

2004

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**CRIMES (SENTENCE ADMINISTRATION) BILL 2004
EXPOSURE DRAFT**

EXPLANATORY STATEMENT

Circulated by authority of the
Attorney General
Jon Stanhope MLA

Outline

The Crimes (Sentence Administration) Bill 2004 (the Bill), together with the Crimes (Sentencing) Bill consolidates existing sentencing law currently contained in 11 different Acts and several more subordinate laws.

The consolidation is being undertaken as a response to the government's election platform that promised a review of Territory sentencing procedures and the criteria used by the judiciary when setting sentences. It is intended that the new legislation will maximise sentencing effectiveness and remove anomalies or inconsistencies in current legislation.

The consolidation is essentially a complete overhaul of sentencing laws.

The Bill introduces a number of changes to current terminology. For example, the term recognisance has been replaced with good behaviour bond.

The Bill deals with matters relating to the administration of sentences imposed by the courts pursuant to the Crimes (Sentencing) Bill 2004.

It contains several chapters dealing with the detention in correctional centres generally including discipline and searching and testing of detainees. These provisions will apply in any remand centre, temporary remand centre, periodic detention centre and any other future correctional centres.

The Bill deals with breach procedures of court sentencing orders. Procedures have been substantially revised to ensure swift responses to allegations of breach. This includes the introduction of a new court attendance notice requiring offenders to appear before the court, or Sentence Administration Board, as applicable, within much shorter periods of time.

Core conditions and requirements for many types of sentencing orders are detailed.

Administration of sentences of periodic detention and home detention are transferred to the Sentence Administration Board and procedures are introduced to allow earlier interventions for offenders at risk of having these orders cancelled.

Matters relating to parole, the Sentence Administration Board, transfer of prisoners and transfer of community-based sentences are also contained within the Bill.

Chapter 1 – Preliminary

Clause 1 is a technical clause that names the short title of the Act.

Clause 2 provides that the Act commences on a day fixed by the minister by written notice. The naming and commencement provisions automatically commence on the notification day (section 75(1) *Legislation Act 2001*). If a provision has not commenced within six months beginning on the notification day it automatically

commences on the first day after that period by virtue of section 79 of the *Legislation Act 2001*.

Clause 3 provides that the dictionary at the end of the Act is part of the Act.

Clause 4 provides that notes included in the Act are explanatory and not part of the Act.

Clause 5 provides that other legislation applies in relation to offences against this Act.

Chapter 2 – Objects and important concepts

Part 2.1 Objects and general considerations

Clause 6 sets out the objects of the Act. The objects include to provide for the safe, humane and secure detention, supervision and management of offenders and remandees in correctional centres; to provide for the effective administration of correctional centres and of programs for offenders; to provide for the effective supervision of offenders serving home detention and other sentences in the community, including early intervention strategies to reduce breaches of sentences and obligations under the Act; to promote in the rehabilitation of offenders and their re-integration into the community through the provision of programs, supervision and effective case management; and to reduce the repetition of criminal and other antisocial behaviour by offenders. The objects of this Act should be read in conjunction with those outlined in the Crimes (Sentencing) Act.

Clause 7 provides that when exercising a function under the Act in relation to someone else the person must, wherever practicable, respect the other person's dignity and take into account a number of matters including the person's age, gender, race, any disability and the person's cultural and spiritual beliefs, including the culturally specific needs of Aboriginal people and Torres Strait Islanders. This includes a requirement to take reasonable steps to ensure a person understands communications if the person is illiterate or does not understand or has a poor understanding of English or has a hearing disability.

Part 2.2 – Important Concepts for Act

Clause 8 provides a definition for detainee.

Clause 9 provides a definition for full-time detainee.

Clause 10 provides a definition for home detainee and periodic detainee.

Clause 11 provides a definition for parolee.

Clause 12 provides a definition for offender, remandee, and sentenced offender.

Clause 13 provides a definition for term of sentence.

Clause 14 provides a definition for victim.

Chapter 3 – Detention in Correctional Centres Generally

Part 3.1 – Case management and security classification

Clause 15 provides that the regulations and corrections rules may provide schemes for the management and security classification of detainees and sets out a number of examples including the development and review of a case management plan for a detainee.

Part 3.2 Association restrictions for detainees

Clause 16 provides definitions for association restrictions.

Clause 17 provides that this part does not affect the operation of the regulations and corrections rules in relation to the separation or placement of detainees in a correctional centre for whom a custody association direction has not been given.

Clause 18 sets out the circumstances in which a separate custody direction may be given by the chief executive.

Clause 19 sets out the circumstances in which a protective custody direction may be given by the chief executive.

Clause 20 sets out the circumstances in which a health separation direction may be given by the chief executive.

Clause 21 provides for the effect on a detainee for whom a custody association direction is made.

Clause 22 provides for the duration for which a custody association direction will apply.

Clause 23 outlines the duration of a health separation direction.

Clause 24 sets out the circumstances under which a protective custody direction may be revoked and the actions available consequent to that revoke if a protective custody direction has been given at the request of a detainee.

Clause 25 sets out the circumstances under which separate and protective custody directions may be reviewed and the actions available consequent to that review.

Clause 26 sets out the circumstances under which health separation directions may be reviewed and the actions available consequent to that review.

Clause 27 sets out the contents of a custody association and related directions.

Clause 28 provides that the chief executive must ensure that all reasonable steps are taken to provide an explanation of custody association and related directions to the

detainee for whom a custody association direction was given. It further sets out the required information for the explanation.

Clause 29 provides for the review of interstate custody association directions.

Clause 30 provides for the continuation of directions for detainees removed to New South Wales.

Clause 31 provides that the regulations must prescribe a scheme for the provision of regular reports to the chief executive in relation to custody association directions and includes examples of what the reports should contain.

Clause 32 provides that a failure to review a custody association direction or interstate custody association as required under this part does not invalidate the direction, or a direction confirming, amending, extending, or revoking the direction.

