

# FACT SHEET

## Corrections Amendment Bill 2022

The Corrections Amendment Bill 2022 (the Bill) amends s 71 of the *Corrections Act 1997* (the Act).

Section 71 of the Act relates to where a prisoner is subject to more than one non-parole period or other minimum term, and provides for the commencement of non-parole periods where there are multiple sentences.

In *Director of Corrective Services v Nguyen* [2020] TASFC 11, the Full Court of the Supreme Court of Tasmania considered the operation of s 71 of the Act. The Full Court's decision has had the effect that s 71 of the Act, as currently drafted, is interpreted so that a non-parole period is able to commence at a time before the sentence for the crime to which it relates has even been committed.

The judgements of the Full Court noted this interpretation can have surprising consequences such as a prisoner becoming eligible for parole immediately upon sentencing, and the judge would have no power to fix a future date before the prisoner would not be eligible, unless a concurrent sentence was imposed. Judgements also referred to the incongruous results of potential operation of s71 and it being a matter for Parliament to express a different intention.

As such, the Tasmanian Government is introducing the Bill to remedy this outcome.

The Bill amends the Act to:

- Provide that the definition of a 'designated sentence' under s71 of the Act is subject to a new subsection 6;
- Inserts new subsection 6 that provides, where a person becomes eligible for release on parole, any sentences the person is subject to cease to be 'designated sentences' and the minimum terms of those sentences are not to be taken into account in respect of any later sentence;
- Inserts new subsection 7 that clarifies that the operation of subsection 6 can apply more than once. The subsection also clarifies that this will also apply to the treatment of designated sentences imposed before the commencement of the Bill, but only where the person was already eligible for parole on commencement of the Bill, or when they become eligible for parole at a later date; and
- Inserts new subsection 8 which provides that when a person does become eligible for parole, and is then subject to a later sentence, the default position is that the non-parole period starts on the date of the later sentence unless otherwise ordered.

The amendments apply to sentences imposed before the commencement of the Bill only where the person was already eligible for parole, or otherwise when they become eligible for parole at a later date. The Bill will not change existing parole calculations.

The Bill is to commence on a day to be proclaimed.