

TASMANIA

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**SENTENCING AMENDMENT (SENTENCES OF  
IMPRISONMENT) BILL 2017**

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# **SENTENCING AMENDMENT (SENTENCES OF IMPRISONMENT) BILL 2017**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*  
28 November 2017

*(Brought in by the Minister for Justice, the Honourable Elise  
Nicole Archer)*

## **A BILL FOR**

### **An Act to amend the *Sentencing Act 1997***

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

#### **1. Short title**

This Act may be cited as the *Sentencing Amendment (Sentences of Imprisonment) Act 2017*.

#### **2. Commencement**

This Act commences on a day to be proclaimed.

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**3. Principal Act**

In this Act, the *Sentencing Act 1997*\* is referred to as the Principal Act.

**4. Section 92A inserted**

After section 92 of the Principal Act, the following section is inserted in Division 2:

**92A. Certain matters to be specified when sentence of imprisonment imposed, confirmed or activated**

(1) If a court –

- (a) on conviction or on the determination of an appeal, imposes a sentence of imprisonment on an offender, other than a sentence of imprisonment that is wholly suspended or that is imposed in accordance with section 27F; or
- (b) on appeal, confirms the imposition on an offender of a sentence, other than a sentence of imprisonment that is wholly suspended or that is imposed in accordance with section 27F –

the court, when imposing or confirming the sentence –

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\*No. 59 of 1997

- (c) is to specify the term of imprisonment that is being imposed or confirmed; and
- (d) if it suspends part of the sentence, is to specify the period, of the term of imprisonment that is being imposed or confirmed, that is so suspended; and
- (e) is to specify, in the case of a sentence of imprisonment being imposed, whether the sentence is to be served cumulatively on, or is to be served concurrently with, any other sentence of imprisonment or detention that is uncompleted and that the offender is then serving or liable to serve; and
- (f) is to specify that –
  - (i) the offender is not eligible for parole in respect of the sentence of imprisonment being imposed or confirmed; or
  - (ii) the offender is not eligible for parole, in respect of the sentence of imprisonment being imposed or confirmed, before the expiration of a

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period specified in that  
sentence.

(2) If a court –

- (a) activates, under section 27(4B), (4C) or (4E), all or part of a sentence of imprisonment that has been suspended; or
- (b) activates, under section 27O(1)(b)(i) or section 27Q(2)(a), all or part of a sentence of imprisonment that has been suspended –

the court, when activating the sentence of imprisonment –

- (c) is to specify the term of imprisonment that is being activated; and
- (d) is to specify whether the sentence of imprisonment being activated is to be served cumulatively on, or is to be served concurrently with, any other sentence of imprisonment or detention that is uncompleted and that the offender is then serving or liable to serve; and
- (e) is to specify that –
  - (i) the offender is not eligible for parole in respect of the

sentence of imprisonment  
being activated; or

- (ii) the offender is not eligible  
for parole in respect of the  
sentence of imprisonment  
being activated before the  
expiration of a period  
specified in that sentence.

- (3) If subsection (1) or (2) applies to a court  
when imposing, confirming or activating  
a sentence and there is more than one  
sentence of imprisonment that is being  
imposed, confirmed or activated by the  
court, the court, in addition to the  
requirements of subsection (1) or (2) –

- (a) is to specify the total term of  
imprisonment that the offender is  
liable to serve for all the  
sentences of imprisonment that  
are being imposed, confirmed or  
activated; and

- (b) is to specify the following:

- (i) the sentences of  
imprisonment, if any, that  
are being imposed,  
confirmed or activated, in  
respect of which the  
offender is not eligible for  
parole;

- (ii) the period, in relation to  
the sentences of

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imprisonment that are being imposed, confirmed or activated, before the expiration of which the offender is not eligible for parole.

- (4) Nothing in this section is to be taken to confer a power to make a sentence.
- (5) A failure by a court to comply with this section in relation to a sentence of imprisonment is not to be taken to invalidate the sentence.

**5. Repeal of Act**

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.