Part 3.3 – Correctional centre discipline

Clause 33 provides definitions for discipline including the terms charge, disciplinary breach, major breach, minor breach, prohibited item breach and withdrawable.

Clause 34 provides for the charging of a detainee who has allegedly engaged in conduct that is a disciplinary breach and sets out the requirements for a written notice to be given to the detainee detailing that breach.

Clause 35 provides for the action available to the chief executive where a full time detainee is charged with a disciplinary offence.

Clause 36 provides for the action available to the chief executive where a periodic detainee is charged with a disciplinary offence.

Clause 37 provides for the circumstances in which a minor breach may be disposed of without an inquiry and provides for the actions available to the chief executive in dealing with the charge.

Clause 38 details how the chief executive must conduct an inquiry into a charge for a minor offence if no election is made pursuant to Clause 37.

Clause 39 sets out the actions available to the chief executive with respect to a disciplinary breach referred relating to a full time detainee where the chief executive, having conducted an inquiry, is satisfied beyond reasonable doubt, that the charge is proven.

Clause 40 sets out the actions available to the chief executive with respect to a disciplinary breach relating to a periodic detainee.

Clause 41 sets out how proceedings for charges against full time detainees referred to visiting magistrates are to be dealt with.

Clause 42 sets out the actions available to a visiting magistrate with respect to a disciplinary breach relating to a full time detainee where the visiting magistrate, having conducted an inquiry, is satisfied beyond reasonable doubt that the charge is proven.

Clause 43 sets out the options that the Sentence Administration Board has available to it with respect to a disciplinary breach referred relating to a periodic detainee.

Clause 44 provides for the maximum penalties for disciplinary breaches when a detainee is charged with two or more disciplinary breaches and the charges are decided together or arise out of the same conduct. In these circumstances the total of the penalties imposed for the breaches must not be more than the maximum penalty that may be imposed in relation to a single disciplinary breach of that kind.

Clause 45 provides that if a detainee engages in conduct that is both a disciplinary breach and an offence against a Territory law the detainee is liable to be punished only once although the detainee may be charged with both the disciplinary breach and prosecuted for the same conduct.

Clause 46 provides for reparation for property damage in proven charges for a disciplinary breach.

Clause 47 outlines information to be recorded upon a finding of proof of a disciplinary breach by a detainee.

Clause 48 provides that each magistrate is a visiting magistrate for the purpose of the Act.

Part 3.4 Searching of detainees and property

Clause 49 contains definitions for searching of detainees.

Clause 50 sets out how searches of transgender and intersex people are to be conducted.

Clause 51 provides that the chief executive may, at any time, direct a corrections officer to search any part of a correctional centre or anything in it.

Clause 52 provides that a power under the Act to search a detainee in any way includes a power to search anything in the detainee's possession.

Clause 53 provides for frisk, ordinary and scanning searches generally.

Clause 54 sets out the requirements for frisk searches.

Clause 55 provides for strip searches generally.

Clause 56 outlines the requirements for conducting a strip search of a detainee.

Clause 57 provides that the chief executive must keep a register of strip searches and provides details of the information that must be contained in the register.

Clause 58 provides for the use of reasonable force to enable the search to be carried out or to prevent the loss, destruction or contamination of anything seized during the search.

Division 3.5 Alcohol and drug testing of detainees

Clause 59 provides definitions for this part of the Act.

Clause 60 provides a power for the chief executive to require test samples from detainees.

Clause 61 sets out the consequences of a positive test sample for a detainee.

Clause 62 provides for random testing for statistical purposes only.

Clause 63 provides for the use of reasonable force to enable a test sample to be taken or to prevent the loss, destruction or contamination of a test sample.

Part 3.6 Detention in correctional centres – other provisions

Clause 64 provides that all reasonable steps are taken after a detainee is first received into a correctional centre to tell the detainee about rights and obligations.

Clause 65 provides for the making of complaints by detainees to official visitors.

Clause 66 sets out the functions of official visitors for complaints.

Clause 67 provides that a detainee must be given the opportunity to receive the health assessment, treatment and care that a medical officer considers necessary to protect the health of the detainee, other detainees and anyone else. Further a detainee must be given a reasonable opportunity to receive health services in relation to a detainee's mental health.

Clause 68 provides for the circumstances in which a detainee can receive health services at a hospital or another place (including a hospital that is part of a correctional centre).

Clause 69 provides the confiscation of property unlawfully in the possession of a detainee. The confiscated property vests in the Territory.

Clause 70 provides for the inspection of correctional centres and workplaces by judicial officers and Assembly members.

Clause 71 provides that the regulations and corrections rules may prescribe a thing to be a prohibited item, including the circumstances in which something may be a prohibited item.

Clause 72 provides for the making of regulations and corrections rules about correctional centres relating to the administration (including control, inspection, management, operation and supervision) of correction centres and the detention of detainees in correctional centres.

Chapter 4 Full-time detention in correctional centres

Part 4.1 Full-time detainees – place of detention

Clause 73 provides for full time detention in the ACT or NSW.

Clause 74 provides for the issue of a warrant for the removal of a full-time detainee to a NSW correctional centre.

Clause 75 provides that a full time detainee may be detained in a correctional centre in the ACT or a NSW correctional centre.

Clause 76 provides for the issue of a warrant to remove a full time detainee to the ACT.

Part 4.2 Full-time detainees – release from detention

Clause 77 provides for the release of a full time detainee at the end of the sentence.

Clause 78 provides for full-time detainees released in NSW.

Part 4.3 Full-time detainees – local leave

Clause 79 provides for the issue of local leave orders.

Clause 80 provides for the issue of local leave permits.

Clause 81 outlines the purpose of local leave permits.

Part 4.4 Full-time detainees – interstate leave permits

Division 4.4.1 Interstate leave permits – preliminary

Clause 82 provides definitions for interstate leave for full-time detainees.

Clause 83 provides for the declaration of corresponding leave laws.

Division 4.4.2 Interstate leave permits – ACT permits

Clause 84 provides for the issue of interstate leave permits to full time detainees.

