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## PAROLE ACT 1975

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## PAROLE

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No. 73 of 1975

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**AN ACT to make provision for the establishment of a Parole Board, the granting by the Board of parole to prisoners, and incidental matters, to repeal the Indeterminate Sentences Act 1921, and to amend certain other Acts.**

[17 December 1975]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

### PART I

#### PRELIMINARY

- 1**—(1) This Act may be cited as the *Parole Act 1975*. Short title and commencement.
- (2) This Act shall commence on a date to be fixed by proclamation.
- 2** The *Indeterminate Sentences Act 1921* is repealed. Repeal.

## Interpretation.

**3** In this Act, unless the contrary intention appears—

“ Board ” means the Parole Board established under this Act;

“ Controller ” means the Controller of Prisons appointed under the *Prison Act 1868*;

“ dangerous criminal ” means a person who is declared to be a dangerous criminal under section 392 of the *Criminal Code*;

“ gaol ” means a gaol within the meaning of the *Prison Act 1868*;

“ legal member ” has the meaning assigned to that expression by section 5 (2) (a);

“ life prisoner ” means a prisoner who is serving a sentence for the term of his natural life;

“ parole officer ” means a parole officer appointed pursuant to section 4;

“ parole order ” means a parole order under section 19, except in this section and in Division III of Part IV, where it means a parole order under section 14 or section 19;

“ practitioner ” has the meaning assigned to that expression by the *Legal Practitioners Act 1959*;

“ prisoner ” means a person who is detained in lawful custody under a sentence of imprisonment lawfully passed upon him or who is released under a parole order, and includes a life prisoner and a dangerous criminal;

“ secretary ” has the meaning assigned to that expression by section 11 (1).

## PART II

## ADMINISTRATION

Appointment  
of parole  
officers.

**4** The Governor may appoint such and so many parole officers of either sex as he may think necessary or desirable for the purposes of this Act.

## PART III

## THE PAROLE BOARD

Establishment  
of the Parole  
Board.  
Cf. S.A., No.  
2305 of 1936,  
ss. 42A and 42b.

**5**—(1) There shall be established a board, to be known as the Parole Board.

(2) The Board shall consist of 3 persons appointed by the Governor, of whom—

(a) one shall be a person (in this Act referred to as “ the legal member ”) who has practised as a practitioner or barrister of the Supreme Court or of a Supreme Court of any part of the Commonwealth other than this State for at least

7 years and has never been suspended from practice, had his name removed from, or struck off, the roll of that Court, or been disbarred; and

- (b) two shall be persons who the Governor is satisfied are experienced in matters associated with sociology, criminology, penology, or medicine or who possess any other knowledge or experience that the Governor considers is appropriate for the purpose.

(3) The chairman of the Board shall be appointed by the Governor from among the members of the Board.

(4) An officer of the Public Service may hold office as a member of the Board in conjunction with his office in the Public Service.

(5) Subject to subsection (6), the members of the Board are entitled to receive—

(a) such sitting fees or remuneration; and

(b) such travelling and other allowances and expenses,

as the Governor may determine.

(6) Notwithstanding subsection (5) (a), an officer of the Public Service who is a member of the Board is entitled to receive, by way of fees or remuneration, such sums (if any) as the Public Service Board may determine, being sums not exceeding those determined by the Governor under that subsection.

**6**—(1) Subject to this section, a member of the Board, unless he sooner resigns or is removed from office or otherwise ceases to hold office, continues in office for a period of 3 years from the date on which he was last appointed a member of the Board.

Term of office and removal of members of the Board.  
*Ibid.*, s. 42a.

(2) If a member of the Board dies or ceases to hold office otherwise than by reason of the effluxion of time, the Governor may appoint a person to fill the office for the remainder of the term for which the vacating member was so appointed (being a person who has the qualifications prescribed by section 5 (2) (a) if the vacating member is the legal member).

(3) The Governor may remove a member of the Board from office if he is satisfied that that member—

(a) has become incapable of carrying out the duties of his office;

(b) has misconducted himself in the performance of the duties of his office or otherwise in relation to his profession or calling;

- (c) has, without leave of the Board, been absent from 3 or more consecutive meetings of the Board;
- (d) has applied to take, or takes, advantage of any law relating to bankruptcy, or has compounded, or entered into an arrangement, with his creditors;
- (e) has been convicted (whether in this State or elsewhere) of an offence of such a nature that, in the opinion of the Governor, renders it improper for him to continue to be a member of the Board; or
- (f) being the legal member—
  - (i) has been suspended from practice;
  - (ii) has had his name removed from, or struck off, the roll of the Court; or
  - (iii) has been disbarred,
 whether in this State or elsewhere.

