meaning of the *Poisons and Therapeutic Goods Regulation 2008*,
  - (c) an offence involving any of the following—
    - (i) the infliction of actual bodily harm on a person,
    - (ii) kidnapping or abduction,
    - (iii) stalking or intimidation,
    - (iv) fraud, dishonesty or stealing,
  - (d) an offence of attempting to commit, threatening to commit or conspiring to commit an offence referred to in paragraph (c)(i)–(iii).

**[5] Clause 129 Requirements relating to exemption for unlicensed persons shooting on approved ranges and for persons undertaking firearms safety training courses**

Insert in alphabetical order in clause 129(11)—

***good behaviour bond*** includes a reference to a community correction order or a conditional release order, but only if it was imposed in NSW.

**Explanatory note**

Item [1] of the proposed amendments provides that a reference to a good behaviour bond in clauses 5(1) and 42(1) of the *Firearms Regulation 2017* includes a reference to a community correction order or a conditional release order. Item [1] also clarifies that a person subject to a term of imprisonment (whether or not suspended) includes a reference to a person subject to an intensive correction order. The effect of the amendment is that a person who, within the previous 10 years, has been subject to a community correction order, conditional release order or intensive correction order imposed in New South Wales in respect of certain offences is not eligible for a firearms licence or permit and cannot be involved in a firearms dealing business.

Items [3] and [4] prescribe certain offences so that a person who is subject to a community correction order or conditional release order imposed in New South Wales for an offence committed in New South Wales is not eligible for a firearms licence or permit and cannot be involved in a firearms dealing business. Item [2] makes a consequential amendment.

Item [5] makes a similar amendment in relation to unlicensed persons using approved shooting ranges and undertaking firearms safety training courses.

## **1.13, 1.14**

(Repealed)

## **1.15 Legal Aid Commission Act 1979 No 78**

### **[1] Section 4 Definitions**

Omit the definition of **private legal practitioner** from section 4(1).

Insert in alphabetical order—

**associate** of a law practice has the same meaning as in the *Legal Profession Uniform Law (NSW)*.

**law practice** has the same meaning as in the *Legal Profession Uniform Law (NSW)*.

### **[2] Sections 11(1)(a), 12(d) and (e), 39(1), 56(1AA)(c) and 64(c)**

Omit “private legal practitioners” wherever occurring. Insert instead “law practices”.

### **[3] Section 11 Provision of legal aid**

Omit “those persons are private legal practitioners” from section 11(2).

Insert instead “the services are provided by a law practice”.

### **[4] Sections 11(3), 27(3)(b) and (c), 29(2)(c), 34C, 38A(1), 40(1) and (1A), 41(1), 43A(1) and (2)-(4), 43B(1) and (2), 44(1), (3) and (4), 60(2), 63(3)(a) and 69(d)**

Omit “private legal practitioner” wherever occurring. Insert instead “law practice”.

### **[5] Section 12 Duties to be observed in the provision of legal aid**

Omit section 12(f). Insert instead—

(f) ensure, if work is assigned to a law practice, that the assignment is made in accordance with procedures determined from time to time by the Commission in accordance with Division 2 of Part 3,

### **[6] Section 24 Performance of functions of solicitor**

Omit “a private” wherever occurring in section 24(2)(c). Insert instead “an Australian”.

### **[7] Sections 25(1) and 34(7)**

Omit “a private legal practitioner” wherever occurring. Insert instead “from a law practice”.

**[8] Section 25 Solicitor-client relationship**

Omit “a private legal practitioner to act as solicitor for” from section 25(1A).

Insert instead “a law practice to act on behalf of”.

**[9] Section 27 Immunity**

Omit “a private legal practitioner” from section 27(2).

Insert instead “a law practice (including an associate of a law practice)”.

**[10] Section 27(3)(a)**

Omit the paragraph. Insert instead—

(a) the engagement of a law practice for the provision of legal aid, or

**[11] Sections 34C, 43(1) and 43A(1A)**

Omit “the legal practitioner” wherever occurring. Insert instead “the law practice”.