Clause 85 sets out the effect of interstate leave permits.

Clause 86 sets out the power of escorts for interstate leave permits.

Clause 87 provides for notice of any interstate leave permit to be given to participating and transit jurisdictions.

Division 4.4.3 Interstate leave – permits under corresponding leave laws

Clause 88 provides for the effect of corresponding leave permits issued for an interstate detainee.

Clause 89 provides for the arrest of escaped interstate detainees.

Clause 90 sets out the powers of interstate escorts.

Clause 91 provides for the return of escaped interstate detainees to the jurisdiction of their origin.

Clause 92 sets out the liability of the Territory for damage caused by a full time detainee or escort while in a participating jurisdiction because of an interstate leave permit.

Part 4.5 Full-time detention – other provisions

Clause 93 sets out the obligations of a full time detainee.

Clause 94 provides for the issue of directions by the chief executive to a full time detainee.

Clause 95 provides for work by full-time detainees.

Clause 96 provides for the disclosure of information to registered victims in relation to full-time detainees.

Clause 97 states that a detainee while held in full-time detention in a correctional centre is taken to be in the custody of the chief executive.

Clause 98 sets out when an absent full-time detainee is taken to be in custody.

Clause 99 provides for the extension of the sentence for unlawful absence in relation to full-time detainees.

Chapter 5 Home detention

Part 5.1 Home detention – important concepts

Clause 100 provides definitions for home detention under the Act.

Part 5.2 Home detention – operation of orders

Division 5.2.1 Home detention - obligations and core conditions

Clause 101 sets out the obligations of a home detainee under a home detention order.

Clause 102 sets out the core conditions of a home detention order.

Division 5.2.2 Home detention - operation of orders for remandees

Clause 103 outlines the effect of custody during an order for a remandee.

Clause 104 provides that remandees may be subject to additional conditions of home remand orders for remandees and provides the court with a power to impose and amend additional conditions.

Clause 105 outlines when a home detention order for a remandee ends.

Division 5.2.3 Home detention - operation of orders for sentenced offenders

Clause 106 outlines the effect of custody on a sentenced offender in relation to a home detention order.

Clause 107 provides that sentenced offenders may be subject to additional conditions of home detention orders and provides the court and Sentence Administration Board with a power to impose and amend additional conditions.

Clause 108 outlines when a home detention order ends for a sentenced offender.

Division 5.2.4 Home detention - operation of orders generally

Clause 109 provides for restrictions on the imposition and amendment of additional conditions in certain circumstances.

Clause 110 allows the chief executive to give home detainees directions.

Part 5.3 Home detention – supervision by courts and board

Division 5.3.1 – Home detention – supervision generally

Clause 111 defines remandee for the purpose of the division.

Clause 112 defines relevant court for the purpose of the division.

Clause 113 outlines the duty of corrections officers in relation to breach of home detention obligations.

Clause 114 provides for the arrest of a home detainee without warrant if a police officer believes on reasonable grounds that the detainee has breached the detainee's home detention obligations.

Clause 115 provides for the issue of a warrant for the arrest of a home detainee where a judicial officer is satisfied that there are reasonable grounds for suspecting that a home detainee has breached, or will breach, the detainee's home detention obligations.

Division 5.3.2 Home detention – conviction for ACT offence

Clause 116 provides for the automatic cancellation of home detention orders on later convictions for an ACT offence.

Division 5.3.3 Home detention – supervision of remandees

Clause 117 provides for the circumstances under which a court may review a remandee's home detention order.

Clause 118 requires a court to cancel a remandee's home detention order in certain circumstances.

Clause 119 provides for the discretionary cancellation of a remandee's home detention order.

Clause 120 provides that an order under Clause 118 or 119 cancelling a home detention order for a remandee takes effect on the date stated in the order.

Clause 121 outlines the other actions available to a court for breach of home detention obligations by a remandee.

Clause 122 outlines the effect of cancellation of a home detention order on a remandee.

Division 5.3.4 Home detention – supervision of offenders

Clause 123 sets out when the Sentence Administration Board may hold an inquiry in relation to a home detention order for an offender.

Clause 124 provides that the Sentence Administration Board must give notice of the grounds for an inquiry to the offender, the chief executive and the director of public prosecutions.

Clause 125 sets out the circumstances in which mandatory cancellation of an offender's home detention order will be made by the Sentence Administration Board.

Clause 126 sets out the circumstances in which the Sentence Administration Board can consider a discretionary cancellation of an offender's home detention order.

Clause 127 provides for when a cancellation order by the Sentence Administration Board takes effect.

Clause 128 outlines other actions available to the Sentence Administration Board for breach of home detention obligations by offenders.

Clause 129 sets out the effect of cancellation of a home detention order on an offender.

Division 5.3.5 Cancellation of other orders

Clause 130 provides for consequential cancellation of other home detention orders if any home detention order is cancelled.

Clause 131 provides that a parole order is revoked if a home detention order is cancelled.

Part 5.4 Home detention – other provisions

Clause 132 provides for the exercise of functions by courts after orders have ended.

Clause 133 provides that where the Territory makes an agreement with an entity for a home detainee to participate in an activity or community service work provided or undertaken by the entity the agreement must contain a requirement that the entity give the chief executive a written report about the home detainee's participation in the activity or community service work if asked to by the chief executive.

Clause 134 provides that the regulations and corrections rules may make provisions relating to the searching of home detainees and testing of home detainees for alcohol or drugs.

Clause 135 provides for the making of regulations and corrections rules in relation to home detention.

Chapter 6 Periodic detention

Part 6.1 Periodic detention – important concepts

Clause 136 provides definitions for periodic detention under the Act.

Clause 137 provides the definition of detention period.

Part 6.2 Periodic detention – operation of orders

Clause 138 sets out the effect of custody during a detention order.

Clause 139 sets out the obligations of a periodic detainee during any part of the detainee's sentence of periodic detention.

Clause 140 sets out the core conditions of a periodic detention order.

