



New South Wales

# Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017 No 53

## Contents

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		Page
	1 Name of Act	2
	2 Commencement	2
<b>Schedule 1</b>	<b>Amendment of Crimes (Sentencing Procedure) Act 1999 No 92— principal amendments</b>	<b>3</b>
<b>Schedule 2</b>	<b>Amendment of Crimes (Sentencing Procedure) Act 1999 No 92— savings and transitional provisions</b>	<b>21</b>
<b>Schedule 3</b>	<b>Amendment of Crimes (Administration of Sentences) Act 1999 No 93</b>	<b>29</b>
<b>Schedule 4</b>	<b>Amendment of other legislation</b>	<b>42</b>

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New South Wales

# Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017 No 53

Act No 53, 2017

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An Act to amend the *Crimes (Sentencing Procedure) Act 1999* with respect to sentencing options available to courts for persons found guilty of offences; to abolish home detention orders, community service orders, suspended sentences and good behaviour bonds; to make consequential and other amendments to the *Crimes (Administration of Sentences) Act 1999* and other legislation; and for other purposes. [Assented to 24 October 2017]

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See also the *Justice Legislation Amendment (Committals and Guilty Pleas) Act 2017* and the *Crimes (High Risk Offenders) Amendment Act 2017*.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

## Schedule 1 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92—principal amendments

### [1] Section 3 Interpretation

Insert in alphabetical order in section 3 (1):

*Commissioner* means the Commissioner of Corrective Services, Department of Justice.

*community correction order* means an order referred to in section 8.

*community corrections officer* has the same meaning as it has in the *Crimes (Administration of Sentences) Act 1999*.

*community service work condition*—see sections 73A and 89.

*conditional release order* means an order referred to in section 9.

*Corrective Services NSW* has the same meaning as it has in the *Crimes (Administration of Sentences) Act 1999*.

*domestic violence offence* has the same meaning as it has in the *Crimes (Domestic and Personal Violence) Act 2007*.

*home detention condition*—see section 73A.

*juvenile justice officer* has the same meaning as it has in the *Children (Detention Centres) Act 1987*.

*Parole Authority* means the State Parole Authority constituted by section 183 of the *Crimes (Administration of Sentences) Act 1999*.

*proceed to* a conviction includes record a conviction.

*supervision condition*—see sections 73, 89 and 99.

### [2] Section 3 (1), definitions of “community service order”, “good behaviour bond” and home detention order”

Omit the definitions.

### [3] Section 3 (1), definition of “full-time detention”

Omit the definition. Insert instead:

*full-time detention* means detention in a correctional centre.

### [4] Sections 4A and 4B

Insert after section 4:

#### 4A Domestic violence offenders—requirement for full-time detention or supervision

- (1) If a court finds a person guilty of a domestic violence offence, the court must impose on the person either:
  - (a) a sentence of full-time detention, or
  - (b) a supervised order.
- (2) However, the court is not required to impose either of those sentencing options if the court is satisfied that a different sentencing option is more appropriate in the circumstances and gives reasons for reaching that view.
- (3) For the purposes of this section, a *supervised order* is an order (being an intensive correction order, community correction order or conditional release order) that is subject to a supervision condition.

**4B Domestic violence offenders—protection and safety of victims**

- (1) An intensive correction order must not be made in respect of:
  - (a) a sentence of imprisonment for a domestic violence offence, or
  - (b) an aggregate sentence of imprisonment for 2 or more offences, any 1 or more of which is a domestic violence offence,unless the sentencing court is satisfied that the victim of the domestic violence offence, and any person with whom the offender is likely to reside, will be adequately protected (whether by conditions of the intensive correction order or for some other reason).
- (2) If the sentencing court finds a person guilty of a domestic violence offence, the court must not impose a home detention condition if the court reasonably believes that the offender will reside with the victim of the domestic violence offence.
- (3) Before making a community correction order or conditional release order in respect of a person whom the sentencing court finds guilty of a domestic violence offence, the court must consider the safety of the victim of the offence.

**[5] Section 5 Penalties of imprisonment**

Omit “or home detention order” from section 5 (5).

**[6] Section 6 Home detention**

Omit the section.

**[7] Section 7**

Omit the section. Insert instead:

**7 Intensive correction orders**

- (1) A court that has sentenced an offender to imprisonment in respect of 1 or more offences may make an intensive correction order directing that the sentence or sentences be served by way of intensive correction in the community.
- (2) If the court makes an intensive correction order directing that a sentence of imprisonment be served by way of intensive correction in the community, the court is not to set a non-parole period for the sentence.
- (3) This section does not apply to an offender who is under the age of 18 years.
- (4) This section is subject to the provisions of Part 5.

**Note.** Among other matters, Part 5 provides that a single offence cannot be the subject of an intensive correction order if the imprisonment imposed exceeds 2 years, and that multiple offences cannot be the subject of an intensive correction order or orders if the imprisonment imposed exceeds 3 years.

**[8] Section 8**

Omit the section. Insert instead:

**8 Community correction orders**

- (1) Instead of imposing a sentence of imprisonment on an offender, a court that has convicted a person of an offence may make a community correction order in relation to the offender.

- (2) A community service work condition must not be imposed on a community correction order made in relation to an offender to whom the *Children (Community Service Orders) Act 1987* applies.
- (3) This section is subject to the provisions of Part 7.

**[9] Section 9**

Omit the section. Insert instead:

**9 Conditional release orders**

- (1) Instead of imposing a sentence of imprisonment or a fine (or both) on an offender, a court that finds a person guilty of an offence may make a conditional release order discharging the offender, if:
  - (a) the court proceeds to conviction, or
  - (b) the court does not proceed to conviction but makes an order under section 10 (1) (b).
- (2) In deciding whether to make a conditional release order with a conviction, the sentencing court is to have regard to the following factors:
  - (a) the person's character, antecedents, age, health and mental condition,
  - (b) whether the offence is of a trivial nature,
  - (c) the extenuating circumstances in which the offence was committed,
  - (d) any other matter that the court thinks proper to consider.

**Note.** These factors are considered under section 10 in respect of an order under section 10 (1) (b) in connection with a conditional release order without a conviction.
- (3) To avoid doubt and without limitation:
  - (a) a fine and a conditional release order cannot be imposed in relation to the offender in respect of the same offence, and
  - (b) a conditional release order with a conviction may be made as an alternative to imposing a fine.
- (4) This section is subject to the provisions of Part 8.

**[10] Section 10 Dismissal of charges and conditional discharge of offender**

Omit section 10 (1) (b). Insert instead:

- (b) an order discharging the person under a conditional release order (in which case the court proceeds to make a conditional release order under section 9),

**[11] Section 10 (1A)**

Insert after section 10 (1):

- (1A) A reference in any legislation (including this Act) to an order under this section includes, in the case of an order under subsection (1) (b), a reference to a conditional release order made under section 9 pursuant to that paragraph.

**[12] Section 10 (2) (b)**

Omit the paragraph. Insert instead:

- (b) that it is expedient to discharge the person under a conditional release order.

**[13] Section 10 (4)**

Insert at the end of the subsection:

**Note.** Certain other Acts and regulations contain provisions to the effect that an order under this section made in respect of an offence is to be treated as a conviction for certain purposes of the legislation concerned. Accordingly, those provisions apply to an order under subsection (1) (b) in respect of the offence and a conditional release order made pursuant to that paragraph.

**[14] Section 12 Suspended sentences**

Omit the section.

**[15] Section 13 Community service orders and good behaviour bonds to be alternative penalties only**

Omit the section.

**[16] Section 14 Fines as an additional penalty to good behaviour bond**

Omit the section.

**[17] Part 2, Divisions 4B and 4C**

Insert after section 17A:

**Division 4B Assessment reports**

**17B Definition of and provisions relating to “assessment report”**

- (1) In this Division:  
*assessment report* means a report made by a community corrections officer or a juvenile justice officer under this Part.
- (2) The purpose of an assessment report is to assist a sentencing court to determine the appropriate sentence options and conditions to impose on the offender during sentencing proceedings.
- (3) An assessment report is made by a community corrections officer or a juvenile justice officer.
- (4) The regulations may make provision for or with respect to matters to be addressed in, and the preparation and furnishing of, an assessment report.

**17C Request for assessment report**

- (1) Except as provided by section 17D:
  - (a) the sentencing court may request, but is not obliged to request, an assessment report on an offender, and
  - (b) the request may be made at any time during the sentencing proceedings, whether before or after imposing a sentence.
- (2) If a court refers an offender for assessment in relation to a sentence and a sentence of imprisonment has been imposed in respect of the offence concerned:
  - (a) the referral stays the execution of the sentence and the operation of section 48, and
  - (b) the offender is to be remanded in custody, or granted bail in accordance with the *Bail Act 2013*,  
until the court decides whether or not to make an intensive correction order.

#### **17D Requirement for assessment report**

- (1) The sentencing court must not make an intensive correction order in respect of an offender unless it has obtained a relevant assessment report in relation to the offender.
- (2) The sentencing court must not impose a home detention condition on an intensive correction order unless it has obtained an assessment report relating to the imposition of such a condition in relation to the offender.
- (3) The sentencing court must not request an assessment report relating to the imposition of a home detention condition on an intensive correction order unless it has imposed a sentence of imprisonment on the offender for a specified term.
- (4) The sentencing court must not impose a community service work condition on an intensive correction order or community correction order unless it has obtained an assessment report relating to the imposition of such a condition in relation to the offender.
- (5) The assessment reports referred to in this section may be in the 1 report or in more than 1 report.

**Note.** See also sections 73A (3) and 89 (4) regarding the imposition of home detention conditions and community service work conditions.

### **Division 4C Provisions relating to certain orders**

#### **17E Definitions**

In this Division:

**relevant orders** means the following orders (or any combination of 1 or more of them):

- (a) intensive correction orders,
- (b) community correction orders,
- (c) conditional release orders.

#### **17F Multiple orders**

- (1) Only 1 relevant order can be in force at the same time in respect of the same offence in relation to the same offender.
- (2) Subject to subsection (1), 2 or more relevant orders can be in force at the same time in respect of 2 or more offences in relation to the same offender.
- (3) For the purposes of subsection (1), an intensive correction order prevails over a community correction order, and a community correction order prevails over a conditional release order.
- (4) For the purposes of subsection (2) and subject to sections 17G and 17H, if there is an inconsistency as to how any conditions of the relevant orders operate together, then to the extent of the inconsistency:
  - (a) a condition of an intensive correction order prevails over a condition of a community correction order, and
  - (b) a condition of a community correction order prevails over a condition of a conditional release order, and
  - (c) despite paragraphs (a) and (b), a standard condition prevails over a condition that is not a standard condition.



**17G Community service work conditions under multiple orders**

- (1) A relevant order (the *new order*) may not be made if the sum of:
  - (a) the number of hours of community service work to be performed under the new order, and
  - (b) the number of hours of community service work remaining to be performed under any other relevant order (an *existing order*),exceeds 750 hours (if any one of the orders is an intensive correction order) or 500 hours (if all the orders are community correction orders).

**Note.** Community service work conditions can be imposed on intensive correction orders and community correction orders, but cannot be imposed on conditional release orders.
- (2) In calculating the sum referred to in subsection (1), the hours of community service work to be performed under the new order are to be disregarded to the extent to which they run concurrently with those to be performed under any existing order.
- (3) The hours of community service work to be performed under the new order are taken to run concurrently with those to be performed under any existing order.

**17H Curfew conditions under multiple orders**

- (1) This section applies where 2 or more curfew conditions apply under 2 or more relevant orders in respect of the same period of 24 hours (the *period of 24 hours*).

**Note.** Curfew conditions can be imposed on intensive correction orders and community correction orders, but cannot be imposed on conditional release orders.
- (2) If all the relevant orders are intensive correction orders, this section does not affect the curfew conditions.
- (3) If all the relevant orders are community correction orders, the following provisions apply:
  - (a) The offender cannot be required to observe a curfew in respect of more than 12 hours in the period of 24 hours. Any excess is to be disregarded.
  - (b) The offender is required in the period of 24 hours to observe only the curfew imposed by the 1 curfew condition that specifies more hours than the other or others.
- (4) If at least 1 of the relevant orders is an intensive correction order and at least 1 is a community correction order, the following provisions apply:
  - (a) This section does not affect any curfew condition imposed on an intensive correction order.
  - (b) The offender cannot be required, as a result of the curfew conditions imposed on the relevant orders, to observe a curfew in respect of more than the greater of:
    - (i) the hours required by curfew conditions imposed on the intensive correction order or intensive correction orders in the period of 24 hours, or
    - (ii) 12 hours in the period of 24 hours.Any excess is to be disregarded.
  - (c) In determining the number of hours under 2 or more curfew conditions imposed on 2 or more community correction orders, regard is to be had only to the 1 curfew condition that specifies more hours than the other or others.

- (5) The regulations under the *Crimes (Administration of Sentences) Act 1999* may make provision for or with respect to the manner of determining numbers of hours for the purposes of this section and any excess to be disregarded under this section.

