

CRIMINAL JUSTICE AMENDMENT BILL (NO. 3)

EXPLANATORY NOTE

THIS Bill amends the Criminal Justice Act 1954. The principal purpose of this Bill is to remove from the Criminal Justice Amendment Act 1975 the provision for a sentence of corrective training for a term of 6 months (while leaving corrective training for a term of 3 months), and to make various other "tidying-up" amendments preparatory to bringing the relevant provisions of the 1975 Act into force.

Clause 1 relates to the Short Title and commencement of this Bill, which is to come into force on 1 April 1981.

Clause 2 amends section 14A of the principal Act (as inserted by section 4 of the 1975 Act). That section makes provision for 2 sentences of corrective training for offenders in the age range of 15 years to 20 years. Under subsection (1), the Court may sentence the offender to corrective training for a term of 3 months if it is satisfied that, had the offender been over the age of 20 years, it would have sentenced him to imprisonment for a term of at least 3 months. Subsection (2) makes similar provision for a sentence of corrective training for a term of 6 months.

Paragraph (c) of this clause repeals subsection (2), thereby removing the sentence of corrective training for a term of 6 months, and *paragraph (b)* is consequential upon that change.

Paragraph (a) is consequential upon *clause 3* of this Bill.

Clause 3 repeals section 14B of the principal Act, which provides that an offender cannot be sentenced to corrective training for a term of 3 months if he has previously been sentenced to corrective training, or imprisonment for a term of at least 3 months, or borstal training.

Clause 4 rewrites section 14E of the principal Act to make it clear that every sentence of corrective training will now be for a period of 3 months.

Clause 5 amends section 33A (2) of the principal Act, relating to the first time at which a prison inmate may be considered for parole. At present, inmates serving life imprisonment for murder or drug dealing must serve 7 years before being considered for parole, whereas inmates serving life imprisonment for any other offence need serve only 5 years before being considered.

Subclause (1) removes this distinction: in future the 7-year period will apply to all inmates serving life imprisonment.

Subclause (2) relates to inmates who are serving a finite term of not less than 5 years. They are eligible for parole when they have served half their sentence or $3\frac{1}{2}$ years, whichever is the shorter. The subclause changes the $3\frac{1}{2}$ years minimum to 7 years.

Clause 6 amends section 43 of the principal Act, by rewriting subsection (2B) in an effort to make the present position clearer. It covers a case where a person who is serving a sentence of corrective training is found to have been of or over the age of 20 years at the time of his conviction. The Secretary for Justice is required to have the offender transferred to a prison, and the rewritten provision makes it clear that the offender will serve the remainder of the sentence as if it were a sentence of imprisonment imposed on the date of the original sentence of corrective training. This has important implications in respect of the determination of the offender's release date and remission rights.

Clause 7 provides for the commencement of Parts I and II of the Criminal Justice Amendment Act 1975 (which abolishes borstal training and provides corrective training in place of detention in a detention centre) to come into force on 1 April 1981.

Clauses 8 to 10 are of a consequential nature only.

Hon. Mr McLay

CRIMINAL JUSTICE AMENDMENT (NO. 3)

ANALYSIS

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2. Sentence of corrective training	8. Transitional provisions
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A BILL INTITULED

An Act to restrict to 3 months the term for which a sentence of corrective training may be imposed, and to amend the Criminal Justice Act 1954

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

10 **1. Short Title and commencement**—(1) This Act may be cited as the Criminal Justice Amendment Act (No. 3) 1980, and shall be read together with and deemed part of the Criminal Justice Act 1954* (hereinafter referred to as the principal Act).

*R.S. Vol. 1, p. 835

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(2) This Act shall come into force on the 1st day of April 1981.

2. Sentence of corrective training—Section 14A of the principal Act (as inserted by section 4 of the Criminal Justice Amendment Act 1975) is hereby amended— 5

- (a) By omitting from subsection (1) the expression “sections 14B and 14D”, and substituting the expression “section 14D”;
- (b) By omitting from that subsection the words “for a term of 3 months”;
- (c) By repealing subsection (2).