Clause 141 sets out the circumstances in which the Sentence Administration Board and the court can impose and vary additional conditions imposed on a periodic detention order and provides restrictions on a Court or the Sentence Administration Board amending or imposing conditions on periodic detention orders in certain circumstances.

Clause 142 provides for the imposition of additional conditions to a periodic detention order and sets out restrictions on a Court or the Sentence Administration

Board amending or imposing conditions on periodic detention orders in certain circumstances.

Clause 143 provides that the chief executive may give a periodic detainee directions.

Clause 144 sets out when a periodic detention order ends.

Part 6.3 Periodic detention – performance

Clause 145 provides a duty for a periodic detainee to report for periodic detention.

Clause 146 provides for how a periodic detainee is to report for detention.

Clause 147 provides for the provision of a test sample by a periodic detainee.

Clause 148 provides for the participation in activities or work by periodic detainees.

Clause 149 provides for the information required about activities or work approved places where a direction has been given to participate in activities or work pursuant to Clause 148.

Clause 150 outlines the requirement for reports about the activities or work of a periodic detainee.

Clause 151 provides for a change of times and days of attendance for periodic detainees.

Clause 152 sets out when a detainee will be unfit for detention.

Clause 153 provides that the chief executive may give a periodic detainee leave of absence for a failure to report for a detention period for a number of reasons.

Clause 154 provides for how applications for leave of absence where a detainee fails to report for a detention period must be made.

Clause 155 provides that the chief executive may give a periodic detainee leave of absence for reporting late for a detention period.

Clause 156 provides for how applications for leave of absence must be made where a detainee reports late for periodic detention.

Clause 157 sets out the circumstances in which a sentence of periodic detention will be extended for a failure to report or reporting late.

Clause 158 provides a right of review by the Sentence Administration Board for a decision of the chief executive refusing a periodic detainee leave of absence.

Clause 159 provides for the circumstances in which an order staying the operation of Clause 157 may be made.

Clause 160 sets out the circumstances in which a periodic detainee may be directed to take leave of absence on health or safety grounds and the consequences of such a direction being given.

Clause 161 provides for the circumstances in which an application can be made for an order reducing a periodic sentence on health or compassionate grounds.

Part 6.4 Periodic detention – supervision of offenders

Clause 162 outlines the duty of corrections officers for alleged breaches of obligations.

Clause 163 provides for the arrest of an offender without warrant if a police officer believes on reasonable grounds that the offender has breached the offender's periodic detention obligations.

Clause 164 provides for the issue of a warrant for the arrest of an offender where a judicial officer is satisfied that there are reasonable grounds for suspecting that an offender has breached, or will breach, the offender's periodic detention obligations.

Clause 165 sets out when the Sentence Administration Board may hold an inquiry with respect to an offender's periodic detention order.

Clause 166 provides that the Sentence Administration Board must give notice of the grounds for an inquiry to the offender, the chief executive and the director of public prosecutions.

Clause 167 sets out the circumstances in which mandatory cancellation of a periodic detention order will be made by the Sentence Administration Board.

Clause 168 sets out the circumstances in which the Sentence Administration Board can consider a discretionary cancellation of a periodic detention order.

Clause 169 provides for when a cancellation order by the Sentence Administration Board takes effect.

Clause 170 sets out the effect of cancellation of a periodic detention order by the Sentence Administration Board.

Clause 171 sets out the other actions that are available to the Sentence Administration Board for a breach of an offender's periodic detention order.

Clause 172 provides for cancellation of an offender's periodic detention order upon later conviction for an ACT offence.

Clause 173 sets out the actions available to courts if an offender is convicted of a later ACT offence and the offender's periodic detention order is not cancelled.

Clause 174 provides for consequential cancellation of other periodic detention orders if any periodic detention order of an offender is cancelled.

Part 6.5 Periodic detention – other provisions

Clause 175 provides for the custody of periodic detainees.

Clause 176 provides for the making of regulations and corrections rules in relation to periodic detention.

Chapter 7 Good behaviour

Part 7.1 Good behaviour – important concepts

Clause 177 contains definitions for good behaviour bonds.

Part 7.2 Good behaviour – failure to enter bond

Clause 178 sets out the consequences for failing to enter into a good behaviour bond.

Part 7.3 Good behaviour – operation of bonds

Clause 179 sets out the obligations of an offender under a good behaviour order.

Clause 180 sets out the core conditions of a good behaviour order.

Clause 181 sets out the circumstances in which additional conditions can be imposed on a good behaviour order.

Clause 182 sets out when a good behaviour bond may be amended.

Clause 183 sets out restrictions on amendment of bonds and the circumstances in which additional conditions can be imposed or amended.

Clause 184 sets out the effect of amendment of bonds on sureties.

Clause 185 sets out when a good behaviour bond is discharged.

Clause 186 sets out when a good behaviour bond and orders end.

Part 7.4 Good behaviour – community service work

Clause 187 allows the chief executive to give directions to an offender for the purpose of enforcing the offender's obligations in relation to the good behaviour bond and provides that, if the offender is required under the good behaviour bond to carry out community service work, the chief executive may direct the offender to attend a rehabilitation program for no more than half of the hours to be worked under the community service condition.

Clause 188 sets out the information that must be stated in any direction given by the chief executive to an offender to carry out community service work.

Clause 189 outlines the duty to report imposed on offenders in relation to community service work.

Clause 190 requires an offender reporting for community service work to comply with the requirements prescribed under the regulations and corrections rules.

Clause 191 provides that an offender reporting for community service work under a good behaviour bond must comply with any requirement made by the chief executive for the offender to provide a test sample and sets out the consequences for an offender in returning a positive sample.

Clause 192 outlines the maximum daily hours required of an offender undertaking community service work and how fulfilment of hours is to be calculated.

Clause 193 provides for disclosures of health issues by an offender undertaking community service work.

Clause 194 provides for the chief executive to request reports about an offender's participation in community service work from an entity for which the community service work is being performed.

