NORTHERN TERRITORY OF AUSTRALIA

PAROLE AMENDMENT ACT 2017

Act No. 17 of 2017

Table of provisions

Part 1 Preliminary matters

1 Short title 1
2 Commencement 1

Part 2 Amendment of Parole Act

3 Act amended 1
4 Section 3 amended 1
5 Section 3AA inserted 2
3AA Parole period
6 Section 5 replaced 3
4C Sanctions matrix
5 Release on parole
5A Parole order conditions
5B Amendment or revocation of parole order – before expiry of parole period
5C Commission of offence or contravention of condition during parole period
5D Parole order taken to be revoked
5E Requirements when sanctions regime condition of parole order
5F Application of sanctions regime
5G Arrest of person
7 Section 6 amended 9
8 Section 7 replaced 9
7 Issue of warrant where parole order revoked or cancelled
9 Section 8 amended 10
10 Section 11 replaced 10
11 Service of term of imprisonment
11 Section 13A and 13B inserted 11
13A Release on parole after serving sanction
13B Effect of serving sanction on sentence
12 Section 14 amended 12
13 Section 14A inserted 12
14A Alternative conditions under sanctions regime when re-released on parole
14 Part 6 inserted 13

Part 6 Transitional matters for Parole Amendment Act 2017

20 Application of amendments

Part 3 Amendment of other laws

15 Other laws amended 13

Part 4 Expiry of Act

16 Expiry of Act 13

Schedule Other laws amended

NORTHERN TERRITORY OF AUSTRALIA

Act No. 17 of 2017

An Act to amend the *Parole Act*, and for related purposes

[*Assented to 30 August 2017*]
[*Second reading 11 May 2017*]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Parole Amendment Act 2017*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Parole Act

3 Act amended

This Part amends the *Parole Act*.

4 Section 3 amended

(1) Section 3(1), definitions ***minimum term of imprisonment*** and ***the parole period***

omit

(2) Section 3(1)

insert (in alphabetical order)

custodial correctional facility, see section 11(1)(a) of the *Correctional Services Act*.

non-parole period, see section 3(1) of the *Sentencing Act*.

parole period, see section 3AA.

relevant offence, see section 5(1).

sanction means a period of a person's sentence of imprisonment which must be served in a custodial correctional facility by the person under the sanctions matrix.

sanctions matrix, see section 4C.

sanctions regime means the application of the sanctions matrix to an instance of non-compliance with a condition of a person's parole order.

(3) Section 3(1), definition ***approved monitoring device***

omit

164

insert

165

5 Section 3AA inserted

After section 3, in Part 1

insert

3AA Parole period

(1) The ***parole period***, in relation to a person who is released from the custody of the Commissioner of Correctional Services under a parole order, is the period:

(a) commencing on the day on which the person is released from custody; and

(b) expiring:

(i) on the day on which the term of imprisonment to which the person was sentenced expires; or

(ii) if the parole order in relation to the person is revoked or cancelled – on the date of the revocation or cancellation.

(2) However, if the person's parole order contains a condition that the sanctions regime applies in relation to the order – any time served in custody as a sanction does not form part of the parole period.

6 Section 5 replaced

Section 5

repeal, insert

4C Sanctions matrix

The Chairperson may, on behalf of the Board, from time to time, by *Gazette* notice, determine a schedule of sanctions (the ***sanctions matrix***) for non-compliance with conditions of a parole order.

5 Release on parole

(1) This section applies in relation to a person who is serving a term of imprisonment for an offence (the ***relevant offence***) for which a non-parole period has been fixed under this Act or the *Sentencing Act*.

(2) The Board may, by written order (a ***parole order***), direct that the person be released from custody on parole at a time after the expiry of the non-parole period fixed by the sentencing court.

(3) A parole order in relation to a person is sufficient authority for the release of the person from a custodial correctional facility.