**17I Explanation of relevant order to offender**

- (1) Having made a relevant order in relation to an offender, the sentencing court must ensure that reasonable steps are taken to explain to the offender (in language that the offender can readily understand):
- (a) the offender's obligations under the order, and
  - (b) the consequences that may follow if the offender fails to comply with those obligations.
- (2) A relevant order is not invalidated by a failure to comply with this section.

**17J Notice of relevant order to be given**

- (1) As soon as practicable after a relevant order is made, the registrar or another officer of the sentencing court must cause notice of the order to be given to the offender and to Corrective Services NSW.
- (2) The notice must include such information about the relevant order as may be prescribed by the regulations.
- (3) Notice of an order does not need to be given to Corrective Services NSW unless the order is subject to a supervision condition or a community service work condition.
- (4) A relevant order is not invalidated by a failure to comply with this section.

**[18] Section 24 Court to take other matters into account**

Omit "community service order, good behaviour bond" from section 24 (b).

Insert instead "community correction order, conditional release order".

**[19] Section 24 (b) (i) and (ii)**

Omit "or bond" wherever occurring.

**[20] Section 24 (c)**

Omit "or good behaviour bond" wherever occurring.

**[21] Section 25 Local Court not to impose certain penalties if offender is absent**

Omit section 25 (1) (c)–(e). Insert instead:

- (d) a community correction order,
- (e) a conditional release order,

**[22] Section 31 Definitions**

Omit ", home detention order or community service order" from paragraph (b) of the definition of *impose a penalty*.

Insert instead "or community correction order".

**[23] Section 43 Court may reopen proceedings to correct sentencing errors**

Omit “home detention order or community service order” from paragraph (b) of the definition of *impose a penalty* in section 43 (6).

Insert instead “community correction order or conditional release order”.

**[24] Section 43 (6), paragraph (c) of definition of “impose a penalty”**

Omit the paragraph.

**[25] Section 43 (6), paragraph (d) of definition of “impose a penalty”**

Omit “10, 11 or 12”. Insert instead “10 or 11”.

**[26] Section 47 Commencement of sentence**

Omit section 47 (1). Insert instead:

- (1) A sentence of imprisonment commences, subject to section 71 and to any direction under subsection (2), on the day on which the sentence is imposed.

**[27] Section 62 Warrant of commitment**

Omit section 62 (4). Insert instead:

- (4) This section does not apply:
  - (a) while action is being taken under Part 5 in relation to the making of an intensive correction order, or
  - (b) to a sentence of imprisonment that is the subject of an intensive correction order.

**[28] Section 63 Offenders to be photographed and fingerprinted**

Omit “or home detention order” from section 63 (2).

**[29] Part 5**

Omit the Part. Insert instead:

## **Part 5 Sentencing procedures for intensive correction orders**

### **Division 1 Preliminary**

#### **64 Application**

This Part applies in circumstances in which a court is considering, or has made, an intensive correction order.

#### **65 Definition**

In this Part:

*assessment report*, in relation an offender, means an assessment report within the meaning of Division 4B of Part 2 made in respect of the offender.

## Division 2      Restrictions on power to make intensive correction orders

### 66      Community safety and other considerations

- (1) Community safety must be the paramount consideration when the sentencing court is deciding whether to make an intensive correction order in relation to an offender.
- (2) When considering community safety, the sentencing court is to assess whether making the order or serving the sentence by way of full-time detention is more likely to address the offender's risk of reoffending.
- (3) When deciding whether to make an intensive correction order, the sentencing court must also consider the provisions of section 3A (Purposes of sentencing) and any relevant common law sentencing principles, and may consider any other matters that the court thinks relevant.

### 67      Intensive correction order not available for certain offences

- (1) An intensive correction order must not be made in respect of a sentence of imprisonment for any of the following offences:
  - (a) murder or manslaughter,
  - (b) a prescribed sexual offence,
  - (c) a terrorism offence within the meaning of the *Crimes Act 1914* of the Commonwealth or an offence under section 310J of the *Crimes Act 1900*,
  - (d) an offence relating to a contravention of a serious crime prevention order under section 8 of the *Crimes (Serious Crime Prevention Orders) Act 2016*,
  - (e) an offence relating to a contravention of a public safety order under section 87ZA of the *Law Enforcement (Powers and Responsibilities) Act 2002*,
  - (f) an offence involving the discharge of a firearm,
  - (g) an offence that includes the commission of, or an intention to commit, an offence referred to in paragraphs (a)–(f),
  - (h) an offence of attempting, or of conspiracy or incitement, to commit an offence referred to in paragraphs (a)–(g).

- (2) For the purposes of this section:

***Commonwealth Criminal Code*** means the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth.

***firearm*** means a firearm as defined in the *Firearms Act 1996*.

***prescribed sexual offence*** means:

- (a) an offence under Division 10 or 10A of Part 3 of the *Crimes Act 1900*, being:
  - (i) an offence the victim of which is a person under the age of 16 years, or
  - (ii) an offence the victim of which is a person of any age and the elements of which include sexual intercourse (as defined by section 61H of that Act), or
- (b) an offence under section 91D, 91E, 91F, 91G or 91H of the *Crimes Act 1900*, or

- (c) an offence under section 91J, 91K or 91L of the *Crimes Act 1900*, being an offence the victim of which is a person under the age of 16 years, or
  - (d) an offence against section 50BA, 50BB, 50BC, 50BD, 50DA or 50DB of the *Crimes Act 1914* of the Commonwealth, being an offence the victim of which was a person under the age of 16 years, or
  - (e) an offence against section 71.8, 71.12, 271.4, 271.7, 272.8 (1) or (2), 272.9 (1) or (2), 272.10 (1), 272.11 (1), 272.12 (1) or (2), 272.13 (1) or (2), 272.14 (1), 272.15 (1), 272.18 (1), 272.19 (1), 272.20 (1) or (2), 273.5, 273.6, 273.7, 471.16 (1) or (2), 471.17 (1), 471.19 (1) or (2), 471.20 (1), 471.22 (1), 471.24, 471.25, 471.26, 474.19 (1), 474.20 (1), 474.22 (1), 474.23 (1), 474.24A (1), 474.25A (1) or (2), 474.25B (1), 474.26, 474.27 (1), (2) or (3), 474.27A of the *Commonwealth Criminal Code*, being an offence the victim of which was a person under the age of 16 years, or
  - (f) an offence against section 233BAB of the *Customs Act 1901* of the Commonwealth involving items of child pornography or child abuse material, or
  - (g) an offence that, at the time it was committed, was a prescribed sexual offence within the meaning of this definition.
- (3) To avoid doubt, subsection (1) extends to a sentence of imprisonment for 2 or more offences any 1 of which includes an offence referred to in that subsection.

**68 Intensive correction orders not available where imprisonment exceeds limits**

- (1) An intensive correction order must not be made in respect of a single offence if the duration of the term of imprisonment imposed for the offence exceeds 2 years.
- (2) An intensive correction order may be made in respect of an aggregate sentence of imprisonment. However, the order must not be made if the duration of the term of the aggregate exceeds 3 years.
- (3) Two or more intensive correction orders may be made in respect of each of 2 or more offences. However, the orders must not be made if:
  - (a) the duration of the term of any individual term of imprisonment exceeds 2 years, and
  - (b) the duration of the term of imprisonment imposed for all the offences exceeds 3 years.

**69 Assessment of suitability of offender for intensive correction order**

- (1) In deciding whether or not to make an intensive correction order, the sentencing court is to have regard to:
  - (a) the contents of the assessment report referred to in section 17D (1) relating to the offender, and
  - (b) such evidence from a community corrections officer as the court considers necessary for the purpose of deciding whether to make such an order.
- (2) Subject to section 73A (3), the sentencing court is not bound by the assessment report.

### Division 3 Term and commencement

#### 70 Term of intensive correction order

Unless sooner revoked, the term of an intensive correction order is the same as the term or terms of imprisonment in respect of which the order is made.

**Note.** Section 68 contains provisions regarding the term or terms of imprisonment in respect of which intensive correction orders may be made.

#### 71 Commencement of intensive correction order

- (1) An intensive correction order commences on the date on which it is made.
- (2) Subsection (1) does not apply to an intensive correction order made in relation to a sentence of imprisonment that is to be served consecutively (or partly concurrently and partly consecutively) with some other sentence of imprisonment the subject of an intensive correction order.

### Division 4 Conditions

#### 72 Conditions generally

An intensive correction order is subject to the following conditions:

- (a) standard conditions imposed by the sentencing court under section 73,
- (b) any additional conditions imposed by the sentencing court under section 73A,
- (c) any further conditions imposed by the sentencing court under section 73B,
- (d) any conditions imposed by the Parole Authority under section 81A or 164 of the *Crimes (Administration of Sentences) Act 1999*.

**Note 1.** Provisions relating to a breach of obligations under an intensive correction order are contained in sections 163 and 164 of the *Crimes (Administration of Sentences) Act 1999*.

**Note 2.** After an offender is sentenced by the sentencing court, conditions of an intensive correction order are imposed, varied or revoked by the Parole Authority rather than the court.

#### 73 Standard conditions

- (1) The sentencing court must at the time of sentence impose on an intensive correction order the standard conditions of an intensive correction order.
- (2) The standard conditions of an intensive correction order are the following:
  - (a) a condition that the offender must not commit any offence,
  - (b) a condition that the offender must submit to supervision by a community corrections officer.

**Note.** Regulations may be made under the *Crimes (Administration of Sentences) Act 1999* to prescribe the offender's obligations under a standard condition of an intensive correction order.

#### 73A Additional conditions

- (1) In addition to the standard conditions, the sentencing court must at the time of sentence impose on an intensive correction order at least 1 of the additional conditions referred to in subsection (2).
- (2) The additional conditions of an intensive correction order that are available to be imposed are the following conditions (as directed by the sentencing court):
  - (a) a home detention condition,

- (b) an electronic monitoring condition,
  - (c) a curfew condition imposing a specified curfew,
  - (d) a community service work condition requiring the performance of community service work for a specified number of hours (not exceeding 750 hours),
  - (e) a rehabilitation or treatment condition requiring the offender to participate in a rehabilitation program or to receive treatment,
  - (f) an abstinence condition requiring abstinence from alcohol or drugs or both,
  - (g) a non-association condition prohibiting association with particular persons,
  - (h) a place restriction condition prohibiting the frequenting of or visits to a particular place or area.
- (3) The sentencing court must not impose a home detention condition or community service work condition on an intensive correction order unless an assessment report states that the offender is suitable to be the subject of such a condition.
- Note.** The provisions of section 17D (2), (3) and (4) refer specifically to assessment reports regarding home detention conditions and community service work conditions.
- (4) The sentencing court may limit the period during which an additional condition imposed by it on an intensive correction order is in force.
- Note.** Regulations may be made under the *Crimes (Administration of Sentences) Act 1999* to prescribe the offender's obligations under an additional condition of an intensive correction order.

**73B Further conditions**

- (1) The sentencing court may at the time of sentence impose further conditions on an intensive correction order.
- (2) This section does not permit the sentencing court to impose any further conditions so as to be inconsistent with:
  - (a) any of the standard conditions of an intensive correction order, or
  - (b) any of the additional conditions (whether or not imposed on the intensive correction order) referred to in section 73A (2).
- (3) The sentencing court may limit the period during which a further condition imposed by it on an intensive correction order is in force.

**[30] Part 6 Sentencing procedures for home detention orders**

Omit the Part.

**[31] Parts 7 and 8**

Omit the Parts. Insert instead:

## **Part 7 Sentencing procedures for community correction orders**

### **Division 1 Preliminary**

#### **84 Application**

This Part applies in circumstances in which a court is considering, or has made, a community correction order.

### **Division 2 Term and commencement**

#### **85 Term of community correction order**

- (1) The term of a community correction order is the period specified in the order.
- (2) The maximum term of a community correction order is 3 years.

#### **86 Commencement of community correction order**

A community correction order commences on the date on which it is made.

### **Division 3 Conditions**

#### **87 Conditions generally**

A community correction order is subject to the following conditions:

- (a) standard conditions imposed by the sentencing court under section 88,
- (b) any additional conditions imposed by the sentencing court under section 89,
- (c) any further conditions imposed by the sentencing court under section 90.

#### **88 Standard conditions**

- (1) The sentencing court must at the time of sentence impose on a community correction order the standard conditions of a community correction order.
- (2) The standard conditions of a community correction order are the following:
  - (a) a condition that the offender must not commit any offence,
  - (b) a condition that the offender must appear before the court if called on to do so at any time during the term of the community correction order.

**Note.** Regulations may be made under the *Crimes (Administration of Sentences) Act 1999* to prescribe the offender's obligations under a standard condition of a community correction order.

