

TASMANIA

**CORRECTIONS AMENDMENT (TREATMENT OF
SEX OFFENDERS) BILL 2015**

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CORRECTIONS AMENDMENT (TREATMENT OF SEX OFFENDERS) BILL 2015

*(Brought in by the Minister for Health, the Honourable
Michael Darrel Joseph Ferguson)*

A BILL FOR

**An Act to amend the *Corrections Act 1997* and the
*Corrections Regulations 2008***

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:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Corrections
Amendment (Treatment of Sex Offenders) Act
2015*.

2. Commencement

This Act commences on the day on which this
Act receives the Royal Assent.

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PART 2 – CORRECTIONS ACT 1997 AMENDED

3. Principal Act

In this Part, the *Corrections Act 1997** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definitions before the definition of *approved organisation*:

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

appropriate treatment, in relation to a sex offender prisoner, means a professional intervention to address the underlying causes of offending behaviour;

- (b) by inserting the following definitions after the definition of *sentence*:

sex offender prisoner means a prisoner whose sentence of imprisonment was –

- (a) imposed on the prisoner as an adult; and

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- (b) imposed, either wholly or partially, for a sexual offence;

sexual offence means –

- (a) an offence under section 72, 72A, 73, 73A, 74 or 74A of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995*; or
- (b) a crime under section 122, 124, 125, 125A, 125B, 125C, 125D, 126, 127, 127A, 129, 130, 130A, 130B, 130C, 130D, 133, 137, 138, 185 or 186 of the *Criminal Code*; or
- (c) a crime under section 298, 299 or 300 of the *Criminal Code* relating to a crime referred to in paragraph (b) of this definition; or
- (d) an offence under section 8(1A), 13A, 13B, 13C, 21 or 35(3) of the *Police Offences Act 1935*; or
- (e) an offence under section 4, 5, 8 or 9 of the *Sex Industry Offences Act 2005*; or

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- (f) a crime or other offence prescribed by the regulations; or
- (g) an offence against the law of a jurisdiction other than Tasmania which is of substantially the same nature as a crime or offence referred to in another paragraph of this definition;

5. Section 31 inserted

After section 30 of the Principal Act, the following section is inserted in Part 4:

31. Treatment of sex offender prisoners

- (1) This section applies if the Director is satisfied on reasonable grounds that appropriate treatment is available for a sex offender prisoner.
- (2) The Director is to give the sex offender prisoner a reasonable opportunity to participate in the appropriate treatment unless satisfied on reasonable grounds that –
 - (a) the prisoner is medically or psychologically unfit to participate in the treatment; or

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- (b) the prisoner is not cognitively capable of participating in the treatment; or
 - (c) there is insufficient time for the prisoner to complete the treatment; or
 - (d) the prisoner's participation in the treatment could compromise the safety, security or good order of the prison.
 - (3) The Director, on giving the sex offender prisoner the opportunity to participate in the appropriate treatment, is to inform the prisoner that –
 - (a) non-participation or unsatisfactory participation will prevent the prisoner from being granted a remission of sentence in respect of the relevant sexual offence; and
 - (b) participation, non-participation or unsatisfactory participation will, if the prisoner becomes eligible for parole, be factors taken into consideration by the Board in determining whether the prisoner should be released on parole.
 - (4) If the sex offender prisoner chooses to participate in the appropriate treatment, the Director is to –

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- (a) monitor the participation; and
 - (b) prepare a written assessment of the participation, with particular reference to –
 - (i) the prisoner's attendance and compliance; and
 - (ii) the prisoner's attitude, behaviour and responsiveness during treatment; and
 - (iii) whether the treatment is completed and, if it is not completed, the reasons for non-completion; and
 - (iv) whether any action is taken under subsection (5).
- (5) If the sex offender prisoner chooses to participate in the appropriate treatment, the Director may cease or suspend the participation at any time if satisfied on reasonable grounds that –
- (a) the participation is unsatisfactory; or
 - (b) the treatment is no longer available, practicable or appropriate; or

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- (c) there are other valid grounds for the cessation or suspension.
 - (6) If the sex offender prisoner chooses to participate in the appropriate treatment and subsequently becomes eligible for parole, the Director is to give the Board notice of the prisoner's choice, and –
 - (a) a copy of the assessment prepared under subsection (4)(b); or
 - (b) if the participation is on-going, a written assessment, in substantially the same terms as those required by subsection (4)(b), of the participation up to the time of the prisoner's eligibility for parole.
 - (7) If the sex offender prisoner chooses not to participate in the appropriate treatment and subsequently becomes eligible for parole, the Director is to give the Board notice of the prisoner's choice together with relevant particulars, including particulars of the treatment.
 - (8) To avoid doubt –
 - (a) a sex offender prisoner may be offered more than one opportunity to participate in appropriate treatment pursuant to this section; but

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- (b) the Director is not obliged by subsection (2) to give a sex offender prisoner repeated opportunities to participate in appropriate treatment pursuant to this section, particularly if the prisoner has persistently chosen not to participate in such treatment or has a history of unsatisfactory participation in such treatment.
- (9) For the purpose of forming opinions under this section, the Director may seek and have regard to such professional medical advice and other information as he or she thinks fit.
- (10) In this section –
 - unsatisfactory participation*, of a sex offender prisoner in appropriate treatment, means participation that, for reasons assessed by the Director as being within the prisoner's control, is incomplete or non-compliant.

6. Section 72 amended (Release on parole)

Section 72(4) of the Principal Act is amended by inserting after paragraph (ka) the following paragraph:

- (kb) if the prisoner is a sex offender prisoner, any notice or assessment given to the

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Board pursuant to section 31(6) or (7)
concerning the prisoner's participation or
non-participation in appropriate
treatment; and

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Part 3 – Corrections Regulations 2008 Amended

**PART 3 – CORRECTIONS REGULATIONS 2008
AMENDED**

7. Principal Regulations

In this Part, the *Corrections Regulations 2008**
are referred to as the Principal Regulations.

8. Regulation 22 amended (Remission)

Regulation 22 of the Principal Regulations is
amended by inserting after subregulation (3) the
following subregulation:

- (4) Remission of sentence is not to be granted to a sex offender prisoner in respect of a sentence for a sexual offence if –
 - (a) the sex offender prisoner has been given a reasonable opportunity to participate in appropriate treatment pursuant to section 31 of the Act; and
 - (b) the sex offender prisoner –
 - (i) has chosen not to participate in the appropriate treatment; or
 - (ii) has chosen to participate in the appropriate treatment but the

*S.R. 2008, No. 82

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participation has been
unsatisfactory
participation within the
meaning of section 31 of
the Act.

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Part 4 – Miscellaneous

PART 4 – MISCELLANEOUS

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

The amendment by this Act of a provision of the *Corrections Regulations 2008* does not bar the subsequent amendment or rescission of that provision by regulation.

10. Repeal of Act

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