Note for section 5

Another law may specify circumstances in which a parole order cannot be made. See for example sections 12(2) and 29(2) of the Serious Sex Offenders Act.

5A Parole order conditions

(1) It is a condition of a parole order that the person to whom the order relates, during the parole period:

(a) is subject to supervision by a probation and parole officer; and

(b) must comply with all reasonable directions of the probation and parole officer.

(2) A parole order is also subject to any other conditions specified in the order.

(3) Without limiting subsection (2), conditions specified in a parole order may include any of the following:

(a) that the person to whom the order relates must reside at a specified place;

(b) that the person is subject to monitoring (but not if the person is a youth, unless the person was found guilty of the relevant offence by the Supreme Court);

(c) that the sanctions regime applies in relation to instances of non-compliance with the conditions of the order.

(4) In this section:

monitoring, of a person, means one or more of the following:

(a) the person must:

(i) wear or have attached, and not tamper with, destroy or otherwise interfere with, an approved monitoring device during the period the person is on parole, or a lesser period fixed by the Board; and

(ii) allow the placing or installation in, and retrieval from, a specified place of anything necessary for the effective operation of the device;

(b) the person must give a spoken sample of the person's voice for use with an approved monitoring device.

5B Amendment or revocation of parole order – before expiry of parole period

(1) At any time before the expiry of a person's parole period, the Chairperson may:

(a) amend a parole order in relation to the person by:

(i) varying or revoking a condition of the order (other than the condition mentioned in section 5A(1)); or

(ii) imposing additional conditions, including a condition that the sanctions regime applies in relation to instances of non-compliance with the conditions of the order; or

(b) revoke the parole order.

(2) An amendment under subsection (1)(a) of a condition of a person's parole order:

(a) does not have effect until notice of the variation, revocation or determination is given to the person; and

(b) has no effect if notice is not given to the person before the expiry of the parole period.

5C Commission of offence or contravention of condition during parole period

(1) This section applies in relation to the following persons to whom a parole order relates:

(a) a person who:

(i) is found guilty, whether before or after the expiry of the parole period under the order, of an offence committed during the parole period; and

(ii) is sentenced for that offence to a sentence that does not include a term of actual imprisonment;

(b) a person who:

(i) is proceeded against, whether before or after the expiry of the parole period under the order, for an offence committed during the parole period; and

(ii) who is released by the court on condition as to future good behaviour or any other condition;

(c) a person who, during the parole period under the order, failed to comply with a condition of the order.

(2) The Chairperson may, by written order, direct that the person's parole order be revoked even after the parole period has expired.

(3) The Chairperson cannot make an order under subsection (2) after the parole period has expired if, before the expiry, the Chairperson was aware of the relevant matter mentioned in subsection (1)(a), (b) or (c).

(4) If the Chairperson makes an order under subsection (2), the parole order is taken to have been revoked immediately before the expiry of the parole period.

(5) In this section:

offence includes an offence against a law of the Commonwealth, a State or another Territory.

5D Parole order taken to be revoked

(1) This section applies in relation to a person who:

(a) while on parole, commits an offence; and

(b) is sentenced to a term of imprisonment for the offence.

(2) The parole order is taken to have been revoked at the time of sentencing or, if the parole period has already expired immediately before the expiry of the parole period.

(3) Despite subsection (2), the person's parole order is not taken to have been revoked if the term of imprisonment mentioned in subsection (1)(b) is wholly suspended.

(4) However, if the suspended term of imprisonment is wholly or partially restored, the parole order is taken to be revoked when the person is committed into the custody of the Commissioner of Correctional Services.

(5) In this section:

offence includes an offence against a law of the Commonwealth, a State or another Territory.

5E Requirements when sanctions regime condition of parole order

(1) This section applies if the sanctions regime applies in relation to a person's parole order.

(2) If this section applies:

(a) the person must be given a copy of the sanctions matrix; and

(b) a probation and parole officer must explain to the person the consequences of non-compliance with the conditions of the parole order; and

(c) the person must acknowledge that the person has been given a copy of the sanctions matrix and the consequences of non-compliance have been explained to the person.

