

CLAUSE NOTES

Corrections Amendment (Treatment of Sex Offenders) Bill 2015

Clause 1: Short title

Cites the Bill as the *Corrections Amendment (Treatment of Sex Offenders) Act 2015*.

Clause 2: Commencement

Provides for the Bill to commence on the day on which it receives Royal Assent.

Clause 3: Principal Act

Provides that the Principal Act to which the amendments apply is the *Corrections Act 1997*.

Clause 4: Section 3 amended (Interpretation)

Provides for the following definitions to be inserted into Section 3 of the Principal Act:

“adult” means a person who has attained 18 years of age;

“appropriate treatment” means a professional intervention to address the underlying causes of offending behaviour of a sex offender prisoner.

“sex offender prisoner” means a prisoner whose sentence of imprisonment was imposed on them as an adult and whose sentence was either partially or wholly for a sexual offence.

“sexual offence” lists a range of crimes and offences of a sexual nature from the *Classification (Publications, Films and Computer Games) Enforcement Act 1995*, the *Criminal Code*, the *Sex Industry Offences Act 2005* and the *Police Offences Act 1935*. The definition also provides for a ‘sexual offence’ to include a crime or offence which is prescribed by the regulations, and which is an offence against the law of another jurisdiction which is of substantially the same nature as a crime or offence listed in this definition. The definition also includes the crimes of inciting, attempting or being an accessory after the fact for any of the crimes listed from the *Criminal Code*.

Clause 5: Section 31 inserted

Inserts a new section 31 in Part 4 of the Act.

Inserts a new subsection (1) and (2) to provide that if the Director is satisfied on reasonable grounds that appropriate treatment is available for a sex offender prisoner, the Director is to give the prisoner a reasonable opportunity to participate in appropriate treatment.

The Director is not required to give the prisoner a reasonable opportunity if he or she is satisfied on reasonable grounds of any of the following matters. The prisoner is medically or psychologically unfit to participate in the treatment, the prisoner is not cognitively capable of participating in the treatment, there is insufficient time for the

prisoner to complete the treatment, or the prisoner's participation could compromise the safety, security or good order of the prison.

Inserts a new subsection (3) to provide that if the prisoner is given the opportunity to participate in appropriate treatment, the Director is to inform the prisoner that:

non-participation or unsatisfactory participation will prevent the prisoner from being granted remission of sentence in relation to the sexual offence; and

participation, non-participation or unsatisfactory participation will, if the prisoner becomes eligible for parole, be factors that the Board takes into consideration in determining whether the prisoner should be released on parole.

Inserts a new subsection (4) to provide that if the sex offender prisoner chooses to participate in appropriate treatment, the Director is to monitor the participation and prepare a written assessment. The written assessment is to include details relating to:

the prisoner's attendance and compliance; and

the prisoner's attitude, behaviour and responsiveness during treatment; and

whether the treatment is completed and, if not completed, the reasons for non-completion; and

whether any action is taken under subsection 31(5) to cease or suspend the participation.

Inserts a new subsection (5) to provide that if a sex offender prisoner chooses to participate in appropriate treatment, the Director may cease or suspend participation at any time, if satisfied on reasonable grounds that:

the participation is unsatisfactory;

the treatment is no longer available, practicable or appropriate; or

there are other valid grounds for the cessation or suspension.

Inserts a new subsection (6) to provide that if the sex offender prisoner chooses to participate in the appropriate treatment and becomes eligible for parole, the Director is to give the Parole Board notice of the prisoner's choice and a copy of the assessment prepared under sub-section 4(b).

If the participation has not been completed and is on-going, the Director is to give the Board a written assessment in substantially the same terms as those required under sub-section 4(b) up to the time that the prisoner becomes eligible for parole.

Inserts a new subsection (7) to provide that if the sex offender prisoner chooses not to participate in appropriate treatment and then becomes eligible for parole, the Director is to give the Parole Board notice of the prisoner's choice with relevant particulars, including particulars of the treatment that would have been available.

Inserts a new subsection (8) to provide that to avoid any doubt, a sex offender prisoner may be offered more than one opportunity to participate in appropriate treatment. However, the Director is not obliged to give the prisoner repeated opportunities to participate, particularly if the prisoner has persistently chosen not to participate or has a history of unsatisfactory participation in that type of treatment.

Inserts a new subsection (9) to provide that the Director may seek and have regard to professional medical advice and other information that he or she thinks fit, for the purpose of forming any opinions under this section.

Inserts a new subsection (10) to define 'unsatisfactory participation' of a sex offender prisoner in appropriate treatment, as participation that for reasons assessed by the Director as being within the prisoner's control, is incomplete or non-compliant.

Clause 6 Section 72 amended (Release on parole)

Amends section 72(4) of the Principal Act by requiring that the Parole Board is to consider any notice or assessment given to it under section 31(6) or (7) of the Act which relates to a sex offender prisoner's participation or non-participation in appropriate treatment.

The notice or assessment is to be considered by the Parole Board when it is determines whether or not a prisoner should be released on parole.

Clause 7 Principal Regulations

Provides that the Principal Regulations to which the amendments apply are the *Corrections Regulations 2008*.

Clause 8 Regulation 22 amended (Remission)

Amends regulation 22 of the Principal Regulations by specifying that the Director of Corrective Services is not to grant remission to a sex offender prisoner for a sentence for a sexual offence, if the prisoner has been given a reasonable opportunity to participate in appropriate treatment and the prisoner has either chosen not to participate or has chosen to participate but the participation has been unsatisfactory within the meaning of section 31 of the Act.

Clause 9 Further amendment, &c of *Corrections Regulations 2008*

Provides clarification that the provisions of the *Corrections Regulations 2008* which are amended by the Bill can subsequently be amended or rescinded by future regulations.

Clause 10: Repeal of Act

This is a standard repeal provision to remove the empty shell of the Bill after all its provisions have been transferred and have come into effect in the Principal Act.