**[12] Sections 40(1A), 43A(1), (2) and (3), 43B(2) and 44(4)(b)**

Omit “the practitioner” wherever occurring. Insert instead “the law practice”.

**[13] Section 43A Payment of costs to law practices**

Omit “as a member of a panel established under Division 2 of Part 3” from section 43A(1)(b)(iv).

**[14] Section 43A(5)**

Insert after section 43A(4)—

(5) A reference to a law practice in this section includes a reference to an associate of a law practice.

**[15] Section 43B Payment of money by certain law practices**

Insert after section 43B(3)—

(4) A reference to a law practice in this section includes a reference to an associate of a law practice.

**[16] Part 3, Division 2**

Omit the Division. Insert instead—

## **Division 2 Assignment of work to law practices**

### **49 Assignment of work**

- (1) The Commission is to determine the procedure for engaging law practices for the provision of legal aid, which may relate to, without limitation—
  - (a) the eligibility criteria of law practices, or
  - (b) the matters for which a law practice may be engaged, which may include (but are not limited to)—
    - (i) matters generally, or matters of a particular type or class, or
    - (ii) matters in a specified jurisdiction, or
    - (iii) matters in a specified area of the State, or
  - (c) the manner in which work is to be distributed to law practices, having regard to the interests of the legally assisted person or any choice expressed by the legally assisted person for a particular law practice.
- (2) A law practice that provides community legal services is not eligible to be engaged by the Commission for the provision of legal aid, unless the Commission otherwise determines.
- (3) A law practice that has been engaged by the Commission for the provision of legal aid does not have an entitlement to be given work.

### **50 Audits**

- (1) The Commission may, in respect of any work assigned by the Commission to a law practice, carry out an audit of the law practice, or cause an audit to be carried out, in accordance with arrangements made between the Commission and the law practice when the law practice was engaged by the Commission for the provision of legal aid.
- (2) For the purposes of an audit under subsection (1), the Commission, or a person appointed by the Commission, may—
  - (a) require a law practice to produce for inspection any files, records or documents relating to an assigned matter, and
  - (b) make copies of, or take extracts or notes from, any such files, records or documents, and
  - (c) require a law practice to provide the Commission, or person, with such assistance and facilities as may be reasonably necessary to enable the Commission, or person, to exercise the functions under this section, and

- (d) require a law practice to give the Commission, or person, such other information as is reasonably necessary for the purposes of the audit.
- (3) The relationship between a law practice and a legally assisted person does not operate to prevent or limit an audit conducted under this section.
- (4) Except in proceedings under Chapter 5 of the *Legal Profession Uniform Law (NSW)*, the production of a file, record, document or statement, or the giving of information, under this section does not subsequently affect any legal professional privilege to which, but for subsection (3), the file, record, document, statement or information would be subject.
- (5) The regulations may make provision for or with respect to audits under this section.
- (6) Nothing in section 12(i) or 25 prevents or restricts the carrying out of an audit under this section.

**[17] Schedule 8 Savings, transitional and other provisions**

Insert at the end of the Schedule, with appropriate Part and clause numbering—

**Part Provision consequent on enactment of Justice  
Legislation Amendment Act (No 2) 2019**

**Existing service provision agreements**

- (1) A service provision agreement between the Commission and a private legal practitioner under section 52, in force immediately before the repeal of that section by the amending Act, remains in force until whichever of the following occurs first or is the earliest—
  - (a) the agreement terminates in accordance with the terms of the agreement,
  - (b) the Commission notifies the practitioner of the termination of the service provision agreement,
  - (c) the Commission engages the practitioner, or the law practice of which the practitioner is an associate, to provide legal aid in accordance with procedures determined under Division 2 of Part 3 of this Act, as substituted by the amending Act,
  - (d) 1 October 2021.
- (2) Compensation is not payable by the Commission for any loss suffered by a person because of the operation of this clause.

(3) In this clause—

**amending Act** means the *Justice Legislation Amendment Act (No 2) 2019*.

**Explanatory note**

Items [5] and [16] of the proposed amendments enable the Legal Aid Commission of New South Wales (the **Commission**) to engage law practices (which include sole practitioners and law firms) for the provision of legal aid, instead of engaging private legal practitioners. The proposed amendments remove the need for the Commission to establish panels in order to engage law practices. Item [16] also enables the Commission to audit a law practice and require a law practice to produce documents for the purposes of an audit. Items [1]–[4] and [6]–[15] make consequential amendments. Item [17] inserts a transitional provision.

