

Australian Prisons Project

Amendments to Queensland Parole Legislation 1968 – 2009

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Amendments to the Offenders Probation and Parole Act 1959 No 22

Sections 20-38 of the *Offenders Probation and Parole Act 1959* are relevant to parole.¹

<u>Year</u>	<u>Number</u>	<u>Amending Act</u>	<u>Commentary</u>	<u>Category</u>
1968	7	<i>Offenders Probation and Parole Amendment Act 1968</i>	<p>S 20 – Board procedure in the event of member absence</p> <p>S 22 - Board procedure in the event of member absence</p> <p>S 24 – Changes in terminology.</p> <p>s 30 –Removes requirement to report on those held in strict custody under her Majesty’s pleasure</p> <p>s 32 – Specifies that parole order conditions may include intra-state residence requirement</p> <p>s 32A – Conviction for breach of parole conditions</p> <p>s 33 – Specifies that a person sentenced to life who is released by the Governor on parole is subject to supervision unless the Governor determines otherwise and that they will comply with such requirements as the Governor deems necessary</p> <p>s 34 – Consequential</p> <p>s 35 – Allows for suspension of parole orders.</p> <p>ss 36A-37A – New provisions regarding parole from other states and miscellaneous</p>	

¹ A definitive list of amendments to this Act was not available to the researchers. The three amending acts listed below were repealed at the same time as the Principal Act. Furthermore, the three amending acts have the following long titles:

- *Offenders Probation and Parole Amendment Act 1968*, An Act to amend the *Offenders Probation and Parole Act 1959*.
- *The Criminal Code and the Offenders Probation and Parole Act Amendment Act 1971*, An Act to amend the *Offenders Probation and Parole Act 1959-68*
- *Offenders Probation and Parole Act 1974*, An Act to amend the *Offenders Probation and Parole Act 1959-71*

The second reading speech for the *Offenders Probation and Parole Act 1980*, which replaced the *Offenders Probation and Parole Act 1959*, refers to the *Offenders Probation and Parole Act 1959-1974*. This suggests that the table below fully covers all amendments to the Principal Act.

1971	41	<i>The Criminal Code and the Offenders Probation and Parole Act Amendment Act 1971</i>	<p>S 32 – Provisos regarding when a person may be released on parole are reworded under the amendments. Sentencing judge may also set a non-parole period. Parole Board may release a prisoner at any time where there are special circumstances. Allows the Board to cancel, amend or vary a parole order prior to a prisoner being released.</p> <p>S 35 – Under s 35(4), when a prisoner’s parole order is cancelled, the time spent on parole does not count as time served. The insertion of (4A) allows the Board to direct that the prisoner serve only part of their unexpired term.</p>	Parole Eligibility Parole Board
1974	28	<i>Offenders Probation and Parole Act 1978</i>	Various amendments regarding probation orders.	
1980	17	<i>Offenders Probation and Parole Act 1980</i>	Wholly Repealed	

Amendments to the Offenders Probation and Parole Act 1980 No 17

The *Offenders Probation and Parole Act 1980* governed the administration of parole from 1980 until 1988. The following provisions of the Act are relevant to parole: Part IV – Parole Board and Parole Orders – ss 36-68. Amendments to these provisions are tabled below.²

<u>Year</u>	<u>Number</u>	<u>Amending Act</u>	<u>Commentary</u>	<u>Category</u>
1983	4	<i>Offenders Probation and</i>	S 53 – Insertion of s 53(3)(c) specifies that when a court sentences an	

² A definite list of amendments was not available to the researchers. However in all the legislative references the Principal Act is referred to either by its original name or by the name *Offenders Probation and Parole Act 1980-1983*. This suggests that the only amendment to the principal Act is the 1983 amendment listed below.

