

# Community Welfare Services (Pre-Release Programme) Bill 1983

## Explanatory Memorandum

*Clauses 1 to 3* contain the usual citation and commencement provisions.

*Clause 4* amends the table of Parts and Divisions in section 1 of the Principal Act by inserting new sections after section 198.

*Clause 5* inserts into section 198 of the Principal Act a sub-section (2A), providing that where a person is serving more than one sentence, any sentence in respect of which an order under section 11A of the *Penalties and Sentences Act 1981* applies is to be served ahead of any other sentence.

*Clause 6* inserts the following sections into the Principal Act:

*Section 198A (1)* gives power to the Adult Parole Board to grant a pre-release permit to a prisoner undergoing a prison sentence. *Sub-section 2* enables the Adult Parole Board to arrange for the examination of a person under consideration in relation to pre-release permit by a legally qualified medical practitioner, psychiatrist or psychologist and to request that reports be furnished by them or any other person nominated by the Board. *Sub-section 3* sets out the circumstances in which a pre-release permit can be granted; these are:

1. The prisoner cannot be granted a pre-release permit if the sentencing court has vetoed the possibility at the time of sentencing.
2. The prisoner must be serving a sentence of 12 months or more.
3. At least 3 months is to be served on the pre-release programme and not more than 12 months.
4. The period of the permit is not to exceed one-third of the total sentence.

*Sub-section 4* defines a "prison sentence" for the purposes of the pre-release programme as follows:

1. A "straight" sentence of at least 12 months.
2. A "maximum/minimum" sentence where the minimum or non-parole term is 12 months or more.
3. Where a minimum term has been fixed and the prisoner has served the minimum term and is not on parole, so much of the remainder of the sentence may be determined by the Adult Parole Board for the purposes of the pre-release programme.
4. Where a sentence or portion of a sentence of detention in a Youth Training Centre is transferred or is to be served as imprisonment, so much of that sentence may be determined by the Adult Parole Board for the purposes of the pre-release programme.

*Section 198B* provides that a pre-release permit is sufficient authority for the release of a prisoner who is granted such permit.

*Section 198C (1)* provides for conditions to be prescribed in relation to the pre-release permit. *Sub-section 2* gives power to the Adult Parole Board to vary or revoke any conditions including prescribed conditions or impose additional conditions, to cancel a permit and vary the period of a permit. *Sub-section 3* provides that any variation does not take effect until notice has been served to the person to whom the permit was granted.

*Section 198D (1)* gives power to the Adult Parole Board to issue a Warrant authorizing any member of the police force to search for and apprehend and return a person to prison whose permit has been revoked, or who has failed to comply with the conditions of the permit or upon information laid against the person for any breach of the law.

*Sub-section 2* specifies when a pre-release permit is deemed to be revoked.

*Sub-section 3* provides for the original warrant of commitment and other authority for the person's imprisonment to remain in force where a pre-release permit has been cancelled. Furthermore, the period during which the permit was in force shall be regarded as time served in respect of the sentence unless the Adult Parole Board directs otherwise.

*Section 198E* provides that a pre-release permit is subject to the condition that the person granted such permit attends an Attendance Centre appointed under section 42 of the *Penalties and Sentences Act 1981* whereby all the requirements and conditions which normally apply to persons under Attendance Centre Order within provisions of sections 38 and 39 of the *Penalties and Sentences Act 1981* shall also apply to persons granted pre-release permits.

*Clause 7* amends section 203 of the Principal Act by providing regulation-making powers for prescribing conditions to which pre-release permits shall be subject.

*Clause 8* amends the *Penalties and Sentences Act 1981* by inserting section 11A which provides the sentencing court the power to veto release under the pre-release programme at the time of sentencing where it imposes a sentence of imprisonment for a term of 12 months or more or imposes an aggregate sentence totalling 12 months or more.