(4) A member of the Board shall not be removed from office otherwise than in accordance with this section.

Proceedings of  
the Board.  
*Ibid.*, s. 42c.  
(part).

**7—(1)** The Board shall meet at such times and at such places as the chairman decides.

(2) The Minister may appoint a person to be the deputy of a member of the Board, and a deputy so appointed holds office during the pleasure of the Minister.

(3) The deputy of a member of the Board is, in the event of the absence of the member of whom he is the deputy from a meeting of the Board, entitled to attend that meeting and, when so attending, shall be deemed to be a member of the Board and, in the case of deputy of the chairman of the Board, shall be deemed to be the chairman of the Board.

(4) The chairman of the Board or his deputy shall preside at any meeting of the Board at which he is present.

(5) Three members of the Board constitute a quorum at a meeting of the Board.

(6) The Board may, by resolution, appoint such committees as it thinks fit to assist or advise the Board in relation to the exercise and performance of its functions and duties under this Act.

(7) Subject to this Act, the Board—

- (a) shall conduct any business before it in such manner as appears to it most likely to ensure that it comes to a proper decision; and
- (b) shall direct itself by such evidence as is available to it, whether the evidence is such as would be admissible in a court or not.

**8**—(1) For the purposes of this Act, the Board may—

Powers of the Board.  
*Ibid.*, s. 42F.

- (a) by summons under the hand of the secretary, require any person to attend before the Board;
- (b) require any person to give oral or written answers to any questions relating to any matter before the Board;
- (c) by summons under the hand of the secretary, require any person to produce any document in his possession or power relating to any matter before the Board;
- (d) examine a witness on oath or affirmation which may be administered by any member of the Board; and
- (e) require any information given to the Board to be verified by statutory declaration.

(2) A person who—

- (a) having been duly served with a summons to attend before the Board, neglects or fails to attend, without reasonable excuse, in answer to the summons;
- (b) wilfully insults the Board or a member of the Board;
- (c) misbehaves himself before the Board;
- (d) interrupts the proceedings of the Board; or
- (e) having been called or examined as a witness before the Board, refuses to be sworn or to affirm, or refuses to answer any question that he would be compellable to answer in a court, or refuses to produce a document specified in a summons served on him,

is guilty of an offence.

Penalty: \$500 or imprisonment for 3 months.

(3) For the purposes of any business before it, the Board may—

- (a) appoint a member of the Board to make an investigation or inquiry and may consider the report of that investigation or inquiry made by him;
- (b) consider the report of an investigation or inquiry made by any other person who, it is satisfied, is competent to make that investigation or inquiry; and
- (c) rely on the knowledge of a member of the Board, however that knowledge is gained.

(4) The powers conferred on the Board by this section shall not be exercised by it in relation to a judge or magistrate.

Reports.  
*Ibid.*, s. 42g.

**9**—(1) The Board shall, at such time in each year as is prescribed, make a written report to the Minister of—

- (a) the number of prisoners released on parole during the last preceding period of 12 months and the number of prisoners returned to prison by reason of the revocation of their release on parole; and
- (b) the general activities of the Board under this Act during that period and any matters affecting the operation of this Act that the Board thinks fit to include in the report.

(2) The Minister shall, as soon as practicable, lay before each House of Parliament a copy of any report made to him under subsection (1).

(3) The Board shall, whenever so required by the Minister, furnish the Minister with a report on any matter in connection with the administration of this Act on which the Minister has required the report.

Judicial notice.  
*Ibid.*, s. 42e.

**10**—(1) Where a document purports to bear the signature of a member of the Board or the secretary, a court or a person acting judicially shall presume, in the absence of evidence to the contrary, that the signature of the member or secretary has been duly affixed to the document.

(2) An apparently genuine document purporting to record a determination or decision of the Board and purporting to be signed by the secretary shall, in the absence of evidence to the contrary, be taken as proof that such a determination or decision has been duly made by the Board.

Secretary and other officers.  
*Ibid.*, s. 42f.

**11**—(1) The Board may, with the approval of the Minister, appoint a person to be the secretary of the Board (in this Act referred to as “the secretary”), and may pay to the secretary such

remuneration as the Board, with the approval of the Minister, determines.

(2) If a secretary is not appointed under subsection (1), the Minister, at the request of the Board, may, with the approval of the Public Service Board, appoint an officer of the Public Service to be the secretary, and the person so appointed may hold office as secretary in conjunction with his office in the Public Service.