Part 7.5 Good behaviour – rehabilitation programs

Clause 195 provides that the chief executive may give directions to an offender required to participate in a rehabilitation program for the purpose of enforcing the offender's obligations in relation to the offender's attendance at a rehabilitation program.

Clause 196 imposes on an offender a duty to attend rehabilitation programs where directed.

Clause 197 provides that the chief executive can request reports about the offender in relation to rehabilitation programs from the entity providing the rehabilitation program.

Part 7.6 Good behaviour – supervision of offenders

Clause 198 outlines the duty of corrections officers for alleged breaches of good behaviour obligations.

Clause 199 provides for the arrest of an offender without warrant if a police officer believes on reasonable grounds that the offender has breached the offender's good behaviour obligations.

Clause 200 provides for the issue of a warrant for the arrest of an offender where a judicial officer is satisfied that there are reasonable grounds for suspecting that the offender has breached, or will breach, the offender's good behaviour obligations or has failed to attend court in accordance with a voluntary agreement to attend court or summons.

Clause 201 – provides that a police officer or corrections officer may ask the offender to sign a voluntary agreement to appeal before the relevant court in relation to good behaviour obligations.

Clause 202 – provides for the issue of a summons for an offender to appear before court in relation to an alleged breach of a good behaviour bond.

Clause 203 provides for the court’s powers where an offender is found guilty of a later offence and is subject to a good behaviour bond for an earlier offence at that time.

Clause 204 outlines the actions available to the court for breach of a good behaviour bond.

Clause 205 outlines the consequences of a cancellation of a good behaviour bond with a non-conviction order for a breach of a good behaviour bond.

Clause 206 outlines the consequences of a cancellation of a good behaviour bond with a suspended sentence order for a breach of a good behaviour bond.

Clause 207 provides for the enforcement and recovery of security under a good behaviour bond.

Part 7.7 Good behaviour – other provisions

Clause 208 provides that a court may exercise a function in relation to a good behaviour bond even though the bond has ended.

Clause 209 provides for the making of regulations and corrections rules in relation to good behaviour bonds.

Chapter 8 Parole

Part 8.1 Parole – important concepts

Clause 210 provides definitions for parole.

Part 8.2 Release on parole

Division 8.2.1 Parole – eligibility

Clause 211 sets out eligibility for release on parole.

Clause 212 provides that a parole order is necessary for the release of a sentenced offender who is eligible for release on parole.

Division 8.2.2 Parole – decisions about release on parole

Clause 213 sets out the circumstances in which the Sentence Administration Board must consider whether or not a sentenced offender should be released on parole.

Clause 214 provides that the Sentence Administration Board must seek the views of victims whose details are entered in the victims register and may contact other victims of whom the board is aware before considering whether or not a sentenced offender should be released on parole. The clause also sets out the information that the board must give to each victim and the procedure for the making of submissions by a victim.

Clause 215 provides for the initial consideration of parole by the Sentence Administration Board.

Clause 216 provides details of what any notice of a parole hearing must contain.

Clause 217 provides for further consideration by the Sentence Administration Board of release of an offender on parole.

Clause 218 provides for the making of a decision of the Sentence Administration Board after inquiry and includes deferment.

Clause 219 sets out the general duty of the Sentence Administration Board in making parole decisions.

Division 8.2.3 Parole – release on parole in exceptional circumstances

Clause 220 sets out the circumstances under which the Sentence Administration Board can authorise the release of a sentenced offender on a date earlier than the offender's non-parole date.

Division 8.2.4 Parole – information about parole decisions

Clause 221 – provides for the giving of an explanation of a parole order made by the Sentence Administration Board.

Clause 222 – requires the Sentence Administration Board to provide official notice and reasons for a decision.

Clause 223 provides for the release of information about parole decisions to the victim.

Part 8.3 Parole – operation of orders

Clause 224 provides for release under a parole order.

Clause 225 sets out the circumstances in which the Sentence Administration Board may rescind a parole order before the parolee is released under the order.

Clause 226 sets out the effect of custody on a parole order.

Clause 227 sets out the obligations of a parolee on parole.

Clause 228 sets out the core conditions of a parolee subject to a parole order.

Clause 229 sets out the circumstances in which additional conditions can be imposed on a parole order.

Clause 230 sets out restrictions on additional conditions.

Clause 231 provides for the giving of directions by a chief executive to a sentenced offender while on release on parole under a parole order.

Clause 232 provides that a sentence is not discharged unless the parole is completed without revocation. The parolee is not credited with time already served during parole when a revocation occurs. This policy is commonly referred to as ‘no clean street time’.

Part 8.4 Parole – supervision of offenders

Clause 233 outlines the duty of correction officers for alleged breaches of parole obligations.

Clause 234 provides for the arrest of an offender without warrant if a police officer believes on reasonable grounds that the offender has breached the offender’s parole obligations.

Clause 235 provides for the issue of a warrant for the arrest of an offender where a judicial officer is satisfied that there are reasonable grounds for suspecting that the offender has breached, or will breach, the offender’s parole obligations.

Clause 236 sets out when the Sentence Administration Board may hold an inquiry with respect to parole orders.

Clause 237 provides for the Sentence Administration Board to give notice of the grounds for inquiry.

Clause 238 sets out the circumstances in which the Sentence Administration Board may make an order cancelling an offender’s parole order.

Clause 239 outlines when a cancellation order takes effect.

Clause 240 sets out the other actions available to the Sentence Administration Board where a breach of parole order is alleged and the offender’s parole order is not cancelled under clause 238.

Clause 241 provides that a parole order is automatically revoked if an offender is convicted of an ACT offence during the parole period and sentenced to full time detention.

Clause 242 provides that a parole order is automatically revoked with effect from the date the offence was committed if a sentenced offender is convicted of an offence committed during the parole period and sentenced to full time detention, notwithstanding that the parole order has since ended.

Part 8.5 Parole – other provisions

Clause 243 creates the victims register and provides for the information to be recorded therein.