#### **89 Additional conditions**

- (1) The sentencing court may at the time of sentence, or subsequently on the application of a community corrections officer or juvenile justice officer or the offender:
  - (a) impose on a community correction order any of the additional conditions of a community correction order, or



- (b) vary or revoke any such additional conditions imposed by it on a community correction order.
- (2) The additional conditions of a community correction order that are available to be imposed are the following conditions (as directed by the sentencing court):
- (a) a curfew condition imposing a specified curfew (not exceeding 12 hours in any period of 24 hours),
  - (b) a community service work condition requiring the performance of community service work for a specified number of hours (not exceeding 500 hours),
  - (c) a rehabilitation or treatment condition requiring the offender to participate in a rehabilitation program or to receive treatment,
  - (d) an abstention condition requiring abstention from alcohol or drugs or both,
  - (e) a non-association condition prohibiting association with particular persons,
  - (f) a place restriction condition prohibiting the frequenting of or visits to a particular place or area,
  - (g) a supervision condition requiring the offender to submit to supervision:
    - (i) by a community corrections officer, except as provided by subparagraph (ii) or (iii), or
    - (ii) if the offender was under the age of 18 years when the condition was imposed, by a juvenile justice officer until the offender has reached that age, or
    - (iii) if the offender was under the age of 18 years when the condition was imposed but has since reached that age, by a juvenile justice officer where the officer chooses to continue supervision.
- (3) An additional condition of any of the following kinds must not be imposed on a community correction order:
- (a) a home detention condition,
  - (b) an electronic monitoring condition,
  - (c) a curfew condition imposing a curfew exceeding 12 hours in any period of 24 hours.
- (4) The sentencing court must not impose a community service work condition on a community correction order unless an assessment report states that the offender is suitable to be the subject of such a condition.
- Note.** The provisions of section 17D (4) refer specifically to assessment reports regarding community service work conditions.
- (5) The sentencing court may limit the period during which an additional condition on a community correction order is in force.
- Note.** Regulations may be made under the *Crimes (Administration of Sentences) Act 1999* to prescribe the offender's obligations under an additional condition of a community correction order.

## 90 Further conditions

- (1) The sentencing court may at the time of sentence, or subsequently on the application of a community corrections officer or juvenile justice officer or the offender:
- (a) impose further conditions on a community correction order, or

- (b) vary or revoke any such further conditions imposed by it on a community correction order.
- (2) This section does not permit the sentencing court to impose any further conditions, or vary any such further conditions, if the conditions as imposed or varied:
  - (a) would be inconsistent with:
    - (i) any of the standard conditions of a community correction order, or
    - (ii) any of the additional conditions (whether or not actually imposed on the community service order) referred to in section 89 (2), or
  - (b) would not be permitted under section 89 (3).
- (3) The sentencing court may limit the period during which a further condition on a community correction order is in force.

#### **91 Power of court in dealing with applications**

- (1) The sentencing court may refuse to consider an application by the offender under section 89 or 90 if the court is satisfied that the application is without merit.
- (2) The sentencing court may, with the consent of the community corrections officer or juvenile justice officer and the offender, deal with the application with or without parties being present and in open court or in the absence of the public.
- (3) To avoid doubt, a court may deal with an application even though the court is constituted differently from the court as constituted at the time of the sentence.

## **Part 8 Sentencing procedures for conditional release orders**

### **Division 1 Preliminary**

#### **94 Application**

This Part applies in circumstances in which a court is considering, or has made, a conditional release order.

### **Division 2 Term and commencement**

#### **95 Term of conditional release order**

- (1) The term of a conditional release order is the period specified in the order.
- (2) The maximum term of a conditional release order is 2 years.

#### **96 Commencement of conditional release order**

A conditional release order commences on the date on which it is made.

### **Division 3 Conditions**

#### **97 Conditions generally**

A conditional release order is subject to the following conditions:

- (a) standard conditions imposed by the sentencing court under section 98,

- (b) any additional conditions imposed by the sentencing court under section 99,
- (c) any further conditions imposed by the sentencing court under section 99A.

**Note.** Provisions relating to a breach of obligations under a conditional release order are contained in section 108C of the *Crimes (Administration of Sentences) Act 1999*.

#### 98 Standard conditions

- (1) The sentencing court must at the time of sentence impose on a conditional release order the standard conditions of a conditional release order.
- (2) The standard conditions of a conditional release order are the following:
  - (a) a condition that the offender must not commit any offence,
  - (b) a condition that the offender must appear before the court if called on to do so at any time during the term of the conditional release order.

**Note.** Regulations may be made under the *Crimes (Administration of Sentences) Act 1999* to prescribe the offender's obligations under a standard condition of a conditional release order.

#### 99 Additional conditions

- (1) The sentencing court may at the time of sentence, or subsequently on the application of a community corrections officer or juvenile justice officer or the offender:
  - (a) impose on a conditional release order any of the additional conditions of a conditional release order, or
  - (b) vary or revoke any such additional conditions imposed by it on a conditional release order.
- (2) The additional conditions of a conditional release order that are available to be imposed are the following (as directed by the sentencing court):
  - (a) a rehabilitation or treatment condition requiring the offender to participate in a rehabilitation program or to receive treatment,
  - (b) an abstention condition requiring abstention from alcohol or drugs or both,
  - (c) a non-association condition prohibiting association with particular persons,
  - (d) a place restriction condition prohibiting the frequenting of or visits to a particular place or area,
  - (e) a supervision condition requiring the offender to submit to supervision:
    - (i) by a community corrections officer, except as provided by subparagraph (ii) or (iii), or
    - (ii) if the offender was under the age of 18 years when the condition was imposed, by a juvenile justice officer until the offender has reached that age, or
    - (iii) if the offender was under the age of 18 years when the condition was imposed but has since reached that age, by a juvenile justice officer where the officer chooses to continue supervision.
- (3) An additional condition of any of the following kinds must not be imposed on a conditional release order:
  - (a) a home detention condition,
  - (b) an electronic monitoring condition,

- (c) a curfew condition,
  - (d) a community service work condition.
- (4) The sentencing court may limit the period during which an additional condition on a conditional release order is in force.

**Note.** Regulations may be made under the *Crimes (Administration of Sentences) Act 1999* to prescribe the offender's obligations under an additional condition of a conditional release order.

#### **99A Further conditions**

- (1) The sentencing court may at the time of sentence, or subsequently on the application of a community corrections officer or juvenile justice officer or the offender:
- (a) impose further conditions on a conditional release order, or
  - (b) vary or revoke any such further conditions imposed by it on a conditional release order.
- (2) This section does not permit the sentencing court to impose any further conditions, or vary any such further conditions, if the condition as imposed or varied:
- (a) would be inconsistent with:
    - (i) any of the standard conditions of a conditional release order, or
    - (ii) any of the additional conditions (whether or not actually imposed on the conditional release order) referred to in section 99 (2), or
  - (b) would not be permitted under section 99 (3).
- (3) The sentencing court may limit the period during which a further condition on a conditional release order is in force.

#### **100 Power of court in dealing with applications**

- (1) The sentencing court may refuse to consider an application by the offender under section 99 or 99A if the court is satisfied that the application is without merit.
- (2) The sentencing court may, with the consent of the community corrections officer or juvenile justice officer and the offender, deal with the application with or without parties being present and in open court or in the absence of the public.
- (3) To avoid doubt, a court may deal with an application even though the court is constituted differently from the court as constituted at the time of the sentence.

#### **[32] Section 100R Proceedings for breach of order**

Omit section 100R (2). Insert instead:

- (2) If the offender fails to appear, the court may:
- (a) issue a warrant for the offender's arrest, or
  - (b) authorise an authorised officer to issue a warrant for the offender's arrest.
- (2A) If, however, at the time the court proposes to call on an offender to appear before it, the court is satisfied that the location of the offender is unknown, the court may immediately:
- (a) issue a warrant for the offender's arrest, or

- (b) authorise an authorised officer to issue a warrant for the offender's arrest.

**[33] Section 100T Right to decide not to participate in intervention program**

Omit “section 98 (1A) or (1B)” from section 100T (4).

Insert instead “section 100R (2) or (2A)”.

## **Schedule 2 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92—savings and transitional provisions**

### **Schedule 2 Savings, transitional and other provisions**

Insert after Part 28:

## **Part 29 Provisions consequent on enactment of Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017**

### **Division 1 Preliminary**

#### **70 Definitions**

In this Part:

*amending Act* means the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*.

*commencement day* means the day appointed for the commencement of the insertion, repeal or amendment (made by the amending Act) that is relevant to the provision in which the expression occurs.

### **Division 2 Existing bonds and orders**

#### **71 Existing home detention orders under section 6**

- (1) This clause applies to a home detention order (*the home detention order*) made under section 6 before its repeal by the amending Act and in force immediately before the commencement day. A reference in this clause to the home detention order includes a reference to the sentence of imprisonment that is being served by way of home detention, including any period during which the offender is required to be subject to a parole order.
- (2) The home detention order is taken to be an intensive correction order (*the intensive correction order*) made under section 7 as substituted by the amending Act.
- (3) The sentence of imprisonment served by way of the home detention order is taken to be a sentence of imprisonment served by way of the intensive correction order.
- (4) The intensive correction order is on the commencement day subject only to:
  - (a) the standard conditions of an intensive correction order, and
  - (b) a home detention condition, and
  - (c) any conditions imposed under section 103 (1) (b) or (c) of the *Crimes (Administration of Sentences) Act 1999* and in force immediately before the commencement day in respect of the home detention order, and
  - (d) any other conditions prescribed by or determined under the regulations.
- (5) Subject to this Act and the *Crimes (Administration of Sentences) Act 1999*, the intensive correction order operates for the same term as the home detention order.
- (6) A parole order made in relation to the home detention order ceases to have effect on and from the commencement day.

- (7) If a home detention order includes a period in which the offender is required to be subject to a parole order, the period during which the offender would have been subject to the parole order is to be served subject to the standard conditions of the intensive correction order only.
- (8) Without limitation, the regulations may make provision for or with respect to conditions that apply to intensive correction orders referred to in this clause.
- Note.** Clause 125 of Schedule 5 to the *Crimes (Administration of Sentences) Act 1999* provides for the manner in which the Parole Authority is to exercise its functions under section 81A of that Act (Conditions—Parole Authority) in relation to the conditions of an intensive correction order referred to in this clause.

## 72 Existing intensive correction orders under section 7

- (1) This clause applies to an intensive correction order (*the intensive correction order*) made under section 7 before its substitution by the amending Act and in force immediately before the commencement day.
- (2) The intensive correction order is taken to have been made under section 7 as substituted by the amending Act.
- (3) The intensive correction order is on the commencement day subject only to:
- (a) the standard conditions of an intensive correction order, and
  - (b) any conditions imposed under section 81 (3) of the *Crimes (Administration of Sentences) Act 1999* and in force immediately before the commencement day in respect of the intensive order, and
  - (c) any other conditions prescribed by or determined under the regulations including conditions for or relating to a community service work requirement.
- (4) Sections 163 and 164 of the *Crimes (Administration of Sentences) Act 1999* as in force on or after the commencement day apply to the intensive correction order in respect of action that may be taken for a breach of the order.
- (5) The conditions imposed on the intensive correction order by the court under section 81 of the *Crimes (Administration of Sentences) Act 1999* as in force before the commencement day cease to apply to the order. This subclause does not limit subclause (3) or (4).

**Note.** Clause 125 of Schedule 5 to the *Crimes (Administration of Sentences) Act 1999* provides for the manner in which the Parole Authority is to exercise its functions under section 81A of that Act (Conditions—Parole Authority) in relation to the conditions of an intensive correction order referred to in this clause.

## 73 Existing community service orders under section 8

- (1) This clause applies to a community service order (*the community service order*) made under section 8 before its substitution by the amending Act and in force immediately before the commencement day.
- (2) The community service order is taken to be a community correction order (*the community correction order*) made under section 8 as substituted by the amending Act.
- (3) The community correction order is on the commencement day subject only to:
- (a) the standard condition referred to in section 88 (2) (b) as inserted by the amending Act (that the offender must appear before the court if called on to do so at any time during the term of the community correction order), and
  - (b) a community service work condition, and

- (c) any other conditions prescribed by or determined under the regulations.
- (4) Subject to this Act and the *Crimes (Administration of Sentences) Act 1999*, the community correction order operates for the same term as the community service order.
- (5) Without limitation, the regulations may make provision for or with respect to community service work required by or under community correction orders referred to in this clause.

**74 Existing good behaviour bonds under section 9**

- (1) This clause applies to a good behaviour bond entered into under section 9 of this Act (*the section 9 bond*) before its substitution by the amending Act and in force immediately before the commencement day.
- (2) The section 9 bond is taken to be a community correction order (*the community correction order*) made under section 8 as substituted by the amending Act.
- (3) The community correction order is on conversion subject only to:
  - (a) the standard conditions of a community correction order, and
  - (b) any conditions imposed on the section 9 bond under section 95 (c) before the commencement day and in force immediately before that day, and
  - (c) any other conditions prescribed by or determined under the regulations.
- (4) The community correction order expires on the date set by the sentencing court before the commencement day in relation to the section 9 bond.
- (5) If a condition relating to supervision was imposed on the section 9 bond by a court before the commencement day and was in force immediately before that day, the offender is subject to such obligations in respect of the condition as may be prescribed by regulations made under the *Crimes (Administration of Sentences) Act 1999*.
- (6) Any warrant issued under section 98 in respect of the section 9 bond before the commencement day continues to have effect. The warrant authorises a police officer to arrest and bring the offender before a court to be dealt with for an alleged breach of the section 9 bond.
- (7) An offender who is brought before a court on a warrant referred to in subclause (6) is to be dealt with under sections 107C and 107D of the *Crimes (Administration of Sentences) Act 1999*.