		<i>Parole Amendment Act 1983</i>	offender to an additional term it may set a non-parole period, but that the non-parole period must be long enough so that the prisoner is not released any earlier than they would have been if they had not been sentenced to the additional term. Also the insertion of s 53(6) specifies that a copy of the order is to be sent to the prisoner and various others. S 54 – Procedure S 60 – Procedure relating to the issue of warrants S 66A – Procedure relating to the issue of warrants.	
1988	89	<i>Corrective Services Act 1988</i>	Wholly Repealed	

Amendments to the Corrective Services Act 1988 No 89

The *Corrective Services Act 1988* governed the administration of parole from 1988 until 2000. The following provisions of the act are relevant to parole

- Part 3 – Community Corrections Boards – sections 131-162
- Part 4 – Parole – sections 163-196.

Amendments to these provisions are tabled below. Please note: Acts that only amend provisions other than those listed above have not been considered below.

<u>Year</u>	<u>Number</u>	<u>Amending Act</u>	<u>Commentary</u>	<u>Category</u>
1990	38	<i>Corrective Services Amendment Act 1990</i>	<i>Corrective Services Amendment Act 1990</i> – amends the <i>Corrective Services Act 1988</i> : S 132 – Creates the positions of president and deputy president. This effectively increases the number of members who are legal officers (retired judges / experienced barristers and solicitors) by one. Also increases membership by adding the head of the department that	Board Composition Board Powers Parole Eligibility

		<p>administers the Act as an <i>ex officio</i> member.</p> <p>Increases the number of community members from three to five. Maintains the requirement that at least one is to be an Aborigine or Torres Strait Islander and at least one is to be a medical practitioner or a psychologist. The minimum number of female Board members is increased from one to two.</p> <p>S 134 – The rule disqualifying employees of the Commission from Board membership is moved from s 134 to s 133.</p> <p>S 137 – Procedure. No substantive change.</p> <p>S 138 – Changes in terminology.</p> <p>S 144 – Amends the composition of regional Parole Boards. The new membership arrangements are similar to the amended arrangements of the Queensland Parole Board under s 132.</p> <p>S 147 – Amendment to automatic disqualification rules that is analogous to the amendment of s 134S 136 – procedure. No substantive change</p> <p>Ss 149-152, 154, 157, 159 – procedure.</p> <p>S 165 – Extends the Queensland Board’s release powers to prisoners serving life sentences</p> <p>S 166 – Amendment says that prisoners who are serving life terms may only be released after 13 years. Also removes references the Governor-in-Council in the provision and lifts the ban on granting parole to prisoners serving sentences shorter than 6 months.</p> <p>Ss 170-171 – Changes in terminology.</p> <p>S 172 – Previously a prisoner could not re-apply for parole within 6 months of the application being refused. Now a prisoner is banned from reapplying within a term set by the Board under s 174, which must be no greater than 6 months.</p> <p>S 174 – See above for the effect of the amendment.</p> <p>S 182 – Removes the power of the Governor-in-Council to release a prisoner serving life on parole.</p> <p>S 185 – Deletion of sub-s (4) gives the Queensland Parole Board the</p>	
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			power to cancel, suspend or amend parole orders of persons paroled from life imprisonment without first obtaining approval from the Governor	
1992	44	<i>Juvenile Justice Act</i>	S 162 – Extends application of the Act to children.	
1992	48	<i>Penalties and Sentences Act 1992</i>	<p>S 165 – Replaces this section. Queensland Board now had jurisdiction over prisoners serving all terms of imprisonment. The new provision retains the jurisdiction restriction on regional Boards; they can only parole prisoners serving a term of imprisonment of 5 years or less. Previously s 165 referred to habitual criminals and those detained at her Majesty’s pleasure.</p> <p>S 166 – Amendments to sub-ss 166(1) and (2) consequent on the amendments to s 165. S 166(3) is omitted under the amendments, and the court’s power to set a non-parole period is moved to s 157 of the <i>Penalties and Sentences Act 1992</i>.</p> <p>S 175 – Consequent rewording. Parole Board retains its power to determine the duration of supervision for most parolees.</p>	Parole Eligibility
1993	36	<i>Penalties and Sentences Legislation Amendment Act 1993</i>	S 187 – Consequential amendment. Parole is now no longer automatically cancelled where the parolee is sentenced to a term of imprisonment if that term is suspended or if the term is to be served through an intensive correction order.	
1994	87	<i>Statute Law (Miscellaneous Provisions) (No. 2)</i>	Miscellaneous revisions	
1997	4	<i>Penalties and Sentences (Serious Violent Offences) Amendment Act 1997</i>	<p>S 86 – Applies to home detention only</p> <p>S 166 – Previously the non-parole period for every prisoner was half the head sentence except for life term prisoners whose non-parole period was 13 years. Now the general non-parole period is still half the head sentence. Now prisoners serving life-imprisonment under s 305 of the <i>Penalties and Sentences Act 1992</i> for murder have a minimum non-parole period of 20 years. Prisoners serving life imprisonment under another provision have a minimum non-parole period of 15 years.</p>	Parole Eligibility