Clause 244 provides that a parole order is not invalid only because the Sentence Administration Board failed to comply with any procedural requirement of this Act.

Clause 245 provides for the searching and testing of offenders on parole.

Clause 246 provides for the making of regulations and corrections rules in relation to parole.

Chapter 9 Non-association and place restriction conditions

Clause 247 provides definitions for the Chapter.

Clause 248 outlines when non-association and place restriction conditions may be imposed.

Clause 249 makes it an offence in particular circumstances for an offender who is the subject of a non-association and/or place restriction condition from disclosing identifying information about the associated person.

Clause 250 provides for circumstances in which non-association and place restriction conditions will not be contravened.

Chapter 10 – Sentence Administration Board

Part 10.1 Sentence administration board – establishment and membership

Clause 251 establishes the Sentence Administration Board.

Clause 252 details the functions of the Sentence Administration Board.

Clause 253 provides for membership of the Sentence Administration Board.

Clause 254 provides for appointment of members to the Sentence Administration Board.

Clause 255 sets out the term of appointment of members to the Sentence Administration Board.

Clause 256 provides for the ending of appointment of members to the Sentence Administration Board.

Clause 257 provides for the conditions of appointment of members generally to the Sentence Administration Board.

Clause 258 provides for the divisions of the Sentences Administration Board.

Clause 259 provides for delegation of the chairperson's functions.

Part 10.2 Sentence administration board – proceedings

Clause 260 sets out the time and place of Sentence Administration Board meetings.

Clause 261 provides that the chairperson or another judicial member nominated by the chairperson presides at Sentence Administration Board meetings.

Clause 262 sets out how the Sentence Administration Board proceedings will be conducted.

Clause 263 sets out the procedure of the Sentence Administration Board. The board is not bound by the rules of evidence and may be informed of anything in anyway it considers appropriate but must observe natural justice.

Clause 264 provides that the Sentence Administration Board must keep minutes of its proceedings.

Clause 265 provides the circumstances in which members of the Sentence Administration Board must disclose the nature of any direct or indirect interest where the interest could conflict with the proper exercise of the member's functions in relation to the board's consideration of an issue and how the board must deal with that conflict.

Clause 266 provides for authentication of Sentence Administration Board documents.

Clause 267 provides for evidentiary certificates about board decisions.

Clause 268 provides that proof of certain matters relating to the Sentence Administration Board is not required.

Part 10.3 Sentence administration board – inquiries

Clause 269 provides that the Sentence Administration Board may hold inquiries and hearings.

Clause 270 provides that inquiries of the Sentence Administration Board must be conducted by a division of the board. The divisions of the board must be constituted by one judicial member and two or three non-judicial members.

Clause 271 provides for the appearance of a sentenced offender subject to an inquiry before the Sentence Administration Board.

Clause 272 provides that the Sentence Administration Board may require the attendance of people and the production of documents.

Clause 273 creates an offence for failing to comply with a notice issued pursuant to clause 272.

Clause 274 provides for the giving of evidence and answering of questions before the Sentence Administration Board.

Clause 275 creates a number of offences relating to a failure to give evidence and answer questions before the Sentence Administration Board pursuant to clause 272.

Clause 276 provides that a person required to attend to answer a question before the Sentence Administration Board cannot rely on the common law privileges against self-incrimination and exposure to the imposition of a civil penalty to refuse to answer a question or produce a document. The clause further sets out the limited circumstances in which any information, document or thing obtained may be used in evidence in another proceeding.

Clause 277 sets out what constitutes misconduct before the Sentence Administration Board and creates an offence for misconduct.

Clause 278 provides that a corrections officer or a NSW state officer must, if asked by the Sentence Administration Board, give the secretary a report about a person who is serving a sentence of imprisonment or on parole.

Clause 279 details the rights of offenders at hearings by the Sentence Administration Board.

Clause 280 provides for the issue of a warrant remanding the offender in custody on adjournment of an inquiry before the Sentence Administration Board.

Clause 281 provides that the Sentence Administration Board must give official notice and reasons for a decision if the board makes a relevant decision.

Clause 282 provides for the issue of a warrant by the Sentence Administration Board committing an offender to a correctional centre upon cancellation or revocation of a home detention order, parole order or periodic detention order under the Act.

Clause 283 provides that a sound or audiovisual record must be made of a hearing or inquiry by the Sentence Administration Board.

Clause 284 provides the circumstances in which allowances and expenses can be paid for a person required to appear before, or to produce a document to, the Sentence Administration Board at a hearing for an inquiry in relation to an offender.

Clause 285 provides certain protections to lawyers and witnesses appearing before the Sentence Administration Board.

Part 10.4 Sentence administration board – other provisions

Clause 286 provides that the Sentence Administration Board may exercise a function in relation to a home detention order, parole order or periodic detention order, including a function for the breach of the order, even though the order has ended.

Clause 287 provides for the effect of Sentence Administration Board warrants.

Clause 288 provides for the appointment of a secretary and assistant secretaries of the Sentence Administration Board.

Clause 289 deals with security of information held or received by the Sentence Administration Board.

Clause 290 provides for regulations to make provision in relation to the procedures of the Sentence Administration Board.

Chapter 11 Transfer of prisoners

Part 11.1 Interstate transfer of prisoners

Division 11.1.1 Interstate transfer – preliminary

Clause 291 sets out definitions for the Chapter.

Clause 292 provides a definition for sentence of imprisonment for this part.

Clause 293 details when a person is subject to a sentence of imprisonment for this part.

Clause 294 provides for the effect of a warrant of commitment issued by a justice of a participating state.

Clause 295 provides for the recognition by declaration of corresponding courts and interstate laws.

Division 11.1.2 Interstate transfer – prisoner's welfare

Clauses 296 and 297 provide for requests for, and orders of interstate transfer and outlines the process for consideration of these requests by the minister.

Clause 298 provides for the effect of orders under this division on joint prisoners.

Clause 299 provides that repeated requests for transfer need not be entertained by the minister if made within one year after a similar request by the prisoner.