**75 Existing good behaviour bonds under section 10 (1) (b)**

- (1) This clause applies to a good behaviour bond entered into under section 10 (1) (b) (*the section 10 bond*) before its substitution by the amending Act and in force immediately before the commencement day.
- (2) The section 10 bond is taken to be a conditional release order (*the conditional release order*) made under section 9 as substituted by the amending Act, without proceeding to conviction, pursuant to section 10 (1) (b) as in force on and after the commencement day.
- (3) The conditional release order is on the commencement day subject only to:
  - (a) the standard conditions of a conditional release order, and



- (b) any condition imposed on the section 10 bond under section 95 (c) before the commencement day and in force immediately before that day, and
  - (c) any other conditions prescribed by or determined under the regulations.
- (4) The conditional release order expires on the date set by the sentencing court before the commencement day in relation to the section 10 bond.
- (5) If a supervision condition was imposed on the section 10 bond by a court before the commencement day and was in force immediately before that day, the offender is subject to such obligations in respect of the condition as may be prescribed by regulations made under the *Crimes (Administration of Sentences) Act 1999*.
- (6) Any warrant issued under section 98 in respect of a section 10 bond before the commencement day continues to have effect. The warrant authorises a police officer to arrest and bring the offender before a court to be dealt with for an alleged breach of the section 10 bond.
- (7) An offender who is brought before a court on a warrant referred to in subclause (6) is to be dealt with under sections 108C and 108D of the *Crimes (Administration of Sentences) Act 1999* (variations, breach and revocations).

**76 Existing suspended sentence orders under section 12**

- (1) This clause applies to an order (*the suspended sentence order*) made under section 12 before its repeal by the amending Act:
  - (a) suspending execution of a sentence of imprisonment, and
  - (b) directing that the offender enter into a good behaviour bond, and in force immediately before the commencement day.
- (2) The repeal of section 12 and any associated provisions does not affect the continuity of operation of the suspended sentence order. The order continues in force despite the repeal of that section, subject to this Act.
- (3) This Act and the regulations continue to apply to and in respect of the following as if the amending Act had not been enacted:
  - (a) the suspended sentence order and good behaviour bond,
  - (b) the person subject to the order and bond,
  - (c) action that may be taken for failure to comply with any of the conditions of the bond.
- (4) If a court (under section 98 as previously in force but continuing to apply under subclause (3)) revokes the good behaviour bond:
  - (a) the suspended sentence order ceases to have effect in relation to the sentence of imprisonment suspended by the order, and
  - (b) the court must either:
    - (i) order that the offender be sentenced or re-sentenced to imprisonment to be served in full-time detention, or
    - (ii) make an intensive correction order under this Act, as amended by the amending Act, in respect of the offence concerned, and
  - (c) this Act (including Part 4), as amended by the amending Act, applies to the sentencing or re-sentencing of the offender under this clause in the same way as it applies to the sentencing of an offender on a conviction, and

- (d) section 24 applies to the sentencing or re-sentencing of the offender under this clause in the same way as it applies to the sentencing of an offender on a conviction, but taking into account:
    - (i) the fact that the offender has been the subject of the good behaviour bond, and
    - (ii) anything done by the offender in compliance with the offender's obligations under the good behaviour bond, and
  - (e) the offender who under this clause is sentenced or re-sentenced by a court for an offence has the same rights of appeal as the offender would have had if the offender had been sentenced by that court on being convicted of the offence.
- (5) However, subclauses (2), (3) and (4) cease to have effect in relation to the suspended sentence order at the end of the period of 3 years commencing with the commencement day (unless the order had already expired or otherwise ceased to be in force).
  - (6) If the suspended sentence order was still in force immediately before the end of that period of 3 years, the offender is required to appear before the court and is to be re-sentenced. If the offender fails to appear, the court may issue a warrant for the offender's arrest.
  - (7) Without limitation, the regulations may make provision for or with respect to the revocation of the suspended sentence order and for the re-sentencing of the offender.

#### **77 References in other legislation**

Except in so far as the context or subject matter otherwise indicates or requires or the regulations otherwise provide, a reference (however expressed) in another Act, or statutory rule under another Act, to:

- (a) a home detention order, is taken to include a reference to an intensive correction order that is subject to a home detention condition, and
- (b) a community service order, is taken to include a reference to a community correction order, and
- (c) a good behaviour bond, is taken to include a reference to a community correction order or a conditional release order or both.

#### **78 Variations of conditions of converted orders**

- (1) Subject to subclause (2), nothing in clauses 71–75 prevents the imposition, variation or revocation (in accordance with this Act) of conditions referred to in those clauses after the commencement day.
- (2) However, in the case of an application made to a court (under section 89, 90, 99 or 99A) for the imposition, variation or revocation of a condition on:
  - (a) the community correction order referred to in clause 73 (2) or 74 (2), or
  - (b) the conditional release order referred to in clause 75 (2),the court must, as far as practicable, not make an order that would result in the conditions of the community correction order or conditional release order being more onerous than the conditions that applied to the order immediately before the commencement day.

### **Division 3      Periodic detention orders**

#### **79      Application of this Part**

This Part applies to a periodic detention order (*the periodic detention order*):

- (a) made before the repeal of section 6 (Periodic detention) by the *Crimes (Sentencing Legislation) Amendment (Intensive Correction Orders) Act 2010*, and
- (b) continued in force by that Act after that repeal.

#### **80      Existing periodic detention orders**

- (1) This clause applies to the periodic detention order to which this Part applies and that was in force immediately before the commencement day.
- (2) The periodic detention order ceases to apply to the offender named in the order on and from the commencement day.
- (3) The Commissioner must notify the court that sentenced the offender, or a court prescribed by the regulations (*the court*), of that fact within 14 days commencing with the commencement day, and provide the court with such information about the offender and the periodic detention order as may be prescribed by the regulations.
- (4) On being notified under subclause (3), the court may call on the offender to appear before it on a date to be fixed by the court to be re-sentenced.
- (5) If the offender fails to appear, the court may issue a warrant for the offender's arrest.
- (6) When re-sentencing the offender, the court must, without limitation, take into account:
  - (a) the gravity of the offence for which the periodic detention order was made, and
  - (b) the offender's record of performance during periodic detention and compliance with applicable requirements of periodic detention, and
  - (c) the offender's current circumstances.

#### **81      Existing warrants for revoked periodic detention orders**

- (1) This clause applies where:
  - (a) a warrant (*the warrant*) had been issued under section 181 of the *Crimes (Administration of Sentences) Act 1999* or section 26 of the *Periodic Detention of Prisoners Act 1981* in respect of a periodic detention order to which this Part applies, and
  - (b) the warrant was in force immediately before the commencement day but the periodic detention order had been revoked before that day.
- (2) The warrant continues in force after the commencement day.

#### **82      Provisions regarding warrants referred to in clauses 80 and 81**

- (1) This clause applies to:
  - (a) warrants issued under clause 80, and
  - (b) warrants referred to in clause 81.
- (2) A police officer who arrests or has custody of the offender named in a warrant to which this clause applies may convey the offender to the correctional centre

named in the warrant and deliver the offender into the custody of the governor of that correctional centre.

- (3) The governor of the correctional centre that has received an offender into his or her custody under subclause (2) must notify the court that sentenced the offender, or a court of equivalent jurisdiction, within 14 days that the offender has been received into his or her custody.
- (4) On receiving a notice from the governor of a correctional centre under subclause (3), the court must direct the governor to cause the offender to be brought before the court to be re-sentenced on a date to be fixed by the court.
- (5) Without limitation, the regulations may make provision for or with respect to:
  - (a) the return to custody of offenders subject to warrants to which this clause applies, and
  - (b) the re-sentencing of offenders under this clause, and
  - (c) the issue and execution of warrants for those purposes.

#### **Division 4 Other provisions**

##### **83 Court to take community service order or good behaviour bond into account when sentencing**

In sentencing an offender, the court must, under section 24, also take into account:

- (a) in the case of an offender who is being sentenced as a result of failing to comply with the offender's obligations under a community service order or good behaviour bond to which a clause of Division 2 applies:
  - (i) the fact that the person has been the subject of such an order or bond, and
  - (ii) anything done by the offender in compliance with the offender's obligations under the order or bond, and
- (b) in the case of an offender who is being sentenced as a result of deciding not to participate in, or to continue to participate in a good behaviour bond to which a clause of Division 2 applies, anything done by the offender in compliance with the offender's obligations under the good behaviour bond.

##### **84 Correction and adjustment of sentences**

- (1) A reference in section 43 to imposing a sentence extends to the making of a home detention order, a community service order, an order under section 12 or an order that provides for an offender to enter into a good behaviour bond.
- (2) Section 43 extends to authorising the court to sentence the offender, or convict and sentence the offender, in accordance with this Act as amended by the amending Act, as if the order had not been made.

##### **85 Procedure following failure to enter into good behaviour bond**

If a person:

- (a) was the subject of an order under section 9 (as in force before the date of the substitution of that section by the amending Act) directing the person to enter into a good behaviour bond, and:
  - (i) the order was in force immediately before that date, and
  - (ii) the person had not entered into such a bond in accordance with the order before that date, or

- (b) was the subject of an order under section 10 (1) (b) (in force immediately before the date of the substitution of that paragraph by the amending Act) discharging the person on condition that the person enter into a good behaviour bond, and:
  - (i) the order was in force immediately before that date, and
  - (ii) the person had not entered into such a bond in accordance with the order before that date,

the court may sentence the offender, or convict and sentence the offender, in accordance with this Act as amended by the amending Act, as if the order had not been made.

## 86 Appeals in respect of converted order and bonds

- (1) This clause applies to an order or bond (*an original order or bond*) referred to in clause 71 (1), 72 (1), 73 (1), 74 (1) or 75 (1).

**Note.** Clauses 71–75 deal respectively with existing home detention orders, intensive correction orders, community service orders, section 9 bonds and section 10 bonds, which were made or entered into before the commencement day.

- (2) An appeal in respect of an original order or bond that was pending immediately before the commencement day is not affected by the amending Act. However:
  - (a) if the court hearing the appeal sentences or re-sentences the offender, it must do so in accordance with this Act as in force on and after the commencement day, or
  - (b) to the extent the court confirms the original order or bond, this clause does not affect the operation of whichever of clauses 71–75 is relevant to the order.
- (3) An appeal may be made in respect of an original order or bond on or after the commencement day as if the amending Act had not been enacted. However:
  - (a) if the court hearing the appeal sentences or re-sentences the offender, it must do so in accordance with this Act as in force on and after the commencement day, or
  - (b) to the extent the court confirms the original order or bond, this clause does not affect the operation of whichever of clauses 71–75 is relevant to the order.

**Note.** This subclause does not confer a right of appeal where a right of appeal did not exist before the commencement day.

## 87 Regulations

- (1) The regulations made under clause 1 in relation to the amending Act or under another clause of this Part have effect despite anything to the contrary in this Part.
- (2) To avoid doubt, the regulations made under clause 1 may be made in relation to amendments made by Schedules 1–4 to the amending Act. Nothing in this subclause affects any power under another Act that is amended by Schedule 3 or 4 to the amending Act to make regulations of a savings or transitional nature.
- (3) The regulations made under clause 1 may make separate savings and transitional provisions or amend this Part to consolidate the savings and transitional provisions.
- (4) This clause does not affect the meaning or construction of any other Part of this Schedule.

## **Schedule 3      Amendment of Crimes (Administration of Sentences) Act 1999 No 93**

### **[1]      Section 3 Interpretation**

Omit the definitions of *community service order*, *home detention order* and *ICO Management Committee* from section 3 (1).

### **[2]      Section 3 (1)**

Insert in alphabetical order:

*community correction order* means an order in force under section 8 of the *Crimes (Sentencing Procedure) Act 1999* or section 79 of the *Fines Act 1996*.

*conditional release order* means an order in force under section 9 of the *Crimes (Sentencing Procedure) Act 1999*.

### **[3]      Section 40 Certain unlawful absences not to affect length of sentence**

Omit “, home detention order” from section 40 (1) (c).

### **[4]      Part 3 Imprisonment by way of intensive correction in the community**

Omit the introductory note.

### **[5]      Sections 81–82A**

Omit sections 81 and 82. Insert instead:

#### **81      Conditions governing intensive correction orders**

Conditions on an intensive correction order:

- (a) are imposed at the time of sentence by the sentencing court under the *Crimes (Sentencing Procedure) Act 1999* (see Part 5 of that Act), and
- (b) may be imposed, varied or revoked by the Parole Authority under this Act (see sections 81A and 164 of this Act).

#### **81A      Conditions—Parole Authority**

- (1) The Parole Authority may, on the application of a community corrections officer or the offender:
  - (a) impose any conditions on an intensive correction order, or
  - (b) vary or revoke any conditions of an intensive correction order, including conditions imposed by the sentencing court.
- (2) The Parole Authority must not:
  - (a) vary or revoke a standard condition under this section, or
  - (b) impose a condition under this section unless the sentencing court could have imposed the condition under Part 5 of the *Crimes (Sentencing Procedure) Act 1999*, or
  - (c) vary a condition under this section unless the sentencing court could have imposed the varied condition under that Part, or
  - (d) impose a condition imposing a period of home detention or a condition requiring community service work unless a report prepared by a community corrections officer states that the imposition of such a condition is appropriate in the circumstances.

