
Parole (Amendment) Ordinance 1982

No. 1 of 1982

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act* 1910.

Dated 15 February 1982.

ZELMAN COWEN
Governor-General

By His Excellency's Command,

P. DURACK
Attorney-General

An Ordinance to amend the *Parole Ordinance* 1976

Short title

1. This Ordinance may be cited as the *Parole (Amendment) Ordinance* 1982.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Parole Ordinance* 1976.²

Commencement

3. This Ordinance shall come into operation on such date as is fixed by the Minister of State for the Capital Territory by notice in the *Gazette*.

Interpretation

4. Section 5 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) the definition of "authorized officer";
- (b) by omitting paragraph (b) of the definition of "Chairman" in sub-section (1) and substituting the following paragraph:

“(b) the person for the time being appointed to act in place of the Chairman of the Board;”;

- (c) by omitting from sub-section (1) the definition of “Legislative Assembly” and substituting the following definition:

“‘House of Assembly’ means the Australian Capital Territory House of Assembly constituted by section 4 of the *House of Assembly Ordinance 1936*;” and

- (d) by inserting after the definition of “repealed Ordinance” in sub-section (1) the following definition:

“‘Secretary’ means the Secretary to the Board appointed under section 16A;”.

Establishment and constitution of Parole Board

5. Section 9 of the Principal Ordinance is amended by omitting sub-sections (2), (3), (4) and (5) and substituting the following sub-sections:

“(2) The Board shall consist of 5 members, namely—

- (a) the Chairman;
- (b) 1 member nominated by the House of Assembly; and
- (c) 3 other members.

“(3) The members shall be appointed as part-time members.

“(4) One member at least shall be a female.

“(5) A person shall not be appointed as the Chairman unless he is, or has been—

- (a) a Judge of the Federal Court of Australia; or
- (b) a Judge of the Supreme Court of a State or an internal Territory.

“(6) The performance of the functions or the exercise of the powers of the Board is not affected by reason only of there being a vacancy or vacancies in the membership of the Board.”.

6. After section 9 of the Principal Ordinance the following section is inserted:

Tenure of office

“9A. (1) Subject to this Division, a member (other than a member who, being the member referred to in paragraph 9 (2) (b), is a member of the House of Assembly) holds office for such period, not exceeding 3 years, as is specified in the instrument of his appointment.

“(2) Subject to this Division, if the member referred to in paragraph 9 (2) (b) is a member of the House of Assembly, he holds office as a member of the Board from the date of his appointment until the first meeting of the House of Assembly held after the election of members of that House next following his appointment as a member of the Board.

“(3) A member is eligible for re-appointment.”.

7. Section 10 of the Principal Ordinance is repealed and the following section substituted:

Fees and allowances

“10. (1) Subject to any determination in operation under the *Remuneration Tribunals Act* 1973, a member shall be paid such fees and allowances as are prescribed.

“(2) This section does not apply to or in relation to the Chairman if he is a Judge of a court referred to in sub-section 9 (5).”.

Termination of appointment

8. Section 12 of the Principal Ordinance is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) If a member—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) is absent, except on leave granted by the Attorney-General, from 3 consecutive meetings of the Board; or
- (c) being a member who was, at the time of his appointment as the member referred to in paragraph 9 (2) (b), a member of the House of Assembly, ceases to be a member of that House,

the Governor-General shall terminate the appointment of the member.”.

Acting appointments

9. Section 14 of the Principal Ordinance is amended by omitting sub-section (4) and substituting the following sub-section:

“(4) A person shall not be appointed to act as the Chairman unless he is qualified to be appointed as the Chairman.”.

Procedure at meetings of Board

10. Section 15 of the Principal Ordinance is amended by omitting sub-section (2) and substituting the following sub-sections:

“(1A) At a meeting of the Board, the Chairman and 2 other members constitute a quorum.

“(2) A question arising at a meeting of the Board shall be determined by a majority of the votes of the members present and voting.

“(2A) At a meeting, the Chairman has a deliberative vote and, in the event of an equality of votes, also has a casting vote.”.