			Prisoners serving a term of imprisonment for “serious violent offences” have a minimum non-parole period that is the lesser of 80% of their head sentence or 15 years.	
1997	46	<i>Corrective Services Legislation Amendment Act 1997</i>	S 136 – Previously the Community Corrections Board could request for the directors of custodial corrections and community corrections to attend their meetings. Now their request is limited to “an officer of the commission”.	
1999	9	<i>Corrective Services Legislation Amendment Act 1997</i>	Multiple sections – changes in terminology. Introduction of the term “chief executive”	
1999	87	<i>Criminal Law Amendment Act 1999</i>	S 139 - Changes in terminology.	
2000	16	<i>Mental Health Act 2000</i>	Consequential amendments	
2000	63	<i>Corrective Services Act 2000</i>	Wholly Repealed	

Penalties and Sentences Act 1992 No 48

The Penalties and Sentences Act has set out several eligibility requirements from parole from 1992 until present. Originally parole was only affected by s 157 of the Act. Currently it is affected by Part 9, Division 3 *Parole*: sections 160-160H.

<u>Year</u>	<u>Number</u>	<u>Amending Act</u>	<u>Commentary</u>	<u>Category</u>
1993	36	<i>Penalties and Sentences Legislation Amendment Act 1993</i>	Changes in terminology.	
1997	4	<i>Penalties and Sentences (Serious Violent Offences) Amendment Act 1997</i>	Part 9A – New Part inserted that determines when a prisoner is considered convicted of a serious violent offence. S 157 – Inserted a new subsection, s 157(7), which ensures that no order under s 157, can be used to undermine the 80% rule for serious violent	Parole Eligibility

			offenders inserted into s 166 the <i>Corrective Services Act 1988</i> .	
2000	63	<i>Corrective Services Act 2000</i>	<p>S 4 – Various definitions, changes consequent on the passing of the <i>Corrective Services Act 2000</i>.</p> <p>S 157 – Various definitions, changes consequent on the passing of the <i>Corrective Services Act 2000</i>.</p> <p>Previously a court could set a non-parole period for any prisoner, and where it did not do so s 166 of the <i>Corrective Services Act 1988</i> applied, or unless s 166 removed the court’s discretion. Amendment meant a court can only set a non-parole period for a prisoner serving a term of imprisonment of more than two years. This is consistent with the rule under the <i>Corrective Services Act 2000</i> that prisoners sentenced to less than two years of imprisonment are not eligible for parole.</p>	Parole Eligibility
2006	29	<i>Corrective Services Act 2006</i>	<p>S 4 – various definitions changes consequent on the passing of the <i>Corrective Services Act 2006</i>.</p> <p>S 157 – omitted</p> <p>Ss 160-160H – These new provisions determine when a prisoner is eligible for parole in conjunction with the <i>Corrective Services Act 2006</i>. As 160F explains the primary object of sections 16A-E is to ensure that at any time an offender only has one current parole eligibility date. The effect of the provisions is similar to the effect of the previous s 157 – courts have discretion to set parole date subject to <i>Corrective Services</i> legislation, which sets out minimum terms for serious violent offenders, murderers and other offenders. Furthermore courts now have discretion to set parole terms for prisoners serving sentences of less than two years. If the offence is not a sexual offence or serious violent offence and the custodial term is less than three years the court’s parole date applies automatically. Finally s 160A(3) prevents courts from making recommendations in sentencing that a prisoner be released on parole.</p>	Parole Eligibility
2006	41	<i>Crime and Misconduct and Other Legislation Amendment Act 2006</i>	Ss 160-160H – Various notes added	