- (3) If the Parole Authority revokes an additional condition on an intensive correction order, it must replace it with another additional condition, unless there is already another additional condition in force with respect to the order.

## **82 Administration of intensive correction orders and obligations of offenders**

- (1) The regulations may make provision for or with respect to:
- (a) the administration of intensive correction orders, including any conditions of those orders, whether by the establishment of a scheme for their management or otherwise, and
  - (b) without limitation:
    - (i) any matter relating to carrying out or complying with any of the conditions of an intensive correction order (including, for example, conditions relating to supervision, home detention, electronic monitoring, curfews and community service work), and
    - (ii) the functions of persons involved in the administration of intensive correction orders, and
    - (iii) the manner in which an offender's failure to comply with the offender's obligations under an intensive correction order may be dealt with, and
    - (iv) the service of notices on an offender.
- (2) The obligations of an offender under an intensive correction order, including the obligations of an offender under a condition of the order, are to be as prescribed by the regulations.

### **82A Suspension of certain conditions of intensive correction order**

- (1) This section applies to the following conditions of an intensive correction order:
- (a) a condition referred to in section 73 (2) (b) of the *Crimes (Sentencing Procedure) Act 1999* (a **supervision condition**),
  - (b) a curfew condition, non-association condition or place restriction condition referred to in section 73A (2) of that Act.
- (2) A community corrections officer may, by order in writing and subject to the regulations, suspend the application of a supervision condition to an offender for a period or periods or indefinitely.
- (3) A community corrections officer may, by order given orally or in writing and subject to the regulations, suspend the application of any other condition to which this section applies to an offender for a period or periods.
- (4) The suspension may be unconditional or subject to conditions.
- (5) For the purposes of this Act, a failure to comply with a condition of the suspension is taken to be a failure to comply with the obligations of the intensive correction order. This subsection does not limit the power of the community corrections officer to revoke the suspension order.
- (6) The regulations may make provision for or with respect to the following:
- (a) the periods for which a condition may be suspended,
  - (b) notice to an offender of the making or revocation of a suspension order,
  - (c) requiring the power to make, amend or revoke a suspension order to be exercised subject to and in accordance with any specified requirements.

**[6] Section 83**

Omit the section. Insert instead:

**83 Duration of intensive correction order**

Unless sooner revoked, an offender's intensive correction order expires at the end of the term of the sentence or sentences to which it relates.

**[7] Part 3, Division 2 Permission for non-compliance with work or reporting requirements**

Omit the Division.

**[8] Part 3, Division 3 Breach of intensive correction order**

Insert after the heading:

**Note.** Sections 163 and 164 deal with the actions that may be taken by a community corrections officer and the Parole Authority for breaches of an intensive correction order.

**[9] Sections 89 and 90**

Omit the sections.

**[10] Section 92 ICO Management Committee**

Omit the section.

**[11] Section 93 Regulations**

Omit the section.

**[12] Part 4 Imprisonment by way of home detention**

Omit the Part.

**[13] Parts 4B and 4C**

Insert after Part 4A:

**Part 4B Administration of community correction orders**

**107A Conditions governing community correction orders**

Conditions on a community correction order are imposed by the sentencing court under the *Crimes (Sentencing Procedure) Act 1999* (see Part 7 of that Act) or by a court under section 107D.

**107B Administration of community correction orders and obligations of offenders**

- (1) The regulations may make provision for or with respect to:
  - (a) the administration of community correction orders, including any conditions of those orders, whether by the establishment of a scheme for their management or otherwise, and
  - (b) without limitation:
    - (i) any matter relating to carrying out or complying with any of the conditions of a community correction order (including, for example, conditions relating to supervision, curfews and community service work), and
    - (ii) the functions of persons involved in the administration of community correction orders, and



- (iii) the manner in which an offender's failure to comply with the offender's obligations under a community correction order may be dealt with, and
  - (iv) the service of notices on an offender.
- (2) The obligations of an offender under a community correction order, including the obligations of an offender under a condition of the order, are to be as prescribed by the regulations.

**107C Breach of community correction order**

- (1) If it suspects that an offender may have failed to comply with any of the conditions of a community correction order:
- (a) the court that made the order, or
  - (b) any other court of like jurisdiction, or
  - (c) with the offender's consent, any other court of superior jurisdiction, may call on the offender to appear before it.
- (2) If the offender fails to appear, the court may:
- (a) issue a warrant for the offender's arrest, or
  - (b) authorise an authorised officer to issue a warrant for the offender's arrest.
- (3) If, however, at the time the court proposes to call on an offender to appear before it, the court is satisfied that the location of the offender is unknown, the court may immediately:
- (a) issue a warrant for the offender's arrest, or
  - (b) authorise an authorised officer to issue a warrant for the offender's arrest.
- (4) For the purposes of subsection (1) (c), a court is of superior jurisdiction to the court that made the community correction order if it is a court to which the offender has (or has had) a right of appeal in respect of the conviction or sentence from which the order arises.
- (5) If it is satisfied that an offender appearing before it has failed to comply with any of the conditions of a community correction order, a court:
- (a) may decide to take no action in respect of the failure to comply, or
  - (b) may vary or revoke any conditions of the order (other than standard conditions) or impose further conditions on the order, or
  - (c) may revoke the order.
- (6) To avoid doubt, the court that made an order may deal with a breach of a community correction order even though the court is constituted differently from the court as constituted at the time the order was made.
- (7) In this section:  
*authorised officer* has the same meaning as it has in the *Criminal Procedure Act 1986*.

**107D Consequences of revocation of community correction order**

- (1) If a court revokes a community correction order, it may re-sentence the offender for the offence to which the order relates.

- (2) The *Crimes (Sentencing Procedure) Act 1999* applies to the re-sentencing of an offender under this section in the same way as it applies to the sentencing of an offender on a conviction.
- (3) An offender who under this section is re-sentenced by a court for an offence has the same rights of appeal as the offender would have had if the offender had been sentenced by that court on being convicted of the offence.

#### **107E Suspension of certain conditions of community correction order**

- (1) This section applies to the following conditions of a community correction order:
  - (a) a condition referred to in section 89 (2) (g) of the *Crimes (Sentencing Procedure) Act 1999* (a **supervision condition**),
  - (b) a curfew condition, non-association condition or place restriction condition referred to in section 89 (2) of that Act.
- (2) A community corrections officer may, by order in writing and subject to the regulations, suspend the application of a supervision condition to an offender for a period or periods or indefinitely.
- (3) A community corrections officer may, by order given orally or in writing and subject to the regulations, suspend the application of any other condition to which this section applies to an offender for a period or periods.
- (4) The suspension may be unconditional or subject to conditions.
- (5) For the purposes of this Act, a failure to comply with a condition of the suspension is taken to be a failure to comply with the obligations of the community correction order. This subsection does not limit the power of the community corrections officer to revoke the suspension order.
- (6) The regulations may make provision for or with respect to the following:
  - (a) the periods for which a condition may be suspended,
  - (b) notice to an offender of the making or revocation of a suspension order,
  - (c) requiring the power to make, amend or revoke a suspension order to be exercised subject to and in accordance with any specified requirements.
- (7) A reference in this section to a community corrections officer is, in relation to an offender who is subject to supervision or management by a juvenile justice officer, taken to be a reference to a juvenile justice officer.
- (8) If a supervision condition is suspended by a juvenile justice officer and the offender has reached the age of 18 years, a community corrections officer may revoke the suspension order.

### **Part 4C Administration of conditional release orders**

#### **108A Conditions governing conditional release orders**

Conditions on a conditional release order are imposed by the sentencing court under the *Crimes (Sentencing Procedure) Act 1999* (see Part 8 of that Act) or by a court under section 108D.

**108B Administration of conditional release orders and obligations of offenders**

- (1) The regulations may make provision for or with respect to:
  - (a) the administration of conditional release orders, including any conditions of those orders, whether by the establishment of a scheme for their management or otherwise, and
  - (b) without limitation:
    - (i) any matter relating to carrying out or complying with any of the conditions of a conditional release order (including, for example, a condition relating to supervision), and
    - (ii) the functions of persons involved in the administration of conditional release orders, and
    - (iii) the manner in which an offender's failure to comply with the offender's obligations under a conditional release order may be dealt with, and
    - (iv) the service of notices on an offender.
- (2) The obligations of an offender under a conditional release order, including the obligations of an offender under a condition of the order, are to be as prescribed by the regulations.

**108C Breach of conditional release order**

- (1) If it suspects that an offender may have failed to comply with any of the conditions of a conditional release order:
  - (a) the court that made the order, or
  - (b) any other court of like jurisdiction, or
  - (c) with the offender's consent, any other court of superior jurisdiction, may call on the offender to appear before it.
- (2) If the offender fails to appear, the court may:
  - (a) issue a warrant for the offender's arrest, or
  - (b) authorise an authorised officer to issue a warrant for the offender's arrest.
- (3) If, however, at the time the court proposes to call on an offender to appear before it, the court is satisfied that the location of the offender is unknown, the court may immediately:
  - (a) issue a warrant for the offender's arrest, or
  - (b) authorise an authorised officer to issue a warrant for the offender's arrest.
- (4) For the purposes of subsection (1) (c), a court is of superior jurisdiction to the court that made the conditional release order if it is a court to which the offender has (or has had) a right of appeal in respect of the conviction or sentence from which the order arises.
- (5) If it is satisfied that an offender appearing before it has failed to comply with any of the conditions of a conditional release order, a court:
  - (a) may decide to take no action in respect of the failure to comply, or
  - (b) may vary or revoke any conditions of the order (other than standard conditions) or impose further conditions on the order, or
  - (c) may revoke the order.

- (6) To avoid doubt, the court that made an order may deal with a breach of a conditional release order even though the court is constituted differently from the court as constituted at the time the order was made.
- (7) In this section:  
*authorised officer* has the same meaning as it has in the *Criminal Procedure Act 1986*.

**108D Consequences of revocation of conditional release order**

- (1) If a court revokes a conditional release order, it may sentence or re-sentence the offender for the offence to which the order relates.
- (2) The *Crimes (Sentencing Procedure) Act 1999* applies to the sentencing or re-sentencing of an offender under this section in the same way as it applies to the sentencing of an offender found guilty of the offence concerned.
- (3) An offender who under this section is sentenced by a court for an offence has the same rights of appeal as the offender would have had if the offender had been sentenced by that court on being found guilty of the offence concerned.

**108E Suspension of certain conditions of conditional release order**

- (1) This section applies to the following conditions of a conditional release order:
  - (a) a condition referred to in section 99 (2) (e) of the *Crimes (Sentencing Procedure) Act 1999* (a *supervision condition*),
  - (b) a non-association condition or place restriction condition referred to in section 99 (2) of that Act.
- (2) A community corrections officer may, by order in writing and subject to the regulations, suspend the application of a supervision condition to an offender for a period or periods or indefinitely.
- (3) A community corrections officer may, by order given orally or in writing and subject to the regulations, suspend the application of any other condition to which this section applies to an offender for a period or periods.
- (4) The suspension may be unconditional or subject to conditions.
- (5) For the purposes of this Act, a failure to comply with a condition of the suspension is taken to be a failure to comply with the obligations of the conditional release order. This subsection does not limit the power of the community corrections officer to revoke the suspension order.
- (6) The regulations may make provision for or with respect to the following:
  - (a) the periods for which a condition may be suspended,
  - (b) notice to an offender of the making or revocation of a suspension order,
  - (c) requiring the power to make, amend or revoke a suspension order to be exercised subject to and in accordance with any specified requirements.
- (7) A reference in this section to a community corrections officer is, in relation to an offender who is subject to supervision or management by a juvenile justice officer, taken to be a reference to a juvenile justice officer.
- (8) If a supervision condition is suspended by a juvenile justice officer and the offender has reached the age of 18 years, a community corrections officer may revoke the suspension order.

**[14] Part 5 Community service work and other work performed by offenders**

Omit the introductory note before Division 1.

**[15] Part 5**

Omit Division 1 and the heading to Division 2.

**[16] Section 118 Definitions**

Omit paragraphs (c) and (d) of the definition of *community service work*. Insert instead:

- (d) community service work performed by an offender under a community correction order, and

**[17] Section 118, definition of “offender”**

Omit paragraphs (c) and (d). Insert instead:

- (d) a community correction order, or

**[18] Sections 119 and 123**

Omit “a community service order” wherever occurring.

Insert instead “an intensive correction order or community correction order”.

**[19] Sections 163–164A**

Omit sections 163 and 164. Insert instead:

**163 Actions by community corrections officer on breach of intensive correction order**

- (1) This section applies if the Commissioner or a community corrections officer is satisfied that an offender has failed to comply with the offender’s obligations under an intensive correction order.
- (2) A community corrections officer may take any of the following actions:
  - (a) record the breach and take no further action,
  - (b) give an informal warning to the offender,
  - (c) give, or arrange to be given to, the offender a formal warning that further breaches will result in referral to the Parole Authority,
  - (d) give a reasonable direction to the offender relating to the kind of behaviour by the offender that caused the breach,
  - (e) impose a curfew on the offender of up to 12 hours in any 24-hour period.
- (3) As an alternative, or in addition, to taking any such action, the Commissioner or a community corrections officer may decide to refer the breach to the Parole Authority because of the serious nature of the breach and may also make a recommendation as to the action that the Parole Authority may take in respect of the offender.
- (4) In deciding whether and what action should be taken in respect of the offender’s breach of the intensive correction order, a community corrections officer may have regard to any action previously taken in respect of the breach or any earlier breaches of the order.
- (5) The regulations may make provision for or with respect to any action that may be taken by a community corrections officer under this section.