(3) For the purposes of the exercise of its functions, the Board may, with the approval of the Public Service Board, make use of the services of any officer of the Public Service.

**12**—(1) The expenses of the Board shall be defrayed out of moneys provided by Parliament for the purpose. Finances of the Board.

(2) The Board shall keep such accounts as may be prescribed.

(3) The accounts of the Board are subject to the *Audit Act* 1918.

## PART IV

### RELEASE ON PAROLE

#### *Division I—Life prisoners and dangerous criminals*

**13**—(1) The Board may, of its own motion or at the request of the Minister, make recommendations to him with respect to the granting of parole to life prisoners and dangerous criminals. Powers of Board with respect to recommendations and examinations relating to life prisoners and dangerous criminals.

(2) The Board shall, as soon as a life prisoner or dangerous criminal is confined in a gaol, cause to be made an examination of such part of the prisoner's or criminal's personal and medical history as, in the opinion of the Board, will, if he is released by the Governor, by order under section 14, be relevant to the Governor's consideration of so releasing him.

**14**—(1) The Governor may, by order, direct that a life prisoner or dangerous criminal shall be released at a time, and for such period, as the Governor deems appropriate and as is specified in the order. Parole orders by Governor.

(2) An order under this section may be subject to such terms and conditions as the Governor thinks fit and as are specified in the order.

(3) In this section, "Governor" means the Governor of this State acting with the advice of at least one Minister.

*Division II—Prisoners other than life prisoners and dangerous criminals*

Application of Division.

**15** This Division applies to a prisoner other than a life prisoner or dangerous criminal.

Eligibility for parole.

**16** A prisoner is not eligible to be released on parole by the Board until he has served at least 6 months or one-third of his sentence, whichever is the greater period, unless, in the opinion of the Board, there are exceptional circumstances warranting his earlier release on parole.

Applications for parole.

**17**—(1) Subject to section 16, a prisoner may, at the expiration of the first one-quarter of his sentence, apply to the Board to be released on parole.

(2) If a prisoner is not released on parole after he has served one-third of his sentence, he may, at the expiration of the second one-quarter of his sentence, apply to the Board to be released on parole, and the Board shall consider whether he should be so released as if he were a prisoner to whom section 16 applies.

(3) Notwithstanding the foregoing provisions of this section, the Board may, in its discretion, permit a prisoner to make an application to the Board at a time earlier than a time at which, apart from this subsection, the prisoner would be eligible to make the application.

(4) An application by a prisoner under this section shall be made in the prescribed manner.

(5) The Board may consider a prisoner's release on parole notwithstanding that he has not made an application under this section.

Preliminary examinations by the Board.

**18**—(1) The Board shall, as soon as a prisoner who has been sentenced to a term of imprisonment of 12 months or longer is confined in a gaol, cause to be made an examination of such part of the prisoner's personal and medical history as, in the opinion of the Board will, at the time when he is eligible to be released on parole, be relevant to its consideration of so releasing him.

(2) Where a prisoner is sentenced to a term of imprisonment of less than 12 months, the Board may, as soon as he is confined in a gaol, cause an examination to be made in relation to the prisoner as if he were a prisoner to whom subsection (1) applies.

Release on parole.

**19**—(1) Subject to this section and section 17, the Board shall, on a prisoner's becoming eligible to be released on parole pursuant to section 16, consider whether he should be so released.

(2) A prisoner whose release on parole is being considered under subsection (1) is entitled to be heard personally on the matter by the Board only if the Board so determines.

(3) After considering a prisoner's release pursuant to subsection (1), the Board may—

(a) if, having regard to the interests of the public and the interests of the prisoner, the Board is satisfied that it is proper to do so, by order, direct that the prisoner shall be released—

(i) at a time (being not more than two months after the date of the order); and

(ii) for such period as, subject to section 20, the Board deems appropriate and,

as is specified in the order;

(b) defer the matter; or

(c) refuse to release the prisoner on parole.

(4) A parole order may be subject to such terms and conditions as the Board thinks fit and as are specified in the order.

(5) The Board may, at any time before the release of a prisoner under a parole order, revoke, amend, or vary the order.

(6) After making a parole order or decision under paragraph (b) or paragraph (c) of subsection (3), the Board shall cause a notice of the order or decision to be communicated to the prisoner concerned.