11. After section 16 of the Principal Ordinance the following section is inserted in Division 1 of Part III:

Secretary to Board

“16A. (1) There shall be a Secretary to the Board who shall be appointed by the Attorney-General after consultation with the Chairman.

“(2) In addition to the duties required to be performed by the Secretary under section 17, the Secretary shall perform—

- (a) general secretarial duties for the Board; and
- (b) such other duties as the Chairman from time to time directs.”.

12. Section 17 of the Principal Ordinance is repealed and the following section substituted:

Secretary to refer reports to Chairman

“17. (1) Where a non-parole period has been fixed in respect of a person, the Secretary shall, not later than 30 days before the expiration of that period—

- (a) notify the Chairman of the date on which the non-parole period will expire; and
- (b) deliver to the Chairman any reports relating to the person that have, during that part of the non-parole period that has expired, been submitted to the Secretary.

“(2) Where—

- (a) a non-parole period has been fixed in respect of a person; and
- (b) the Secretary receives from an authority of the State a recommendation that the person be considered for release on parole before the expiration of the non-parole period,

the Secretary shall forthwith deliver to the Chairman the recommendation and any reports relating to the person that have, during that part of the non-parole period that has expired, been submitted to the Secretary.

“(3) Where the Secretary receives from an authority of the State an application by a person for release on parole, the Secretary shall forthwith deliver to the Chairman the application and any reports relating to the person that have been submitted to the Secretary, other than reports already delivered to the Chairman in accordance with sub-section (1) or (2).

“(4) Where—

- (a) the Secretary has given a notification or delivered a recommendation or application to the Chairman under this section; and
- (b) before a meeting of the Board is held to consider the release on parole of the person to whom the notification or recommendation relates or by whom the application was made, a report relating to the person is received by the Secretary,

the Secretary shall forthwith deliver that report to the Chairman.

“(5) In this section, a reference to reports submitted to the Secretary shall be read as including a reference to reports that were, before the date of commencement of the *Parole (Amendment) Ordinance* 1982, submitted to the authorized officer but were not, before that date, delivered to the Chairman.

“(6) In this section, ‘authorized officer’ means—

- (a) in relation to a person sentenced by the Supreme Court—the Sheriff; and
- (b) in relation to a person sentenced by the Court of Petty Sessions—the Clerk of the Court of Petty Sessions.”

Chairman to convene meeting of Board

13. Section 18 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (2) “notification or application for the purpose of section 17” and substituting “notification, recommendation or application in pursuance of section 17”;
- (b) by omitting from sub-section (2) “the notification relates” and substituting “the notification or recommendation relates”; and
- (c) by omitting from sub-section (3) “for the purpose of sub-section 17 (4)” and substituting “in pursuance of sub-section 17 (3)”.

14. After section 27 of the Principal Ordinance the following section is inserted:

Annual reports

“27A. (1) The Board shall, as soon as practicable after 30 June in each year, prepare and furnish to the Attorney-General a report of the operations of the Board during the year ended on that date.

“(2) The Attorney-General shall cause a report furnished to him under sub-section (1) to be laid before each House of the Parliament within 15 sitting days of that House after the report is received by him.”

Continuation of appointments

15. (1) The person who was, immediately before the commencement of this Ordinance, the Chairman of the Parole Board of the Australian Capital Territory continues to be the Chairman of the Board as if he had been appointed as the Chairman under the Principal Ordinance as amended by this Ordinance and holds office, subject to the Principal Ordinance as so amended, for the remainder of the period of his appointment under the Principal Ordinance.

(2) A person who held office as a member of the Parole Board of the Australian Capital Territory, otherwise than as the Chairman of the Board, immediately before the commencement of this Ordinance continues to hold office as a member as if he had been appointed as a member under the Principal Ordinance as amended by this Ordinance and holds office, subject to the Principal Ordinance as so amended, for the remainder of the period of his appointment under the Principal Ordinance.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 19 February 1982.
2. Ordinance No. 29, 1976 as amended by No. 46, 1978.