**164 Actions by Parole Authority on breach of intensive correction order**

- (1) This section applies if the Parole Authority is satisfied that an offender has failed to comply with the offender’s obligations under an intensive correction order.

- (2) The Parole Authority may take any of the following actions:
  - (a) record the breach and take no further action,
  - (b) give a formal warning to the offender,
  - (c) impose any conditions on the intensive correction order,
  - (d) vary or revoke any conditions of the intensive correction order, including conditions imposed by the sentencing court,
  - (e) make an order revoking the intensive correction order (a *revocation order*).
- (3) Without affecting the generality of subsection (2), the Parole Authority may impose a condition on the intensive correction order of the following kind:
  - (a) a condition imposing a requirement that the offender remain at the offender's place of residence for a period of home detention of up to 30 days,
  - (b) a condition that the offender must submit to the use of an electronic monitoring device,
  - (c) ancillary conditions relating to any condition imposed under this section.
- (4) In deciding whether and what action should be taken in respect of the offender's breach of the intensive correction order, the Parole Authority may have regard to any action previously taken in respect of the breach or any earlier breaches of the order.
- (5) The regulations may provide that specified provisions of Part 5 of the *Crimes (Sentencing Procedure) Act 1999* and Part 3 of this Act (and the regulations under those Acts) so far as they relate to conditions of an intensive correction order that is subject to a condition of home detention imposed under this section:
  - (a) apply to the offender in the same way as they apply to an intensive correction order that is subject to a home detention condition, and
  - (b) so apply with any necessary modifications and any modifications prescribed by the regulations.
- (6) The Parole Authority must not:
  - (a) vary or revoke a standard condition under this section, or
  - (b) impose a condition under this section unless the sentencing court could have imposed the condition under Part 5 of the *Crimes (Sentencing Procedure) Act 1999*, or
  - (c) vary a condition under this section unless the sentencing court could have imposed the varied condition under that Part, or
  - (d) impose a condition imposing a period of home detention or a condition requiring community service work unless a report prepared by a community corrections officer states that the imposition of such a condition is appropriate in the circumstances.
- (7) If the Parole Authority revokes an additional condition on an intensive correction order, it must replace it with another additional condition, unless there is already another additional condition in force with respect to the order.

**164A Effect of revocation order**

- (1) A revocation order (see section 164 (2) (e)) takes effect, or is taken to have taken effect, on the date on which it is made or on such earlier date as the Parole Authority thinks fit.
- (2) The earliest date on which the revocation order may take effect is the date of the first occasion on which it appears to the Parole Authority that the offender failed to comply with the offender's obligations under the intensive correction order.
- (3) If an offender is not taken into custody until after the day on which the revocation order takes effect, the term of the offender's sentence is, by this subsection, extended by the number of days the person was at large after the order took effect.

**[20] Section 165 Parole Authority may reinstate revoked intensive correction order**

Omit section 165 (1) (a). Insert instead:

- (a) on its own initiative or on the application of the offender, and

**[21] Section 165 (6)**

Insert after section 165 (5):

- (6) The regulations may make provision for or with respect to:
  - (a) requiring a report to be made in relation to an assessment referred to in subsection (3), and
  - (b) the matters to be addressed in the report, and
  - (c) the preparation and furnishing of the report.

**[22] Sections 165A–165C**

Omit the sections.

**[23] Part 7, Division 2 Home detention orders**

Omit the Division.

**[24] Section 173 Notice of revocation**

Omit “, home detention order” wherever occurring.

**[25] Section 174 Review of revocation**

Omit “, home detention order” wherever occurring.

**[26] Section 175 Decision after review**

Omit “, home detention order” wherever occurring.

**[27] Section 175 (1A) (b)**

Omit “or”.

**[28] Section 175 (1A) (c)**

Omit the paragraph.

**[29] Section 175A Review not available in certain circumstances**

Omit “, home detention order”.

- [30] Section 176 Application to Supreme Court by offender**  
Omit “, home detention order” wherever occurring in section 176 (1).
- [31] Section 179 Consequential revocation of other orders**  
Omit “, home detention order” and “, home detention orders” wherever occurring.
- [32] Section 179A Revocation of first of consecutive home detention orders—Parole Authority to seek new assessment**  
Omit the section.
- [33] Section 181 Warrants committing offenders to correctional centres**  
Omit section 181 (1). Insert instead:  
(1) If the Parole Authority revokes an intensive correction order or parole order, it may issue a warrant committing the offender to a correctional centre to serve the remainder of the sentence to which the order relates by way of full-time detention.
- [34] Section 181 (1A)**  
Omit the subsection.
- [35] Section 181 (3) (b)**  
Omit “, or pending the Parole Authority’s decision as to whether or not to make a home detention order under section 165A, as the case requires”.
- [36] Section 182 Functions may be exercised after order has expired**  
Omit “, home detention order”.
- [37] Section 185 Functions of Parole Authority**  
Omit “, home detention orders” from section 185 (1) (b).
- [38] Section 193C Parole Authority decisions**  
Omit “, home detention order” from section 193C (1) (b).
- [39] Section 193C (1) (c)**  
Omit “or home detention order”.
- [40] Section 193C (1) (c)**  
Omit “or 167 (1)”.
- [41] Section 235E Functions of community corrections field officers**  
Omit “community service orders” from section 235E (1).  
Insert instead “community correction orders”.
- [42] Section 236M Accommodation of offenders in residential facilities**  
Omit “, a home detention order” from section 236M (5) (b).
- [43] Section 254 Extension of sentence following unlawful absence from custody**  
Omit “, home detention order” from section 254 (2) (a).



**[44] Section 255A Approvals for the purposes of the Mutual Assistance in Criminal Matters Act 1987 of the Commonwealth**

Omit “, or is the subject of a home detention order” from paragraph (a) of the definition of *relevant officer* in section 255A (4).

**[45] Section 259 Service of notices**

Omit “home detention order, parole order or community service order” from section 259 (1).

Insert instead “parole order or community correction order”.

**[46] Section 260 Evidentiary certificates**

Omit “home detention order, community service order” wherever occurring.

Insert instead “community correction order”.

**[47] Schedule 3 Intensive Correction Orders Management Committee**

Omit the Schedule.

**[48] Schedule 5 Savings, transitional and other provisions**

Insert at the end of the Schedule:

## **Part 22 Provisions consequent on enactment of Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017**

### **124 Definition and operation of this Part**

(1) In this Part:

*amending Act* means the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*.

*commencement day* means the day appointed for the commencement of the insertion, repeal or amendment (made by the amending Act) that is relevant to the provision in which the expression occurs.

(2) Nothing in this Schedule affects the operation of Part 29 of Schedule 2 to the *Crimes (Sentencing Procedure) Act 1999* in relation to amendments made to this Act by the amending Act.

### **125 Parole Authority’s power under section 81A regarding certain conditions**

(1) This clause applies to an intensive correction order referred to in clause 71 (2) or 72 (2) of Schedule 2 to the *Crimes (Sentencing Procedure) Act 1999*.

(2) In exercising its functions under section 81A in relation to the intensive correction order, the Parole Authority must, as far as practicable, not exercise those functions in a way that would result in the conditions of the order being more onerous than the conditions that applied to the order immediately before the commencement day.

### **126 Existing home detention orders under section 165A**

(1) This clause applies to a home detention order (*the home detention order*) made by the Parole Authority under section 165A before the commencement day and in force immediately before that day.

- (2) Clause 71 of Schedule 2 to the *Crimes (Sentencing Procedure) Act 1999* (as inserted by the amending Act) applies to the home detention order made by the Parole Authority in the same way as it applies to a home detention order made by a sentencing court.

**127 Temporary release order under section 165B**

- (1) This clause applies to a temporary release order (the *temporary release order*) made under section 165B before the commencement day and in force immediately before that day.
- (2) The temporary release order continues in force on and after the commencement day, pending the Parole Authority's decision as to whether or not to reinstate the intensive correction order.
- (3) If the Parole Authority decides to reinstate the intensive correction order, the following conditions apply to the order:
  - (a) the standard conditions of an intensive correction order in section 73 of the *Crimes (Sentencing Procedure) Act 1999*,
  - (b) any other conditions prescribed by or determined under the regulations.
- (4) The Parole Authority may impose further conditions on the intensive correction order that are not inconsistent with the standard conditions and may vary or revoke any conditions of the order (other than standard conditions).

**128 Regulations**

- (1) The regulations made under clause 1 in relation to the amending Act or under another clause of this Part have effect despite anything to the contrary in this Part.
- (2) The regulations made under clause 1 may make separate savings and transitional provisions or amend this Part to consolidate the savings and transitional provisions.
- (3) This clause does not affect the meaning or construction of any other Part of this Schedule.

## **Schedule 4 Amendment of other legislation**

### **4.1 Anzac Memorial (Building) Act 1923 No 27**

#### **Section 9 By-laws**

Omit section 9 (4A) (a). Insert instead:

- (a) may make a community correction order under section 8 of the *Crimes (Sentencing Procedure) Act 1999* that is subject to the standard conditions of a community correction order and to a community service work condition (despite the offence not being punishable by imprisonment), or

### **4.2 Bail Act 2013 No 26**

#### **[1] Section 18 Matters to be considered as part of assessment**

Omit section 18 (1) (f) (v). Insert instead:

- (v) home detention orders, good behaviour bonds or community service orders,

#### **[2] Section 18 (1) (f) (vii) and (viii)**

Omit the subparagraphs. Insert instead:

- (vii) community correction orders,
- (viii) conditional release orders,

#### **[3] Schedule 1 Application of Act to non-offenders**

Omit clause 1 (2) (a). Insert instead:

- (a) proceedings under the *Crimes (Sentencing Procedure) Act 1999* for an alleged failure by the person to comply with the conditions of a community correction order or conditional release order imposed for an offence,

#### **[4] Schedule 1, clause 1 (2) (c)**

Omit the paragraph. Insert instead:

- (c) proceedings under the *Crimes (Administration of Sentences) Act 1999* on an application for the revocation of a community correction order made in relation to the person for an offence,

### **4.3 Births, Deaths and Marriages Registration Act 1995 No 62**

#### **Section 25F Definitions**

Omit “or home detention order” from paragraph (b) of the definition of *supervision order*.

### **4.4 Child Protection (Offenders Registration) Act 2000 No 42**

#### **[1] Section 3 Definitions**

Insert in alphabetical order in section 3 (1):

*community correction order* means a community correction order under the *Crimes (Sentencing Procedure) Act 1999*.

*conditional release order* means a conditional release order under the *Crimes (Sentencing Procedure) Act 1999*.

**[2] Section 3 (1), paragraph (b) of the definition of “supervised sentence”**

Insert “or community correction order” after “community service order”.

**[3] Section 3 (1), paragraph (c) of the definition of “supervised sentence”**

Insert “or conditional release order” after “good behaviour bond”.

**[4] Section 3 (1A)**

Insert after section 3 (1):

- (1A) Except in so far as the context or subject-matter otherwise indicates or requires or as the regulations provide that this subsection not have effect, a reference in this Act to the *Crimes (Sentencing Procedure) Act 1999* is a reference to that Act as in force at any time (whether before, on or after the commencement of this subsection). This subsection does not affect the meaning or construction of references to any other Act mentioned in this Act.

**Note.** The principal purpose of this subsection is to make it clear that references to orders and bonds under the *Crimes (Sentencing Procedure) Act 1999* extend to orders and bonds under that Act as in force at any time.

#### **4.5 Child Protection (Offenders Registration) Regulation 2015**

**Clause 4 Definition of “supervising authority”**

Omit “a home detention order, community service order” from clause 4 (b) (iv).

Insert instead “an intensive correction order, community correction order, conditional release order”.

#### **4.6 Child Protection (Working with Children) Act 2012 No 51**

**Section 26 Persons not entitled to apply for review or enabling order**

Insert after section 26 (2) (b) (i):

- (ia) a community correction order or conditional release order under that Act,

#### **4.7 Children (Criminal Proceedings) Act 1987 No 55**

**Section 33C Application of Crimes (Sentencing Procedure) Act 1999 to children**

Insert “, community correction order or conditional release order” after “good behaviour bond” where firstly occurring in section 33C (1) (d).

#### **4.8 Civil Liability Act 2002 No 22**

**[1] Section 26A Definitions**

Omit paragraph (c) of the definition of *offender in custody* or *offender* in section 26A (1).