**20**—(1) The period for which a prisoner may be released on parole shall not be less than 6 months. Period of parole.

(2) The minimum period of parole specified in subsection (1) applies to the release of a prisoner, notwithstanding that the total of that period and the period of the sentence of imprisonment that he has already served at the time of his release exceeds the full term of that sentence.

**21** Notwithstanding the provisions of section 391 of the *Criminal Code* and section 75 of the *Justices Act 1959*, where a prisoner is sentenced to imprisonment for an offence committed during the period of his release on parole unless it is of opinion that there are special circumstances that make it desirable to do so, the court imposing the sentence for the offence shall not order that it Sentences for offences committed during release on parole.

shall run concurrently with the remainder of the sentence for the offence in respect of which the prisoner was released on parole, but shall order that it shall take effect from the expiration of his imprisonment under that last-mentioned sentence.

*Division III—Provisions applicable to all prisoners to whom parole orders apply*

Application of  
Division.

**22** This Division applies to every prisoner to whom a parole order applies, whether the parole order is made under section 14 or section 19.

Effect of parole  
orders.  
*Ibid.*, s. 42x  
(4) and (5).

**23**—(1) A parole order is sufficient warrant to the Controller and any person having the custody or control of the prisoner to whom the order applies to release him in accordance with the tenor of the order.

(2) A prisoner who is released under a parole order—

- (a) shall be under the supervision of a parole officer during the period beginning on the date of his release and ending on the date of the expiration of his period of parole under the order or the revocation or suspension of the order; and
- (b) shall comply with any terms and conditions to which the order is subject and with such requirements as may be made of him by the parole officer in accordance with the regulations.

(3) Notwithstanding paragraph (a) of subsection (2), the Board may, in its discretion if it is satisfied that the circumstances of the case are exceptional, direct in a parole order made by it under section 19 that the prisoner to whom the order applies (not being a life prisoner or dangerous criminal, in the case of such an order pursuant to section 28) is not required to be under supervision as provided in that paragraph.

Prisoner on  
parole deemed  
still under  
sentence.  
*Ibid.*, s. 42x.

**24**—(1) During the period of parole granted to a prisoner under a parole order, the prisoner shall be regarded as being still under sentence.

(2) When the period of parole granted to a prisoner expires without the revocation of his parole order by the Board under section 25, the sentence of the court on the prisoner shall, on the expiration of that period, be regarded as having been wholly satisfied in respect of that period.

(3) Subsection (2) does not apply to a life prisoner or dangerous criminal.

**25**—(1) Subject to subsection (2) and (3), the Board may, at any time, of its own motion or on receiving a report from a parole officer or any other person—

Power of Board  
to revoke  
parole orders,  
&c.  
*Ibid.*, s. 42M.

- (a) revoke, vary, amend, or confirm the parole order granting parole to a prisoner; or
- (b) suspend the parole order by suspending the parole granted by that order on such terms as it considers fit.

(2) The powers of the Board under subsection (1) in relation to a parole order under section 14 shall not be exercised without the consent of the Governor within the meaning of that section.

(3) The Board shall not exercise its powers under subsection (1) in relation to a prisoner on parole unless it has first—

- (a) called on the prisoner in the prescribed manner to show cause why any of those powers should not be exercised; and
- (b) heard the prisoner, unless he fails to appear at the time and place appointed by the Board.

(4) Where a person is sentenced to imprisonment for an offence committed during the period of his release on parole, that release is, by virtue of this subsection, revoked, whether or not, at the time of his conviction for that offence, the period of that release had expired.

(5) If a prisoner's release on parole is revoked—

- (a) in the case of a prisoner who is not a life prisoner or dangerous criminal, the prisoner is liable to serve the remainder of his sentence and the period of that release shall not be taken into account in determining how much of the term of his sentence remains to be served;
- (b) in the case of a life prisoner, the prisoner is liable to be imprisoned for the remainder of his natural life; and
- (c) in the case of a dangerous criminal, the prisoner is liable to be detained during the Governor's pleasure.

(6) Where the Board revokes a parole order applying to a prisoner after his release from gaol, the Board may, by warrant signed by the secretary or any two members of the Board, authorize any police officer to apprehend the prisoner and return him to a gaol.

(7) A warrant under subsection (6) is sufficient authority to the police officer executing the warrant for the acts that it authorizes.

Warrants for  
return of  
prisoners to  
gaol.

Cf. N.S.W.  
No. 41 of 1966,  
s. 5 (3).