2008	55	<i>Criminal Code and Other Acts Amendment Act 2008</i>	S 160 – Consequential amendment to the definition of ‘serve’.	
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Amendments to the Corrective Services Act 2000 No 63

The *Corrective Services Act 2000* has governed the administration of parole since 2006. The following provisions of the act are relevant to parole

- Chapter 5 – Post-Prison Community Based Release – ss 133-187
- Chapter 2, Part 2, Division 11 – Remission and Conditional Release – ss 75-81.

Amendments to these provisions are tabled below. Please note: Acts that only amend provisions other than those listed above have not been considered below.

<u>Year</u>	<u>Number</u>	<u>Amending Act</u>	<u>Commentary</u>	<u>Category</u>
2001	69	<i>Crime and Misconduct Act 2001</i>	S 173 – Changes in terminology.	
2003	3	<i>Sexual Offences (Protection of Children) Amendment Act 2003</i>	<p>S 132A – Defines prescribed prisoner, “prisoner who is serving a sentence for an offence of a sexual nature in relation to a child under the age of 16 years,” and the “reporting period” of that prisoner, a period not extending past the end of the prisoner’s period of imprisonment.’</p> <p>S 142 – Concerns release to work orders.</p> <p>S 143 – Concerns home detention orders.</p> <p>S 144 –Concerns the conditions placed on parole orders. Places additional conditions on prescribed offenders in subsection 144(2). Namely they must report to a nominated police officer within 48 hours of being released and then report at a set frequency for some set reporting period, both of which are determined by the corrections Board.</p> <p>S 144A –Obliges the Corrections Board to provide the Commissioner</p>	Board powers

			<p>with a copy of the release order for any prescribed prisoner as well as the prisoner's name and address.</p> <p>S 144B – the new provision obliges the police officer mentioned in subsection 144(2) to notify the Corrective Services officer supervising a prescribed prisoner of any failure by that prisoner (without reasonable excuse) to report under s 144(2).</p>	
2003	48	<i>Corrective Services Amendment Act 2003</i>	<p>S 76 –Adds criteria which a prisoner must satisfy before being eligible for conditional release. Under the new s 76(e) a prisoner is not eligible for release where they are being held on remand in respect of some offence.</p> <p>S 77 – Changes in terminology.</p> <p>S 80 –Completely replaces s 80. The old s 80 only stated that a conditional release order(CRO) was automatically cancelled by a conviction for imprisonment, which was not suspended, and that time served counts, prior to the order being cancelled counts as sentence served. These provisions are carried on in the new s 80. In addition the Chief Executive is given power to amend, suspend or cancel the CRO wherever they reasonably believe that the prisoner has breached their conditional release order or has been charged with committing an offence. The new section provides that where the Chief Executive exercises the power they must issue the prisoner with an “information notice”, which states the reasons for the decision and invited the prisoner to show cause as to why the decision should be altered.</p> <p>S 80A –A prisoner is taken to have served their time when their CRO expires if it has not been cancelled.</p> <p>S 144 –Concerns the conditions attached to a parole order. Extends the operation of this provision to “exceptional circumstances parole orders”.</p> <p>S 149 –Amends subs-section (1). 149(1) concerns the grounds on which the Chief Executive may suspend a post-prison community based release order (includes a parole order). Provides two additional bases for such a decision: (i) where the prisoner poses an unacceptable risk of committing an offence; (ii) where the prisoner is preparing to leave Queensland, other than under a written order granting the prisoner leave to travel</p>	<p>Parole Eligibility Board Powers Board Composition</p>

