

## CLAUSE NOTES

### *Corrections Amendment (Prisoner Remission) Bill 2018*

**Clause 1: Short title**

Specifies the name of the proposed Act.

**Clause 2: Commencement**

Provides for the provisions of the Act to commence on a day or days to be proclaimed.

**Clause 3: Principal Act**

Provides that the Principal Act is the Corrections Act 1997.

**Clause 4: Section 86 substituted - Remissions**

Clause 4 repeals and replaces section 86 of the Principal Act.

The substituted section 86 (Remissions) provides:

- section 86(1) which defines commencement day.
- section 86(2) which provides that remission may only be granted in relation to sentences of imprisonment under which the prisoner is serving all, or part of, in custody. The substitution makes it is clear that remission is granted in relation to sentences of imprisonment, but only when a person is in custody and only on the days that the person is actually in custody.
- section 86(3) which specifies the limitations on when remission may apply to a sentence, including when:
  - a sentence was imposed before the commencement day of this legislation;
  - a prisoner is in custody under more than one sentence, if at least one of those was imposed before the commencement day of this legislation;
  - a prisoner is under different sentences, for different parts of a continuous period in custody, if at least one of the sentences was imposed on the prisoner before the commencement day of this legislation.
- that a wide range of existing sentencing options (singular, concurrent, cumulative) are captured in the substituted section 86(3) and ultimately limits the application of remission to a sentence or sentences imposed before the commencement date of this legislation.
- section 86(4) which provides that remission is not to operate so as to reduce a prisoner's total period in custody, whether that is under one or more continuous sentences of imprisonment, by more than 3 months. This means that a prisoner may only ever receive a maximum of 3 months remission on their 'total term' of imprisonment, regardless of the number of sentences they are serving that term of imprisonment for.

**Clause 5: Section 87 amended (Special management days)**

This clause amends section 87 of the *Corrections Act 1997* by removing the term 'Special Remission' and inserting the term 'Special Management Days'. This amendment removes the connection to remission.

Clause 5 substitutes section 87(1) by providing that the granting of special management days is subject to the regulations relating to the section and inserts that special management days will

apply to a sentence or sentences of imprisonment which the prisoner is in custody for, or that form part of a continuous period in custody.

This clause inserts subsection (1A) into the Principal Act to provide that a prisoner who is granted special management days in accordance with 87(1) is entitled to have the total period of their time in custody under a sentence or sentences of imprisonment reduced by the number of days granted to them.

**Clause 6: Section 90 amended (Regulations)**

Section 90(2) of the Corrections Act 1997 provides the regulation making power for remission and sets out when and why remission may be granted.

This clause amends section 90(2) of the Principal Act to provide that the mitigation or remission of a prisoner's sentence as an incentive to or reward for, good conduct while the prisoner is in custody, or for engaging, while the prisoner is in custody, in activities that are rehabilitative or of a kind approved by the Director.

The substitution stipulates that a prisoner must be 'in custody' in order to be considered for remission and sets limits on what remission may be granted for; 'as an incentive to, or reward for, good conduct, or for engaging in activities that are rehabilitative or of a kind approved by the Director'.

This clause inserts paragraph (da) which provides for section 87 'special management days' to be considered under the regulation making power for remission. Section 87 is a self-contained provision, providing the circumstances in which 'special management days' may be granted and is not the same as remission. The addition of paragraph (da) means that section 90(2)(d) provides for regulations to be made in respect to section 86 'remissions' and section 87 'special management days' as two separate provisions.

**Clause 7: Section 92A inserted**

Section 92 of the Corrections Act 1997 provides for Savings and Transitional provisions. This clause amends section 92 of the Principal Act by inserting in Part 9, section 92A which provides for savings and transitional provisions in relation to *Corrections (Prisoner Remission) Amendment Act 2017*.

**Clause 8: Repeal of Act**

This automatically repeals the amending legislation after the Act commences. The provisions that the amending legislation inserts into the Principal Act still remain in force after the repeal of the Amending Act.