## 1.16-1.20

(Repealed)

## 1.21 Sheriff Act 2005 No 6

### [1] Section 7B

Insert after section 7A—

#### **7B Powers when executing certain arrest warrants**

- (1) A sheriff's officer executing an arrest warrant issued by a court under section 97 of the *Civil Procedure Act 2005* may require a person named in the warrant to submit to a personal search if the officer believes on reasonable grounds that it is prudent to do so to ascertain whether the person is carrying anything that would present a danger to a person.
- (2) Before requiring a person to submit to a personal search under this section, the sheriff's officer must show the person the arrest warrant and the officer's certificate of identification referred to in section 13.
- (3) A sheriff's officer may seize and detain a thing found in a personal search under this section that the officer believes on reasonable grounds would present a danger to a person.
- (4) A sheriff's officer who seizes any thing under subsection (3) must—
  - (a) if the officer is satisfied after examining the thing that its retention as evidence is not required and it is not a danger to a person—return the thing to the person from whom it was confiscated, or
  - (b) if the officer is not so satisfied—deliver the thing to a police officer as soon as is reasonably practicable.
- (5) A personal search of a person conducted under this section must, as far as is reasonably practicable in the circumstances, comply with the following

requirements—

- (a) the sheriff's officer must inform the person to be searched of the following matters—
    - (i) whether the person will be required to remove clothing during the search,
    - (ii) why it is necessary to remove the clothing,
  - (b) the sheriff's officer must ask for the person's co-operation,
  - (c) a personal search must be conducted—
    - (i) in a way that provides reasonable privacy for the person searched, and
    - (ii) as quickly as is reasonably practicable,
  - (d) the sheriff's officer must conduct the least invasive kind of search practicable in the circumstances,
  - (e) a personal search of a person must be conducted by a sheriff's officer of the same sex as the person or, if a sheriff's officer of that sex is unavailable, by another person of that sex at the direction of a sheriff's officer.
- (6) If a sheriff's officer makes a requirement of a person under subsection (1) and the person fails immediately to comply with that requirement, the sheriff's officer may again make the requirement and, in that case, must warn the person that a failure immediately to comply with the requirement may be an offence.
- (7) If a sheriff's officer makes a requirement of a person in accordance with subsection (6), the person must immediately comply with the requirement.
- Maximum penalty—5 penalty units.

- (8) In this section—

***personal search*** has the same meaning as in the [Court Security Act 2005](#).

## [2] Section 13A

Insert before section 14—

### **13A Nature of proceedings for offences**

Proceedings for an offence under this Act or the regulations may be dealt with summarily before the Local Court.

#### **Explanatory note**

Item [1] of the proposed amendments permits a sheriff's officer to search a person named in a warrant issued by a court under section 97 of the [Civil Procedure Act 2005](#) if the officer believes on reasonable grounds it is prudent to do so to ascertain

whether the person is carrying anything that would present a danger to a person. A sheriff's officer may seize and detain a thing found in the search that the officer believes would present a danger to a person. Item [2] makes a consequential amendment.

## **1.22, 1.23**

(Repealed)

## **1.24 Weapons Prohibition Act 1998 No 127**

### **[1] Section 4 Definitions**

Insert in alphabetical order in section 4(1)—

**community correction order** has the same meaning as in the *Crimes (Sentencing Procedure) Act 1999*.

**conditional release order** has the same meaning as in the *Crimes (Sentencing Procedure) Act 1999*.

### **[2] Section 10 Issuing of permit**

Omit section 10(3)(c). Insert instead—

(c) is subject to one of the following in relation to an offence prescribed by the regulations—

- (i) a good behaviour bond, whether entered into in New South Wales or elsewhere,
- (ii) a community correction order imposed in New South Wales,
- (iii) a conditional release order imposed in New South Wales, or