Clause 300 provides for the process to be adopted upon receipt of a request for transfer to the ACT.

Clause 301 provides that the minister may have regard to any report of a parole or prisoner authority of the Territory or of any participating State and may inform him or herself as he or she thinks fit.

Division 11.1.3 Interstate transfer – trials and sentences

Clause 302 provides for requests for the transfer of a prisoner to a participating State.

Clause 303 provides for necessary consents before an order of transfer can be issued under this part.

Clause 304 provides for the issue of an order for a prisoner to be brought before the Magistrates Court for determination as to whether an order of transfer should be issued.

Clause 305 provides for the issue of an order of transfer.

Clause 306 provides the circumstances in which a review of a decision of the Magistrates Court made under clause 305 may be made to the Supreme Court.

Clause 307 provides for the effect of orders of transfer issued under this part in relation to a joint prisoner.

Clause 308 provides for the execution of orders for prisoners to be brought before courts.

Clause 309 provides for the Attorney General to request the transfer of an imprisoned person to the ACT to be dealt with according to law.

Clause 310 provides for requests by imprisoned persons for transfer to the ACT.

Division 11.1.4 Interstate transfer – return to original jurisdiction

Clause 311 sets out the circumstances in which the minister must make an order for the return transfer of a prisoner to a participating State or a non-participating Territory.

Clause 312 deals with prisoners' requests to serve sentences in the ACT.

Clause 313 provides for the effect of orders of transfer under this division in relation to joint prisoners.

Division 11.1.5 Interstate transfer – operation of transfer orders

Clause 314 provides for an escort for an order of transfer.

Clause 315 provides for the transfer of sentence with a prisoner.

Clause 316 sets out the information that must be sent to the corresponding minister of the participating state where under an order of transfer a prisoner is conveyed to a participating state.

Clause 317 deals with translated sentences.

Clause 318 provides for provisions relating to the operation of translated sentences.

Clause 319 provides for provisions relating to the interstate transfer in relation to indeterminate translated sentences.

Clause 320 outlines the effect of translated sentences before transfer to the ACT.

Clause 321 provides for provisions relating to default imprisonment for translated sentences.

Division 11.1.6 Interstate transfer – other provisions

Clause 322 provides for notification to prisoners of decisions under this part.

Clause 323 provides for lawful custody for transit through the ACT.

Clause 324 provides for the actions available upon the escape from custody of a person being transferred.

Clause 325 creates an offence for escape, and attempts to escape, from custody under an order of transfer.

Clause 326 provides for the revocation of an order of transfer upon the escape or attempted escape from custody or any other offence.

Part 11.2 International transfer of prisoners

Clause 327 defines Commonwealth Act for this part.

Clause 328 provides that a term defined in the Commonwealth Act has the same meaning in this part.

Clause 329 provides that the object of this part is to give effect to the scheme for the international transfer of prisoners set out in the Commonwealth Act by enabling such prisoners to be transferred to and from the ACT.

Clause 330 provides that the minister may exercise any function given to the minister under the Commonwealth Act.

Clause 331 provides for the functions of prison officers, police officers and other officers of the Territory under this part.

Clause 332 provides for the Chief Minister to make arrangements for the administration of the Commonwealth Act.

Clause 333 provides for prisoners transferred to Australia.

Clause 334 provides for prisoners transferred from Australia.

Chapter 12 Transfer of community based sentences

Part 12.1 Transfer of community based sentences – preliminary

Clause 335 provides definitions for transfer of community-based sentences in this chapter.

Clause 336 provides that the purpose of this chapter is to allow community based sentences imposed in participating jurisdictions to be transferred, by registration, between participating jurisdictions.

Clause 337 provides for application of this chapter.

Part 12.2 Important concepts – transfer of community-based sentences

Clause 338 defines what a community based sentence is.

Clause 339 defines jurisdictions and participating jurisdictions.

Clause 340 defines local and interstate sentences.

Clause 341 defines a corresponding community based sentence law.

Clause 342 defines a local authority and interstate authorities.

Part 12.3 Administration

Clause 343 provides for the appointment of a local authority.

Clause 344 provides for delegation by a local authority.

Clause 345 establishes a register of interstate sentences registered under this Act.

Part 12.4 Transfer of community-based sentences – registration of interstate sentences in ACT

Clause 346 provides that the local authority may register an interstate sentence in this jurisdiction at the request of the interstate authority for the interstate jurisdiction in which the sentence is in force.

Clause 347 provides for the form of request for registration.

Clause 348 provides that the local authority may ask the interstate authority for additional information about the interstate sentence or the offender.

Clause 349 provides that the offender may withdraw consent to the registration of the interstate sentence at any time before (but not after) its registration by giving written notice to the local authority.

Clause 350 sets out the registration criteria.

Clause 351 sets out the decision available upon a request for registration of an interstate order being received.

Clause 352 provides that the local authority may prescribe preconditions for the registration of the interstate sentence that the offender must meet to show that the offender can comply, and is willing to comply, with the sentence in this jurisdiction.

Clause 353 provides for how an interstate sentence is registered.

Clause 354 provides that if the local authority registers the interstate sentence in this jurisdiction, the local authority must be given written notice of the registration to the offender and the interstate authority.

Clause 355 provides for the effect of registration of an interstate sentence generally.

Part 12.5 Transfer of community based sentences – registration of ACT sentences interstate

Clause 356 provides that the local authority may request the interstate authority for an interstate jurisdiction to register a local sentence in the interstate jurisdiction.

Clause 357 provides that the local authority may, at the request of the interstate authority or on its own initiative, give the interstate authority any additional information about the local sentence or the offender.

Clause 358 provides for the effect of interstate registration.

Part 12.6 Transfer of community based sentences – other provisions

Clause 359 provides for what must occur if the local authority becomes aware that information about the sentence or the offender recorded in the register kept under the corresponding law of the interstate jurisdiction is not, or is no longer, accurate.

Clause 360 provides for how disputes about the accuracy of information in an interstate register are dealt with.