**26**—(1) If at any time—

(a) the Board has reasonable cause to suspect any act or omission on the part of a prisoner who has been released on parole that, in its opinion, may justify the revocation of his parole order; or

(b) for any other reason the Board considers it proper to do so, the Board may, by warrant signed by the secretary or any two members of the Board, authorize any police officer to apprehend the prisoner and return him to gaol.

(2) The provisions of section 25 (7) apply to a warrant under subsection (1) as if it were a warrant under section 25 (6).

(3) Where a prisoner is returned to gaol following the execution of a warrant against him under subsection (1)—

(a) the Board shall, within 14 days after the prisoner is so returned to gaol, give him an opportunity to be heard;

(b) the Board may, after complying with paragraph (a), exercise in relation to him the powers conferred on it by subsection (1) of section 25 as if he were a prisoner to whom that subsection applies; and

(c) if the Board revokes the prisoner's release on parole pursuant to that subsection, the provisions of subsection (5) of that section apply to the prisoner accordingly.

Effect of  
suspension of  
parole orders.

**27** If the Board suspends a parole order pursuant to section 25 or section 26, the suspension is sufficient warrant to the Controller and any person having the custody or control of the prisoner to whom that order applies to detain him in accordance with the tenor of the order suspending the parole order.

Power of Board  
to release  
prisoner on  
parole after  
previous  
revocation.  
Cf. S.A., No.  
2305 of 1936,  
s. 42M.

**28**—(1) The Board may release on parole a prisoner who is not a life prisoner or dangerous criminal, notwithstanding that on any previous occasion or occasions his release on parole has been revoked.

(2) After the Board has revoked the original release on parole of a life prisoner or dangerous criminal, it may subject to subsection (3) release him on parole on a subsequent occasion or subsequent occasions notwithstanding that revocation or a subsequent revocation of his release on parole granted by the Board.

(3) The Board shall not release a life prisoner or dangerous criminal on parole pursuant to subsection (2) without the consent of the Governor within the meaning of section 14.

(4) Where the Board releases a prisoner on parole pursuant to this section, the order made by the Board for that purpose shall be deemed to be a parole order made by the Board under section 19

and the provisions of this Part relating to orders under that section and the prisoners to whom those orders are applicable apply accordingly to the first-mentioned order and to the prisoner.

## PART V

### MISCELLANEOUS

**29** Nothing in this Act shall be construed so as to limit or affect in any way the exercise in relation to a prisoner of the Royal prerogative of mercy.

Preservation of Royal prerogative of mercy.  
*Ibid.*, s. 42r.

**30** No liability attaches to a member of the Board, the secretary, or an officer of the Public Service whose services are used by the Board pursuant to section 11 (3) for any act or omission by him or by the Board in good faith and in the exercise or purported exercise of his or its powers or functions or in the discharge or purported discharge of his or its duties under this Act.

Protection of members of Board and other persons.  
*Ibid.*, s. 42c (7).

**31**—(1) The Governor may make regulations for the purposes of this Act.

Regulations.  
*Ibid.*, s. 42q.

(2) Without prejudice to the generality of subsection (1), regulations made under that subsection—

- (a) may prescribe the manner in which a prisoner released on parole is to be supervised; and
- (b) may prescribe the requirements that may be made of him by a parole officer in the course of that supervision.

**32** Where, immediately before the commencement of this Act, a person is a prisoner on parole under a licence granted to him under the *Prison Act* 1908—

Transitional provisions applicable to prisoners on parole at commencement of Act.  
*Ibid.*, s. 42k (6).

- (a) that person shall, on the commencement of this Act, be deemed to be a prisoner released under a parole order made by the Board under section 19 for a period of parole that is equivalent to the period of the licence that remains unexpired immediately before that commencement; and
- (b) any conditions to which that licence is subject shall be deemed to be the terms and conditions to which that parole order is subject.

**33**—(1) Subject to this section, the Board shall, forthwith after the commencement of this Act, consider the release on parole of every person who, immediately before that commencement—

Transitional provisions in relation to persons subject to indeterminate sentences at commencement of Act.

- (a) is detained in a reformatory prison in accordance with the provisions of the *Indeterminate Sentences Act* 1921; or

(b) has completed serving a term of imprisonment at the expiry of which he has been ordered to be so detained, as if that person were eligible to be released on parole pursuant to section 16 and may, accordingly, then exercise its powers under Part IV in relation to that person.