### **[3] Schedule 2 Savings and transitional provisions**

Insert at the end of the Schedule, with appropriate Part and clause numbering—

## **Part Provisions consequent on enactment of Justice Legislation Amendment Act (No 2) 2019**

### **Application of eligibility amendments**

- (1) This clause applies to the amendments made to section 10(3) of this Act and clause 5 of the *Weapons Prohibition Regulation 2017* by the *Justice Legislation Amendment Act (No 2) 2019* (the **eligibility amendments**).
- (2) Any permit that would have been validly issued or not issued during the transitional period if the eligibility amendments had been in force at the relevant



time is taken to have been validly issued or not issued (as the case requires).

- (3) Subclause (2) does not affect the validity of any decision made during the transitional period to issue or refuse to issue a permit if the decision would have been valid even without the eligibility amendments.
- (4) To avoid doubt, the eligibility amendments extend to an application for a permit made, but not finally determined, before the commencement of this clause.
- (5) In this clause—

***transitional period*** means the period commencing on 24 September 2018 and ending immediately before the day this clause commences.

**Note—**

The *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017* commenced on 24 September 2018. It included transitional provisions that converted good behaviour bonds into community correction orders and conditional release orders.

**Explanatory note**

Item [2] of the proposed amendments updates a reference to good behaviour bonds as a consequence of changes to community-based sentencing options made by the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017* to include community correction orders and conditional release orders. The effect of the amendment is that a person who is subject to a community correction order or conditional release order imposed in New South Wales in respect of a prescribed offence is not eligible for a weapons permit. Item [2] also makes it clear that a person subject to a good behaviour bond entered into outside of New South Wales in respect of a prescribed offence continues to be ineligible for a weapons permit. Item [1] makes a consequential amendment.

Item [3] provides that certain permits issued between 24 September 2018 and the commencement of the proposed amendments are taken to be valid. A pending application for a permit is to be dealt with under the amended provisions.

## **1.25 Weapons Prohibition Regulation 2017**

### **[1] Clause 5 Offences that disqualify applicants**

Insert after clause 5(1)—

(1A) In subclause (1)—

- (a) a reference to a good behaviour bond includes a reference to a community correction order or a conditional release order, but only if it was imposed in New South Wales, and
- (b) a reference to a term of imprisonment (whether or not suspended) includes a reference to an intensive correction order, but only if it was imposed in New South Wales.

### **[2] Clause 5(2)**

Insert “in respect of a person subject to a good behaviour bond” after “are prescribed”.

**[3] Clause 5(3)**

Insert after clause 5(2)—

- (3) **Persons subject to community correction orders or conditional release orders** For the purposes of section 10(3)(c) of the Act, the following offences are prescribed in respect of a person subject to a community correction order or a conditional release order—
- (a) an offence referred to in subclause (1)(a), (c), (e) or (g)-(k),
  - (b) an offence in respect of a prohibited plant or prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*, or a prescribed restricted substance within the meaning of the *Poisons and Therapeutic Goods Regulation 2008*,
  - (c) an offence involving any of the following—
    - (i) the infliction of actual bodily harm on a person,
    - (ii) kidnapping or abduction,
    - (iii) stalking or intimidation,
    - (iv) fraud, dishonesty or stealing,
  - (d) an offence of attempting to commit, threatening to commit or conspiring to commit an offence referred to in paragraph (c)(i)-(iii).

**Explanatory note**

Item [1] of the proposed amendments provides that a reference to a good behaviour bond in clause 5(1) of the *Weapons Prohibition Regulation 2017* includes a reference to a community correction order or a conditional release order. Item [1] also clarifies that a person subject to a term of imprisonment (whether or not suspended) includes a reference to a person subject to an intensive correction order. The effect of the amendment is that a person who, within the previous 10 years, has been subject to a community correction order, conditional release order or intensive correction order imposed in New South Wales in respect of certain offences is not eligible for a weapons permit.

Item [3] prescribes certain offences so that a person who is subject to a community correction order or conditional release order imposed in New South Wales for an offence committed in New South Wales is not eligible for a weapons permit. Item [2] makes a consequential amendment.

**1.26-1.28**

(Repealed)