(3) Subsection (2) must be complied with:

(a) if section 5A(3)(c) applies – before the person is released on parole; or

(b) if section 5B(1)(a)(ii) applies – as soon as practicable after the Chairperson amends the parole order.

5F Application of sanctions regime

(1) This section applies if a person's parole order includes a condition that the sanctions regime applies to the person's parole order.

(2) If a probation and parole officer believes on reasonable grounds that an instance of non-compliance with a condition of the person's parole order has occurred, the officer must give a written report about the matter to the Chairperson as soon as practicable after the instance of non-compliance.

(3) If the Chairperson is satisfied that an instance of non-compliance has occurred, the Chairperson may:

(a) issue a written warning; or

(b) impose the applicable sanction under the sanctions matrix; or

(c) revoke the person's parole order; or

(d) take no action.

(4) A sanction imposed under subsection (3)(b) must not have the effect of extending the term of imprisonment imposed at sentence.

(5) If the Chairperson decides that sanctions under the sanctions matrix are to be imposed in relation to multiple instances of non-compliance, the total sanction imposed must not be greater than the longest of the individual sanctions that apply in relation to the instances of non-compliance.

(6) If, under subsection (3)(b) the Chairperson imposes a sanction under the sanctions matrix, the Chairperson must, by written order:

(a) state that the Chairperson has imposed a sanction under subsection (3)(b); and

(b) specify the nature of the non-compliance and the sanction imposed.

(7) The written order is authority for a police officer to arrest the person and bring the person before the Local Court.

(8) The Local Court must issue a warrant of commitment of the person into the custody of the Commissioner of Correctional Services to serve the period specified in the Chairperson's order as a sanction as part of the original sentence of imprisonment if:

(a) the person:

(i) is brought before the court in accordance with subsection (7); or

(ii) otherwise appears before the court; and

(b) the court is satisfied that the Chairperson has made an order under subsection (6), imposing a sanction under the sanctions matrix.

(9) The effect of a person's parole order is suspended by the warrant of commitment mentioned in subsection (8).

5G Arrest of person

(1) This section applies if:

(a) a parole order in relation to a person is revoked; or

(b) the person to whom a parole order relates has, during the parole period, whether or not that period has already expired, failed to comply with a condition of the parole order; or

(c) there are reasonable grounds for suspecting that a person has failed to comply with a condition of a parole order that relates to the person.

(2) A police officer may:

(a) if the person is in the Territory – arrest the person without a warrant; or

(b) if the person is, or if there are reasonable grounds for suspecting the person is, in a State or another Territory – with a warrant mentioned in subsection (3), arrest the person.

(3) A court may, on application by the Director of Public Prosecutions, issue a warrant authorising a police officer to arrest a person mentioned in subsection (2)(b).

(4) If a police officer arrests a person under this section, the officer must, as soon as practicable, bring the person before the Local Court.

7 Section 6 amended

(1) Section 6(1)

omit

5(9)(b)

insert

5G(1)(b) or (c)

(2) Section 6(1)

omit

taken

insert

brought

8 Section 7 replaced

Section 7

repeal, insert

7 Issue of warrant where parole order revoked or cancelled

The Local Court must issue a warrant of commitment of a person into the custody of the Commissioner of Correctional Services to serve the part of the term of imprisonment to which the parole order relates that the person has not served, if:

(a) the person is:

(i) brought before the Local Court under section 5G(4); or

(ii) appears before the Local Court; and

(b) the court is satisfied that the parole order in relation to the person has been revoked or the court cancels the parole order in relation to the person.

9 Section 8 amended

Section 8

omit

in pursuance of section 5(10)

insert

under section 5G(4)

10 Section 11 replaced

Section 11

repeal, insert

11 Service of term of imprisonment

(1) This section applies if:

(a) a parole order in relation to a person is revoked or cancelled and the person is taken into custody under this Act; or

(b) a person is taken into custody to serve a sanction.