(2) Subject to this section, the Board shall, not more than 6 months after a person has completed serving a term of imprisonment—

(a) that he was serving immediately before the commencement of this Act; and

(b) at the expiry of which he has been ordered to be detained in a reformatory prison in accordance with the provisions of the *Indeterminate Sentences Act 1921*,

consider the release on parole of that person as if he were eligible to be so released pursuant to section 16 and may, accordingly, then exercise its powers under Part IV in relation to that person.

(3) The period for which a person to whom subsection (1) or subsection (2) applies may be released on parole under a parole order is such period not exceeding two years commencing on the date of his release under the order as the Board determines and as is specified in the order.

(4) Where a person has been released on a licence granted under section 16 of the *Indeterminate Sentences Act 1921* that is in force immediately before the commencement of this Act—

(a) that person shall, on that commencement, be deemed to be a prisoner released under a parole order made by the Board under section 19 for a period of parole that is equivalent to the period of the licence that remains unexpired immediately before that commencement; and

(b) any conditions to which that licence is subject shall be deemed to be the terms and conditions to which that parole order is subject.

(5) If, in pursuance of section 25 (1), the Board varies the period of parole in relation to a prisoner who is, by virtue of subsection (4), deemed to be a prisoner released on parole under a parole order, the period of parole, as so varied, shall not exceed the period of two years.

(6) Where, following the revocation of a licence granted under section 16 of the *Indeterminate Sentences Act 1921*—

(a) a warrant issued under section 17 of that Act for the apprehension of the person to whom the licence was granted remains unexecuted; or

(b) that person is otherwise still at large,

immediately before the commencement of this Act, that person shall, on that commencement, be deemed to be a prisoner whose parole order has been revoked under section 25 and the Board may issue a warrant under section 26 for his apprehension and return to gaol.

**34** The Acts that are specified in the Schedule are amended as respectively specified in that Schedule. Amendments of other Acts.

## SCHEDULE

(Section 34)

### ACTS AMENDED

*Criminal Code*

(14 Geo. V No. 69)

1 Section 386 (1) is amended by omitting paragraph (d) and substituting the following paragraph:— Judgment.

“(d) pass sentence upon the convicted person and suspend the execution of the sentence or, in the case of a sentence of imprisonment, suspend—

(i) the whole of the sentence, if it exceeds the term of 12 months; or

(ii) the whole or any part of the sentence, if it does not exceed that term,

upon such conditions in each case as the judge thinks fit;”;

2 Chapter XLIV is repealed and the following Chapter is substituted:—

#### “ CHAPTER XLIV

#### “ DANGEROUS CRIMINALS

“ 392—(1) Where a person who has apparently attained the age of 17 years— Power to declare dangerous criminals.

(a) is convicted of a crime involving an element of violence; and

(b) has at least one previous conviction of which account may be taken for the purposes of this section (being a conviction for a crime involving such an element),

the judge before whom he is so convicted or, as the case may be, the judge of the court before whom he is brought up for sentence, may declare that that person is a dangerous criminal if he is of the opinion that that crime

and the crime for which he has been previously so convicted warrant such a declaration for the protection of the public.

“(2) Where a judge declares that a person is a dangerous criminal pursuant to subsection (1), he shall order that that person be detained during the Governor’s pleasure.

“(3) The following convictions are the convictions that may be taken account of for the purposes of subsection (1):—

- (a) Any conviction (either in this State or in some other State or a Territory of the Commonwealth) on indictment or on criminal information; and
- (b) Any conviction (either in this State or in some other State or a Territory of the Commonwealth) as a consequence of which a sentence is imposed by a court (being a court before which offences may be tried on indictment or on criminal information) on the committal of the accused to that court for sentence.”.

*Justices Act 1959*

(No. 77 of 1959)

Suspended sentence.

Section 74C is amended by omitting subsection (1) and substituting the following subsection:—

“(1) Justices who have adjudged a person convicted—

(a) to be imprisoned for his offence, may suspend the execution of—

(i) the whole of the sentence, if it exceeds the term of 12 months; or

(ii) the whole or any part of the sentence, if it does not exceed that term; or

(b) to pay a sum of money for his offence, may suspend the execution of the whole or any part of the sentence,

upon such conditions as they think fit.”.

*Prison Act 1908*

(8 Edw. VII No. 10)

1 Section 2 is repealed and the following section is substituted:—

Interpretation.

“2—(1) In this Act (except where first occurring in section 4) and in section 49 of the Principal Act, ‘Governor’ means the Governor of this State acting with the advice of at least one Minister.

“(2) In this Act, ‘Principal Act’ means the *Prison Act 1868*.”.

Repeal.

2 Sections 6 to 16 and the Schedule are repealed.