Insert instead:

- (c) a person in respect of whom an intensive correction order that is subject to a home detention condition is in force under the *Crimes (Sentencing Procedure) Act 1999*,

**[2] Section 26A (1), paragraph (e) of the definition of “offender in custody” or “offender”**

Omit the paragraph. Insert instead:

- (e) a person performing community service work under, or attending a place in compliance with the requirements of, an intensive correction order, a community correction order, or a children’s community service order as provided by the CAS Act or the *Children (Community Service Orders) Act 1987*, whether or not the person is an offender in custody under any other paragraph of this definition,

**[3] Schedule 5 Savings, transitional and other provisions**

Insert at the end of the Schedule, with appropriate Part and clause numbering:

**Part Provisions consequent on enactment of Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017**

**Definition**

In this Part:

*amending Act* means the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*.

**Offenders in Custody (Part 2A)**

- (1) A reference to a person described in paragraph (c) of the definition of *offender in custody* or *offender* in section 26A as substituted by the amending Act includes a reference to an offender described in that paragraph immediately before its substitution.

**Note.** Before its substitution by the amending Act, paragraph (c) of that definition referred to an offender within the meaning of Part 4 (Imprisonment by way of home detention) of the *Crimes (Administration of Sentences) Act 1999*.

- (2) A reference to a community correction order in paragraph (e) of that definition includes a reference to a community service order under the *Crimes (Sentencing Procedure) Act 1999* as in force before the amendment of that Act by the amending Act. The community service order is taken to be a community correction order (see Part 29 of Schedule 2 to the *Crimes (Sentencing Procedure) Act 1999*).

**4.9 Crimes Act 1900 No 40**

**Section 310H Application of Part**

Omit “or home detention order” from section 310H (a).

**4.10 Crimes (Appeal and Review) Act 2001 No 120**

**[1] Section 3 Definitions**

Insert after paragraph (a) (ii) of the definition of *sentence*:

- (iia) any community correction order, conditional release order or fine, and

**[2] Section 3 (3) (c)**

Insert at the end of section 3 (3) (b):

, and

- (c) a reference to varying or revoking a condition of, or imposing a new condition on, an intensive correction order, community correction order or conditional release order.

#### **4.11 Crimes (Forensic Procedures) Act 2000 No 59**

##### **Section 3 Interpretation**

Omit the definition of *place of detention* from section 3 (1). Insert instead:

*place of detention*, in relation to a person the subject of an intensive correction order that is subject to a home detention condition under the *Crimes (Sentencing Procedure) Act 1999*, means the place at which the person resides pursuant to the order.

**Note.** A home detention order is taken to be an intensive correction order that is subject to a home detention condition. See Part 29 of Schedule 2 to that Act.

#### **4.12 Crimes (Interstate Transfer of Community Based Sentences) Act 2004 No 72**

##### **Section 7**

Omit the section. Insert instead:

##### **7 What is a “community based sentence”?**

(1) A *community based sentence* is:

(a) for this jurisdiction—any of the following:

- (i) an intensive correction order under section 7 of the *Crimes (Sentencing Procedure) Act 1999* (including a home detention order that is taken to be an intensive correction order subject to a home detention condition under Part 29 of Schedule 2 to that Act),
- (ii) a community correction order under section 8 of the *Crimes (Sentencing Procedure) Act 1999* (including a community service order or good behaviour bond that is taken to be a community correction order under Part 29 of Schedule 2 to that Act),
- (iii) a conditional release order under section 9 of the *Crimes (Sentencing Procedure) Act 1999* (including a good behaviour bond that is taken to be a conditional release order under Part 29 of Schedule 2 to that Act),
- (iv) an order under section 12 (1) of the *Crimes (Sentencing Procedure) Act 1999* suspending a sentence, a good behaviour bond entered into in accordance with the order and the sentence of imprisonment imposed in relation to the order, where the order was made before the repeal of that section by the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*,
- (v) a sentence declared by the regulations to be a community based sentence, and

- (b) for an interstate jurisdiction—a sentence that is a community based sentence under the corresponding law of the jurisdiction.
- (2) For the purposes of subsection (1) (a), the following are taken to be a single community based sentence:
  - (a) an order referred to in subsection (1) (a) (i) and the sentence of imprisonment in relation to which the order is made,
  - (b) an order referred to in subsection (1) (a) (iv) and the good behaviour bond and the sentence of imprisonment imposed in relation to the order,
  - (c) any combination of 2 or more community based sentences referred to in subsection (1) (a) that is declared by the regulations to be a single community based sentence.

#### **4.13 Criminal Appeal Act 1912 No 16**

##### **[1] Section 2 Definitions**

Omit “or home detention order” from paragraph (a) (i) of the definition of *Sentence* in section 2 (1).

##### **[2] Section 2 (1), definition of “Sentence”**

Omit paragraph (a) (ii). Insert instead:

- (ii) any community correction order, conditional release order or community service order, and

##### **[3] Section 2 (1), definition of “Sentence”**

Insert at the end of the definition:

**Note.** Part 29 of Schedule 2 to the *Crimes (Sentencing Procedure) Act 1999* provides that certain home detention orders, community service orders and good behaviour bonds are taken to be intensive correction orders, community correction orders or conditional release orders.

#### **4.14 Criminal Procedure Act 1986 No 209**

##### **Chapter 7, Part 4 Intervention programs**

Omit paragraph (d) of the note that immediately follows the heading to the Part.

#### **4.15 Criminal Records Act 1991 No 8**

##### **[1] Section 8 When is a conviction spent?**

Insert “, except as provided by this section” after “made” in section 8 (2).

##### **[2] Section 8 (4) (c)**

Insert at the end of section 8 (4) (b):

or

- (c) the making of a conditional release order, without conviction, under section 9 of the *Crimes (Sentencing Procedure) Act 1999*, for a specified term and with 1 or more additional or further conditions imposed under that Act,

## 4.16 Dangerous Goods (Road and Rail Transport) Act 2008 No 95

### Section 49 Operation of Division

Insert after section 49 (2) (a):

- (a1) the court makes a conditional release order under section 9 of the *Crimes (Sentencing Procedure) Act 1999* in respect of the offender in relation to the offence (where the court does not proceed to conviction),  
or

## 4.17 Drug Court Act 1998 No 150

### [1] Section 7 Courts may refer persons to Drug Court during proceedings for failure to comply with conditions of good behaviour bond

Omit “It is the duty of a court before whom an offender appears under section 98 of the *Crimes (Sentencing Procedure) Act 1999* in connection with an alleged failure to comply with the conditions of a good behaviour bond imposed under section 12 of that Act” from section 7 (2).

Insert instead “It is the duty of a court before whom an offender appears under section 98 of the *Crimes (Sentencing Procedure) Act 1999* (as previously in force but continuing to apply under clause 76 (3) of Schedule 2 to that Act) in connection with an alleged failure to comply with the conditions of a good behaviour bond imposed under section 12 of that Act (as previously in force)”.

### [2] Section 7A Persons accepted into program in relation to offence

Omit section 7A (8) (b). Insert instead:

- (b) be dealt with in proceedings under:
  - (i) section 107C of the *Crimes (Administration of Sentences) Act 1999* on the revocation of a community correction order, or
  - (ii) section 108C of that Act on the revocation of a conditional release order, or
  - (iii) section 98 or 99 of the *Crimes (Sentencing Procedure) Act 1999* (as previously in force but continuing to apply under clause 76 (3) of Schedule 2 to that Act) on the revocation of a good behaviour bond imposed under section 12 of that Act (as previously in force), whether or not the person has been referred to the Drug Court under section 7 in relation to the failure to comply with the conditions of the good behaviour bond, or

### [3] Section 7B Persons accepted into program in relation to failure to comply with conditions of community correction order, conditional release order or good behaviour bond

Omit section 7B (1) (b). Insert instead:

- (b) who has been called on by the Drug Court to appear before it under:
  - (i) section 107C of the *Crimes (Administration of Sentences) Act 1999* in relation to a community correction order, or
  - (ii) section 108C of that Act in relation to a conditional release order,  
or
  - (iii) section 98 of the *Crimes (Sentencing Procedure) Act 1999* (as previously in force but continuing to apply under clause 76 (3) of Schedule 2 to that Act) in relation to a good behaviour bond under section 12 (as previously in force),



**[4] Section 7B (2)**

Insert “community correction order, conditional release order or” before “good behaviour bond”.

**[5] Section 7B (2) (b)**

Insert “order or” before “bond”.

**[6] Section 7B (3)**

Omit “good behaviour bond by revoking the bond”.

Insert instead “community correction order, conditional release order or good behaviour bond by revoking the order or bond”.

**[7] Section 7B (4)**

Omit the subsection. Insert instead:

(4) The provisions of:

- (a) section 107D of the *Crimes (Administration of Sentences) Act 1999* do not apply to a community correction order that is revoked under subsection (3) of this section, and
- (b) section 108D of that Act do not apply to a conditional release order that is revoked under that subsection, and
- (c) section 99 of the *Crimes (Sentencing Procedure) Act 1999* (as previously in force but continuing to apply under clause 76 (3) of Schedule 2 to that Act) do not apply to a good behaviour bond that is revoked under that subsection.

**[8] Section 7C Persons allowed to continue in program in relation to failure to comply with conditions of community correction order, conditional release order or good behaviour bond**

Omit section 7C (1) (b). Insert instead:

- (b) who has been called on by the Drug Court to appear before it under:
  - (i) section 107C of the *Crimes (Administration of Sentences) Act 1999* in relation to a community correction order, or
  - (ii) section 108C of that Act in relation to a conditional release order, or
  - (iii) section 98 of the *Crimes (Sentencing Procedure) Act 1999* (as previously in force but continuing to apply under clause 76 (3) of Schedule 2 to that Act) in relation to a good behaviour bond under section 12 (as previously in force),

**[9] Section 7C (3)**

Omit “good behaviour bond by revoking the bond”.

Insert instead “community correction order, conditional release order or good behaviour bond by revoking the order or bond”.

**[10] Section 7C (4)**

Omit the subsection. Insert instead:

- (4) The provisions of:
- (a) section 107D of the *Crimes (Administration of Sentences) Act 1999* do not apply to a community correction order that is revoked under subsection (3) of this section, and
  - (b) section 108D of that Act do not apply to a conditional release order that is revoked under that subsection, and
  - (c) section 99 of the *Crimes (Sentencing Procedure) Act 1999* (as previously in force but continuing to apply under clause 76 (3) of Schedule 2 to that Act) do not apply to a good behaviour bond that is revoked under that subsection.

**[11] Section 7D Persons not accepted into program in relation to offence**

Omit section 7D (8) (b). Insert instead:

- (b) be dealt with in proceedings under:
- (i) section 107C of the *Crimes (Administration of Sentences) Act 1999* on the revocation of a community correction order, or
  - (ii) section 108C of that Act on the revocation of a conditional release order, or
  - (iii) section 98 or 99 of the *Crimes (Sentencing Procedure) Act 1999* (as previously in force but continuing to apply under clause 76 (3) of Schedule 2 to that Act) on the revocation of a good behaviour bond imposed under section 12 of that Act (as previously in force), whether or not the person has been referred to the Drug Court under section 7 in relation to the failure to comply with the conditions of the good behaviour bond, or

**[12] Section 7E**

Omit the section. Insert instead:

**7E Persons not accepted into program in relation to failure to comply with conditions of community correction order, conditional release order or good behaviour bond**

- (1) This section applies to a person:
- (a) who has been referred to the Drug Court under section 7, or
  - (b) who has been called on by the Drug Court to appear before it under the relevant provisions referred to in subsection (3),
- but whom the Drug Court has not dealt with under section 7B or 7C.
- (2) The Drug Court is to deal with a person to whom this section applies in accordance with those relevant provisions.
- (3) For the purposes of this section, the relevant provisions are:
- (a) section 107C of the *Crimes (Administration of Sentences) Act 1999* in relation to a community correction order, or
  - (b) section 108C of that Act in relation to a conditional release order, or
  - (c) section 98 of the *Crimes (Sentencing Procedure) Act 1999* (as previously in force but continuing to apply under clause 76 (3) of Schedule 2 to that Act) in relation to a good behaviour bond under section 12 (as previously in force).

**[13] Section 12 Imposition of final sentence**

Insert after section 12 (4):

- (5) For the purpose of making an order under subsection (3) in relation to an initial sentence imposed before the commencement of this subsection, subsections (3) and (4) have effect as if the amendments made to the *Crimes (Sentencing Procedure) Act 1999* by the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017* were in force when the initial sentence was imposed.

**[14] Section 24 Jurisdiction of Drug Court**

Omit “section 98 (1) (b) and (c) of the *Crimes (Sentencing Procedure) Act 1999*” from section 24 (3).

Insert instead “section 107C (1) (b) and (c) and section 108C (1) (b) and (c) of the *Crimes (Administration of Sentences) Act 1999* and section 98 (1) (b) and (c) of the *Crimes (Sentencing Procedure) Act 1999* (as previously in force but continuing to apply under clause 76 (3) of Schedule 2 to that Act)”.

#### **4.18 Education Act 1990 No 8**

**Section 23 Offence if parent fails to send child to school**

Omit “community service order under section 8 (1) of the *Crimes (Sentencing Procedure) Act 1999*” from section 23 (5).

Insert instead “community correction order under section 8 of the *Crimes (Sentencing Procedure) Act 1999* that is subject to the standard conditions of a community correction order and to a community service work condition”.