			<p>interstate or overseas.</p> <p>S 150 –Concerns the Board’s power to cancel a post-prison community based release order. Provides two additional bases for such a decision: (i) where the prisoner poses an unacceptable risk of committing an offence; (ii) where the prisoner is preparing to leave Queensland, other than under a written order granting the prisoner leave to travel interstate or overseas.</p> <p>S 151 - Changes in terminology.</p> <p>S 152 – Consequential amendments to 152(1) following on from amendments to ss 149 and 150. 152(2) is reworded and the effect of the provision is preserved – that is the rule that when a parole order is cancelled time on parole is counted as time served.</p> <p>S 154 – Reworded</p> <p>S 159 –Concerns disqualification from membership of the Parole Boards. Previously the section disqualified a “full-time member, officer or employee of a State entity”. Now it disqualifies “a person appointed or employed under the <i>Police Service Administration Act 1990, Crime and Misconduct Act 2001</i> or <i>Director of Public Prosecutions Act 1984.</i>”</p>	
2004	52	<i>Child Protection (Offender Reporting) Act 2004</i>	Removes all the reporting requirements from the <i>Corrective Services Act 2000</i> that were inserted by the <i>Sexual Offences (Protection of Children) Amendment Act 2003</i> .	
2006	29	<i>Corrective Services Act 2006</i>	Wholly repealed.	

Amendments to the Corrective Services Act 2006 No 29

The *Corrective Services Act 2006* has governed the administration of parole since 2006. The following provisions of the act are relevant to parole

- Chapter 5 – Parole – ss 176-247
- Chapter 2, Part 2, Division 10 – Conditional Release – ss 97-107 – These orders apply to a limited number of prisoners post 2006.

Amendments to these provisions are tabled below.

<u>Year</u>	<u>Number</u>	<u>Amending Act</u>	<u>Commentary</u>	<u>Category</u>
2007	37	<i>Justice and Other Legislation Amendment Act 2007</i>	S 209 – Provides that parole is cancelled upon imprisonment subject enumerated exceptions. Adds an exception: where the imprisonment is wholly suspended because of an order, under the <i>Drug Court Act 2000</i> , section 20(1)(a), contained in an intensive drug rehabilitation order.	Parole Eligibility
2009	30	<i>Corrective Services and Other Legislation Amendment Act 2009</i>	<p>S 180 – Window for application for parole extended from 120 days before parole eligibility date to 180 days before parole eligibility date.</p> <p>S 185A – New provision states that where a prisoner is released on exceptional circumstances parole pursuant to s 176 their date of release becomes their parole eligibility date in respect of the relevant period of imprisonment.</p> <p>S 193 – Increases the time in which the Parole Board must assess an application from 120 to 180 days for a standard decision and 210 days where the decision is deferred for the purpose of obtaining additional information. Also removes the proviso which stated that a failure to make a decision within the prescribed time period would be deemed a decision to refuse parole.</p> <p>s 199 – Clarifies that the obligation on the Chief Executive to release a</p>	Parole Eligibility Board Powers Board Composition

			<p>prisoner on parole does not apply where that prisoner has been granted exceptional circumstances parole.</p> <p>S 205 – Previously the court had a power to amend a condition under s 200(2) – a condition that the Board believed to be reasonably necessary to ensure good conduct and prevent the prisoner committing an offence. That power continues but now the Board also has power to vary a parole order by inserting a s 200(2) condition.</p> <p>S 208 – Reworded.</p> <p>S 209 –Provides that parole is cancelled upon imprisonment subject enumerated exceptions. Adds an exception: where the imprisonment is only required to be served until the court rises.</p> <p>S 217 – Removes “to approve resettlement leave programs for prisoners” as a function of the Queensland Board.</p> <p>S 219 –Judges of the State and District Courts and Magistrates are excluded from serving on the Queensland Board.</p> <p>S 233 –Judges of the State and District Courts and Magistrates are excluded from serving on any Regional Board.</p>	
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