Clause 361 provides for evidentiary certificates for registration and registered particulars.

Chapter 13 Transfer of parole orders

Clause 362 provides definitions for transfer of parole orders in this chapter.

Clause 363 provides that the minister may declare that a law of a State or another Territory is a corresponding parole law for this chapter.

Clause 364 provides for requests for registration of transferred parole orders.

Clause 365 provides for the documents to accompany requests under clause 364.

Clause 366 provides for the consideration of requests for a transfer of parole orders.

Clause 367 provides for the registration of transferred parole orders.

Clause 368 provides for the effect of registration of transferred parole orders.

Clause 369 provides for the effect of transfer of parole orders to a State or another Territory.

Clause 370 provides for the issue of evidentiary instruments for registered parole orders.

Chapter 14 Correctional centres and administration

Clause 371 provides that the minister may declare places to be correctional centres, part of a correctional centre, periodic detention centres and temporary remand centres.

Clause 372 provides specifically for the declaration of temporary remand centres.

Clause 373 provides for the appointment of corrections officers.

Clause 374 provides for the functions of corrections officers.

Clause 375 provides for the appointment of at least one medical officer for each correctional centre (other than a temporary remand centre).

Clause 376 provides for the function of a medical officer.

Clause 377 provides for the issue of identity cards for corrections staff.

Clause 378 provides for the appointment of at least two official visitors.

Clause 379 provides for the functions of official visitors.

Clause 380 provides for the circumstances in which the appointment of an official visitor ends.

Clause 381 provides for the making of corrections rules for this Act.

Clause 382 provides for the exempting of provisions in the corrections rules from a number of provisions in the *Legislation Act 2001* where the provision in the corrections rules applies to the security of a correctional centre or the safety of a detainee or anyone else inside a correctional centre or the monitoring of a home

detainee or anything else prescribed under regulation where the publication of the provision would be contrary to the public interest.

Clause 383 provides for copies of approved corrections rules to a correctional centre, other than any exempt provision, and the correctional centre be made available for inspection by the public, official visitors, a judge or magistrate and a member of the Legislative Assembly nominated for the purpose of inspection of correctional centres and periodic detention workplaces.

Clause 384 provides that Part 3.4 – detention in correctional centres – searching and testing of detainees, applies to the searching and testing of anyone (other than a detainee) entering in or leaving the correctional centres as if the person were a detainee and subject to any other necessary changes and changes prescribed under the regulations.

Clause 385 provides that the Chief Minister may make arrangements with other jurisdictions with respect to the serving by detainees of the sentences in NSW and the serving in the ACT of sentences by people remanded in custody in other states or sentenced to imprisonment in other states.

Chapter 15 Miscellaneous

Part 15.1.1 Community service work

Clause 386 provides definitions for community service work.

Clause 387 allows for a limitation on community service work.

Clause 388 provides that a person involved in community service work does not incur civil liability for conduct engaged in by an offender in carrying out the work.

Clause 389 provides for the protection of people involved in community service work from civil liability.

Part 15.1.2 Administration of Act

Clause 390 outlines the secrecy provisions for this Act.

Clause 391 provides for evidentiary certificates to be issued by the chief executive and an analyst under the *Drugs of Dependence Act 1989*.

Clause 392 provides for the protection of officials from liability.

Part 15.1.3 – Pardons and remission of penalties

Clause 393 provides for the grant of pardon to a person.

Clause 394 provides for the remission of penalties.

Part 15.1.4 – Other matters

Clause 395 makes provision for the release on licence of a full-time detainee by application of s8A of the *Removal of Prisoners (Territories) Act 1923* (Cwlth).

Clause 396 outlines guidelines in relation to criminology or penology research.

Clause 397 allows the minister to determine fees for this Act.

Clause 398 allows the minister to approve forms for this Act.

Clause 399 is the regulation making power for this Act.

Chapter 16 Transitional

Part 16.1 Preliminary

Clause 400 describes the application of Chapter 16 to the Act.

Clause 401 provides definitions for Chapter 16.

Clause 402 states that this Act applies in relation to sentenced offenders and their sentences whether the offender was sentenced before or after commencement of this Act.

Part 16.2 Transitional-detention

Clause 403 sets out the transitional provisions relating to imprisonment.

Clause 404 sets out transitional provisions relating to remand.

Clause 405 sets out transitional provisions relating to home detention sentencing orders.

Clause 406 sets out transitional provisions relating to home detention remand orders.

Clause 407 sets out transitional provisions relating to periodic detention orders.

Part 16.3 Transitional – non-detention

Clause 408 sets out the transitional provisions relating to section 402(1) of the *Crimes Act 1900*, conditional release without conviction.

Clause 409 sets out the transitional provisions relating to section 403(1)(a) of the *Crimes Act 1900*, conditional release of convicted offenders.

Clause 410 sets out the transitional provisions relating to section 403(1)(b) of the *Crimes Act 1900*, conditional release and suspended sentences.

Clause 411 sets out the transitional provisions relating to section 408 of the *Crimes Act 1900*, community service orders.

Part 16.4 Transitional – parole orders

Clause 412 sets out the transitional provisions relating to parole orders made prior to the commencement day.

Clause 413 sets out the transitional provisions relating to the parole orders made after the commencement day.

Part 16.5 – Transitional - general

Clause 414 provides for the transition of sentence administration proceedings started before the commencement date of this Act.

Clause 415 provides for the transition of sentence administration proceedings started after the commencement date of this Act.

Clause 416 provides for transitional arrangement to be made with other jurisdictions.

Part 16.6 – Transitional - regulations

Clause 417 provides that the regulations may prescribe transitional matters necessary or convenient for the purpose of the Act.

Clause 418 provides that the regulations may modify the operation of this chapter to make provision in relation to any matter that, in the Executive's opinion, is not, or is not adequately, dealt with in this chapter.

Clause 419 provides for the expiration of this chapter three years after the day it commences.

The **dictionary** contains additional definitions for the purposes of the Act.