#### **4.19 Fines Act 1996 No 99**

**[1] Section 3 Definitions**

Insert in alphabetical order in section 3 (1):

*community service order*—see section 79.

**Note.** A community service order applies in relation to a child.

**[2] Section 58 Summary of enforcement procedure**

Omit section 58 (1) (d)–(f). Insert instead:

(d) **Order requiring community service**

If civil enforcement action is not successful, an order requiring community service is served on the fine defaulter (see Division 5).

(e) **Imprisonment if failure to comply with order**

If the fine defaulter does not comply with the order requiring community service, a warrant of commitment is issued to a police officer for the imprisonment of the fine defaulter (except in the case of children).

(f) **Fines payable by corporations**

The procedures for fine enforcement (other than order requiring community service work and imprisonment) apply to fines payable by corporations (see Division 7).

**[3] Part 4, Division 5**

Omit “**Community service orders**” from the heading.

Insert instead “**Orders requiring community service**”.

**[4] Section 79**

Omit the section. Insert instead:

**79 Making of order against fine defaulter**

- (1) The Commissioner may make an order under this Division requiring a fine defaulter to perform community service work in order to work off the amount of the fine that remains unpaid.
- (2) An order may be either:
  - (a) in the case of an adult—a community correction order subject to a community service work condition, or
  - (b) in the case of a child—a community service order.
- (3) The Commissioner may make an order only if satisfied that enforcement action is authorised against the fine defaulter under this Division.
- (4) The Commissioner is not to make an order:
  - (a) if satisfied that the person is not capable of performing work under an order or is otherwise not suitable to be engaged in such work, and
  - (b) unless the Commissioner has obtained a report from an appropriate officer concerning the person’s suitability to be so engaged and the report indicates that the person is assessed as suitable.
- (5) An order may be made in the absence of, and without notice to, the fine defaulter.
- (6) An order may be made before the execution of a warrant under Division 4 and in anticipation that enforcement action may not be successful under that Division in satisfying the fine. The order is not to be served if that enforcement action is successful.
- (7) Subject to this Division, such of the provisions of the *Crimes (Sentencing Procedure) Act 1999*, the *Crimes (Administration of Sentences) Act 1999* and the regulations under those Acts as are prescribed for the purposes of this subsection by the regulations under this Act:
  - (a) apply to a community correction order under this Division in the same way as they apply to a community correction order under the *Crimes (Sentencing Procedure) Act 1999*, and
  - (b) so apply with any modifications so prescribed.
- (8) Subject to this Division, section 11 and such other provisions of the *Children (Community Service Orders) Act 1987* and the regulations under that Act:
  - (a) apply to a community service order under this Division in the same way as they apply to a community service order under that Act, and
  - (b) so apply with any modifications so prescribed.

**Note.** Section 11 of the *Children (Community Service Orders) Act 1987* requires a community service order to require the offender to perform graffiti clean up.
- (9) An order under this section is to be in the approved form.

- (10) For the purposes of this section, an **appropriate officer** is:
- (a) in the case of an adult—a community corrections officer (as defined in the *Crimes (Administration of Sentences) Act 1999*), or
  - (b) in the case of a child—a juvenile justice officer (as defined in the *Children (Detention Centres) Act 1987*).

**[5] Sections 80, 80A, 81, 82, 83, 84, 85, 86, 87 and 88**

Omit “a community service order”, “A community service order”, “the community service order” and “The community service order” wherever occurring.

Insert instead “an order”, “An order”, “the order” and “The order” respectively.

**[6] Sections 81 and 86**

Omit “other community service order” and “other community service orders” wherever occurring.

Insert instead “other such order” and “other such orders” respectively.

**[7] Section 87 Imprisonment following breach of order**

Omit “community service” from section 87 (2).

**[8] Section 87 Imprisonment following breach of order**

Omit “community service orders” from section 87 (2). Insert instead “orders”.

**[9] Section 89 Intensive correction order**

Omit section 89 (1) and (2). Insert instead:

- (1) If a fine defaulter is committed to a correctional centre by warrant under this Division, the Commissioner of Corrective Services may determine that the fine defaulter’s period of imprisonment be served under an intensive correction order. The determination may be made in anticipation of the issue of a warrant.
- (2) The Commissioner of Corrective Services may, having made a determination under subsection (1), make an intensive correction order that is subject to:
  - (a) the standard conditions of an intensive correction order under the *Crimes (Sentencing Procedure) Act 1999*, and
  - (b) if the Commissioner of Corrective Services so elects—a community service work condition under that Act.

**[10] Section 89 (5)**

Omit the subsection. Insert instead:

- (5) The decision whether or not to make a determination under this section is at the discretion of the Commissioner of Corrective Services, and no appeal lies against a decision, determination or order under this section in a particular case.

**[11] Section 89 (8)**

Omit the subsection. Insert instead:

- (8) Subject to this Division, such of the provisions of the *Crimes (Sentencing Procedure) Act 1999*, the *Crimes (Administration of Sentences) Act 1999* and the regulations under those Acts as are prescribed for the purposes of this subsection by the regulations under this Act:

- (a) apply to an intensive correction order under this Division in the same way as they apply to an intensive correction order under the *Crimes (Sentencing Procedure) Act 1999*, and
- (b) so apply with any modifications so prescribed.

**[12] Section 98 Application of civil and other enforcement procedures**

Omit “Community service orders”. Insert instead “Orders requiring community service”.

**[13] Section 99B Making an order**

Omit “a community service order is not in force” from section 99B (1) (c).

Insert instead “a community correction order or community service order is not in force under Division 5”.

**[14] Sections 100 and 101**

Omit “a community service order is issued” wherever occurring.

Insert instead “a community correction order or community service order is issued under Division 5”.

**[15] Section 103 Electronic transmission of documents**

Omit “a community service order” from section 103 (1) (c).

Insert instead “a community correction order or community service order”.

**[16] Section 120 Guidelines on exercise of functions under this Act**

Omit “or community service orders” from section 120 (1) (a).

Insert instead “, the issue of community correction orders or community service orders under Division 5 of Part 4”.

**[17] Section 125 Abolition of imprisonment as primary enforcement action for fine default**

Omit “a community service order” from section 125 (2).

Insert instead “a community correction order or community service order made under Division 5 of Part 4 and”.

**[18] Schedule 3 Savings, transitional and other provisions**

Insert at the end of the Schedule, with appropriate Part and clause numbering:

**Part Provisions consequent on enactment of Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017**

**Division 1 Preliminary**

**Definitions**

In this Part:

**adult** means a person who is of or above the age of 18 years.

**amending Act** means the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*.

**child** means a person who is under the age of 18 years.

## **Division 2 Existing orders**

### **Existing community service orders under section 79 for adults**

- (1) This clause applies to a community service order made under section 79 before the date of the substitution of that section by the amending Act (the *substitution date*), being an order that was:
  - (a) made in respect of an adult, and
  - (b) in force immediately before the substitution date.
- (2) The community service order is taken to be a community correction order made under section 79 as substituted by the amending Act.
- (3) Without limiting subclause (2), the community correction order is subject to a community service work condition referred to in section 79 as substituted by the amending Act.
- (4) The conditions applicable under this Act as in force before the substitution date in respect of the community service order do not apply to the community correction order.

### **Existing community service orders under section 79 for children**

- (1) This clause applies to a community service order made under section 79 before the date of the substitution of that section by the amending Act (the *substitution date*), being an order that was:
  - (a) made in respect of a child, and
  - (b) in force immediately before the substitution date.
- (2) The community service order is taken to be a community service order made under section 79 as substituted by the amending Act.
- (3) The community service order is subject to the conditions prescribed by or determined under the regulations for the purposes of this clause.
- (4) The conditions applicable under this Act as in force before the substitution date in respect of the order do not apply to the community service order.

### **Existing intensive correction orders under section 89**

- (1) This clause applies to an intensive correction order made under section 89 (2) before the date of the substitution of that subsection by the amending Act (the *substitution date*), being an order that was in force immediately before the substitution date.
- (2) The intensive correction order is taken to be an intensive correction order made under section 89 (2) as substituted by the amending Act.
- (3) Without limiting subclause (2), the intensive correction order is subject to a community service work condition referred to in section 89 (2) as substituted by the amending Act.
- (4) The conditions applicable under this Act as in force before the substitution date in respect of the order do not apply to the intensive correction order.

#### **4.20 Fisheries Management Act 1994 No 38**

**[1] Sections 220ZGA Community service work**

Omit “a community service order” from section 220ZGA (1).

Insert instead “an intensive correction order or community correction order respectively subject to a community service work condition”.

**[2] Section 220ZGA (3)**

Omit the definition of *community service order*.

**[3] Section 220ZGA (3)**

Insert after the definition of *community service work*:

*intensive correction order* and *community correction order* have the same meanings as they have in the *Crimes (Sentencing Procedure) Act 1999*.

**[4] Section 282K Community service work in respect of serious fisheries offences**

Omit “a community service order” from section 282K (1).

Insert instead “an intensive correction order or community correction order respectively subject to a community service work condition”.

**[5] Section 282K (3)**

Omit the definition of *community service order*.

**[6] Section 220K (3)**

Insert after the definition of *community service work*:

*intensive correction order* and *community correction order* have the same meanings as they have in the *Crimes (Sentencing Procedure) Act 1999*.

#### **4.21 Graffiti Control Act 2008 No 100**

**[1] Section 9Q Application of sentencing legislation to orders made in respect of adult offenders**

Omit “community service order” from section 9Q (1).

Insert instead “community correction order”.

**[2] Section 9Q (2)**

Omit the subsection. Insert instead:

- (2) Such of the provisions of the *Crimes (Sentencing Procedure) Act 1999* or the *Crimes (Administration of Sentences) Act 1999* as may be prescribed by the regulations under this Act do not apply to a community clean up order.

**[3] Section 13B Alternative and additional actions to imposing penalty for graffiti offences under sections 4 (2) and 5**

Omit section 13B (1). Insert instead:

- (1) A court may, instead of imposing a fine on a person for an offence under section 4 (2) or 5, make:
- (a) a community correction order under the *Crimes (Sentencing Procedure) Act 1999* that is subject to the standard conditions of a community correction order and to a community service work condition, or



- (b) a community service order under the *Children (Community Service Orders) Act 1987* directing the person to perform community service work,  
as the case requires.

#### **4.22 Jury Act 1977 No 18**

**[1] Schedule 1 Persons excluded from jury service**

Insert “, or an intensive correction order that is subject to a home detention condition,” after “home detention order” in clause 2 (5) (a).

**[2] Schedule 1, clause 4**

Omit “or an order under section 9, 10 or 11” from clause 4 (1) (b).

Insert instead “, a community correction order, a conditional release order or an order under section 10 or 11”.

#### **4.23 Motor Dealers and Repairers Regulation 2014**

**Clause 37 Certain persons not to be employed as manager**

Insert after clause 37 (1) (b):

- (b1) the person is subject to a community correction order or conditional release order in relation to an offence involving fraud or dishonesty, or

#### **4.24 Privacy Code of Practice (General) 2003**

**Clause 12 Definitions**

Omit paragraph (d) of the definition of *offender* in clause 12 (1). Insert instead:

- (d) a person who is the subject of an intensive correction order, a community correction order, a conditional release order (with or without conviction), an intervention program order, a non-association order or a place restriction order within the meaning of the *Crimes (Sentencing Procedure) Act 1999* that is in force,

#### **4.25 Security Industry Regulation 2016**

**[1] Clause 15 Offences and civil penalties that disqualify applicants**

Insert “an intensive correction order, a community correction order, a conditional release order,” after “(whether or not suspended),” wherever occurring in clause 15 (1) (b) and (c).

**[2] Clause 15 (1) (c) (i)**

Omit “, or both”.

[Second reading speech made in—

Legislative Assembly on 11 October 2017

Legislative Council on 18 October 2017]

## **4.26 Summary Offences Act 1988 No 25**

### **[1] Section 4A Offensive language**

Omit section 4A (3) (a). Insert instead:

- (a) may make a community correction order under section 8 of the *Crimes (Sentencing Procedure) Act 1999* that is subject to the standard conditions of a community correction order and to a community service work condition (despite the offence not being punishable by imprisonment), or

### **[2] Section 8 Damaging or desecrating protected places**

Omit section 8 (3A) (a). Insert instead:

- (a) may make a community correction order under section 8 of the *Crimes (Sentencing Procedure) Act 1999* that is subject to the standard conditions of a community correction order and to a community service work condition (despite the offence not being punishable by imprisonment), or

## **4.27 Supreme Court Act 1970 No 52**

### **Section 69C Stay of execution of conviction, order or sentence pending review**

Omit “, or home detention order,” from section 69C (6).

## **4.28 Tow Truck Industry Regulation 2008**

### **Clause 7 Offences that disqualify applicants for licences**

Insert “an intensive correction order, a community correction order under section 8 (1) of the *Crimes (Sentencing Procedure) Act 1999* that is subject to a condition requiring the person to perform community service work for 100 hours or more,” after “imprisonment,” in clause 7 (1).

[Second reading speech made in—

Legislative Assembly on 11 October 2017

Legislative Council on 18 October 2017]