3. Circumstances in which corrective training may be imposed—Section 14B of the principal Act (as inserted by section 4 of the Criminal Justice Amendment Act 1975) is hereby repealed. 15

4. Period of detention under sentence of corrective training—The principal Act is hereby amended by repealing section 14E (as inserted by section 4 of the Criminal Justice Amendment Act 1975), and substituting the following section: 20

“14E. Subject to this Act and the Penal Institutions Act 1954, every person who is sentenced to corrective training shall be detained for a term of 3 months.”

5. Functions of Prisons Parole Board—(1) Section 33A (2) of the principal Act (as substituted by section 4 of the Criminal Justice Amendment Act 1961 and amended by section 26 (1) of the Criminal Justice Amendment Act 1962 and further amended by section 2 (1) of the Criminal Justice Amendment Act 1978) is hereby amended by repealing paragraphs (c), (ca), and (d), and substituting the following paragraph: 25 30

- “(c) In the case of every offender undergoing imprisonment for life, as soon as may be practicable after the expiry of 7 years from the date of his reception in the prison, and at least once in every period of 12 months thereafter:” 35

(2) Section 33 (2) (e) of the principal Act (as substituted by section 15 (3) of the Criminal Justice Amendment Act 1975) is hereby amended by omitting from subparagraph (ii) the expression “Three years and 6 months”, and substituting the expression “Seven years”. 40

(3) Nothing in this section shall apply in respect of any inmate whose case has been considered by the Parole Board before the commencement of this Act.

(4) The following enactments are hereby consequentially repealed:

- (a) Section 26 (1) of the Criminal Justice Amendment Act 1962:
- (b) Section 15 (2) of the Criminal Justice Amendment Act 1975:
- 10 (c) Section 2 (1) of the Criminal Justice Amendment Act 1978.

6. Sentence not invalidated by mistake in age of offender—

Section 43 of the principal Act is hereby amended by repealing subsection (2B) (as inserted by section 7 (3) of the
15 Criminal Justice Amendment Act 1975), and substituting the following subsections:

“(2B) Without limiting subsection (2) of this section, where it comes to the notice of the Superintendent of a corrective training institution that an offender who has been
20 sentenced to corrective training was of or above 20 years of age at the time he was convicted, the Superintendent shall report the fact forthwith to the Secretary for Justice.

“(2C) Where it comes to the notice of the Secretary for Justice that an offender who has been sentenced to corrective
25 training was of or above 20 years of age at the time he was convicted, the Secretary for Justice shall direct that the offender be transferred to a prison to serve the remainder of his sentence, which shall thereafter be deemed for the purposes of this Act and the Penal Institutions Act 1954 to be a
30 sentence of imprisonment for a term of 3 months that commenced on the date on which the sentence of corrective training was imposed.”

7. Commencement of Parts I and II of Criminal Justice Amendment Act 1975—

(1) Section 1 of the Criminal Justice
35 Amendment Act 1975 is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Parts I and II of this Act shall come into force on the 1st day of April 1981.”

(2) Section 6 (3) of the Criminal Justice Amendment Act
40 1975 is hereby consequentially repealed.

8. Transitional provisions—Section 9 of the Criminal Justice Amendment Act 1975 is hereby amended by omitting the words “for a term of 3 months” wherever they occur.

9. Alcoholism and Drug Addiction Act 1966 amended—

(1) Section 12 of the Alcoholism and Drug Addiction Act 1966 is hereby amended by omitting the words “borstal training or detention in a detention centre”, and substituting the words “corrective training”. 5

(2) Section 21 (1) of the Alcoholism and Drug Addiction Act 1966 is hereby amended by omitting the words “borstal training”, and substituting the words “corrective training”. 10

10. Summary Proceedings Act 1957 amended—(1) Section 100 of the Summary Proceedings Act 1957 (as substituted by section 12 of the Summary Proceedings Amendment Act 1973) is hereby amended by omitting from subsection (3) (c) (as substituted by section 29 (1) of the Criminal Justice Amendment Act (No. 2) 1980) the words “for a term of 3 months”. 15

(2) Section 100 of the Summary Proceedings Act 1957 (as so substituted) is hereby further amended by omitting from subsection (8) (as amended by section 8 (1) of the Criminal Justice Amendment Act 1975) the words “corrective training for a term of 3 months”, and substituting the words “corrective training”. 20

(3) The Criminal Justice Amendment Act 1975 is hereby amended by repealing so much of the First Schedule as relates to the Summary Proceedings Act 1957. 25