(2) During any period of custody as mentioned in subsection (1)(a) or (b), the person is taken to be serving the part of the term of imprisonment that remained to be served at the commencement of the person's parole period (the ***remainder***).

(3) For a person mentioned in subsection (1)(b), any time spent in custody between the person's arrest under section 5F(7) and the time the person enters into the custody of the Commissioner of Correctional Services under section 5F(8) is taken to be time served as part of the remainder.

(4) In accordance with subsection (3), the Local Court must backdate the warrant of commitment issued under section 5F(8) to reflect the time the person spent in custody after the person's arrest.

11 Section 13A and 13B inserted

After section 13

insert

13A Release on parole after serving sanction

(1) This section applies if a person has served a sanction.

(2) At the completion of serving the sanction, the person is to be released again on parole and, while on parole, continues to be subject to the parole order originally applying to the person when the sanction was imposed.

Note for subsection (2)

Section 14A provides for circumstances where the parole order originally applying may be modified.

(3) A probation and parole officer must, before the person is released under the parole order originally applying to the person or as soon as practicable after the person's release:

(a) explain to the person that the sanctions regime will continue to apply as a condition of the person's parole order, and warn the person accordingly; and

(b) advise the person that the person will continue to be supervised by a probation and parole officer until the parole period expires or the person's parole order is revoked or cancelled.

13B Effect of serving sanction on sentence

(1) This section applies if a person's parole order includes a condition that the sanctions regime applies to the order.

(2) Subject to subsection (3) the expiry of the parole period is unaffected by the imposition of a sanction.

(3) If the person's parole order is revoked or cancelled, in determining the time remaining to be served under the person's sentence of imprisonment, only the time the person has spent in custody is taken into account as time already served, including:

(a) time spent in custody before the person was initially released on parole; and

(b) time spent in custody serving a sanction.

Note for section 13B

The effect of subsections (2) and (3) is that the person receives "credit" for time spent in the community under a parole order as well as time served as a sanction, but if the parole order is revoked or cancelled, there is no "credit" for time spent in the community.

12 Section 14 amended

(1) Section 14(1)

omit

Where a parole order

insert

If a parole order that is not subject to the sanctions regime

(2) Section 14(2)

omit

5(6AA) or (8)

insert

5C or 5D

13 Section 14A inserted

After section 14

insert

14A Alternative conditions under sanctions regime when re-released on parole

When a person is released on parole after serving a sanction, the Chairperson may amend the person's parole order by varying the conditions of parole.

14 Part 6 inserted

After section 19

insert

Part 6 Transitional matters for Parole Amendment Act 2017

20 Application of amendments

This Act, as amended by the *Parole Amendment Act 2017* (the ***amendment Act***), applies in relation to a parole order, even if the parole order was entered into before the commencement of the amendment Act.

Part 3 Amendment of other laws

15 Other laws amended

The Schedule amends the laws mentioned in it.

Part 4 Expiry of Act

16 Expiry of Act

This Act expires on the day after it commences.

Schedule Other laws amended

section 15

Provision	Amendment	
	omit	*insert*
Bail Act		
section 3(1), definition ***offence***, paragraph (a)	5(5)	5A
section 3(2)(e)	5(10)	5G(4)
Sentencing Act		
section 64(1)(b)(i)	5	5B(1)(b)
section 64(1)(b)(iii)	5(8)	5D
Surveillance Devices Regulations		
regulation 3(2), definition ***monitoring requirement***, paragraph (d)	5(5C)(a) or (b)	5A(3)(b)
Youth Justice Act		
section 131(1)(b)(i)	5	5B(1)(b)
section 131(1)(b)(iii)	5(8)	5D
after section 132(d)	Court.	Court; and (e) a reference to a custodial correctional facility were a reference to a detention centre.