



ANNO TRICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1984

No. 105 of 1984

An Act to amend the Prisons Act, 1936.

[Assented to 20 December 1984]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Prisons Act Amendment Act Short title.
(No. 2), 1984".

(2) The Prisons Act, 1936, is in this Act referred to as "the principal Act".

2. This Act shall come into operation on a day to be fixed by proclamation—Commencement.

3. Section 42i of the principal Act is amended—

(a) by striking out subsection (2) and inserting the following subsections:

Amendment of
s. 42i—
Court shall fix or
extend non-parole
periods.

(2) Where—

(a) a person who is in prison serving a sentence of imprisonment is further sentenced to imprisonment (whether for an offence committed before or after his admission to prison);

and

(b) the total period of imprisonment to which he is liable (taking into account the combined effect of the sentences referred to in paragraph (a)) is one year or more,

the court shall, unless it thinks there is special reason for not doing so, fix a period during which the person shall not be released on parole, or shall extend any existing non-parole period, as the case may require, but the period by which an existing non-parole period is extended shall not exceed the period of the further sentence of imprisonment referred to in paragraph (a).

(2aa) Where—

(a) a person who has been released on parole is sentenced to imprisonment for an offence committed during the period of his release on parole;

and

(b) the total period of imprisonment to which he is liable (taking into account the combined effect of the balance of his existing sentence that he is liable to serve pursuant to section 42nf and the further sentence referred to in paragraph (a)) is one year or more,

the court shall, unless it thinks there is special reason for not doing so, fix a period during which he shall not be released on parole, and the non-parole period so fixed may be greater or less than the period he is liable to serve pursuant to section 42nf;

and

(b) by striking out paragraph (a) from subsection (3).

Amendment of
s. 42n—
Duration of
parole in relation
to prisoners other
than life
prisoners.

4. Section 42n of the principal Act is amended by inserting after the word “cancelled” the passage “or suspended”.

Amendment of
s. 42na—
Duration of
parole in relation
to life prisoners.

5. Section 42na of the principal Act is amended by inserting in subsection (1) after the passage “unless his release is cancelled” the passage “or suspended”.

Insertion of new
s. 42nea.

6. The following section is inserted after section 42ne of the principal Act:

Suspension of
parole while
serving
imprisonment for
offence
committed before
release on parole.

42nea. Where a person who has been released on parole is sentenced to imprisonment for an offence committed before his release on parole or for non-payment of a pecuniary sum—

(a) his parole is suspended for the duration of the imprisonment actually served in prison in pursuance of the subsequent sentence;

and

(b) on his release from prison—

(i) he shall continue on parole in respect of the sentence that was first imposed for the balance of the period of parole remaining as at the date of the commencement of the subsequent sentence;

and

(ii) if released on parole from the subsequent sentence, he shall upon his release also be on parole in respect of that sentence for the period of that parole.

7. Section 42nf of the principal Act is amended by striking out subsection (1) and substituting the following subsections:

(1) Where a person who has been released on parole is sentenced to imprisonment for an offence committed during the period of his release on parole and that sentence is not suspended, he is, subject to this Part, liable to serve in prison the balance of the sentence, or sentences, of imprisonment in respect of which he was on parole, being the balance unexpired as at the day on which the offence was committed.

(1a) Subsection (1) applies notwithstanding that, at the time of conviction of the person, his parole may have expired or been discharged.

Amendment of
s. 42nf—
Automatic
cancellation of
parole upon
further
imprisonment.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor