

**PROBATION AND PAROLE (SERIOUS OFFENCES)
AMENDMENT ACT 1987 No. 182**

NEW SOUTH WALES



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**PROBATION AND PAROLE (SERIOUS OFFENCES) AMENDMENT
ACT 1987 No. 182**

NEW SOUTH WALES



Act No. 182, 1987

An Act to amend the Probation and Parole Act 1983 to provide for the imposition of minimum non-parole periods for certain serious offences; and for other purposes. [Assented to 4 December 1987]

See also Crimes (Sentencing) Amendment Act 1987.

Probation and Parole (Serious Offences) Amendment 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Probation and Parole (Serious Offences) Amendment Act 1987.

Commencement

2. This Act shall commence on a day to be appointed by proclamation.

Amendment of Act No. 194, 1983

3. The Probation and Parole Act 1983 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 4 (**Interpretation**)—

Section 4 (1)—

After the definition of “regulation”, insert:

“serious offence” means an offence referred to in Schedule 5;

(2) Sections 20A, 20B—

After section 20, insert:

Minimum non-parole periods for serious offences

20A. (1) If—

(a) a non-parole period is to be specified with respect to one or more offences (including, where relevant, an offence for which a term of imprisonment is already being served); and

(b) the offence or at least one of the offences is a serious offence,

this section applies to the non-parole period.

(2) The non-parole period shall be at least three-quarters of—

(a) the length of the sentence for the only serious offence involved; or

(b) the total length of the sentences for all the serious offences involved (any two or more such sentences that are wholly or partly concurrent being treated as one sentence to the extent of their concurrence).

(3) This section has effect with respect to non-parole periods specified pursuant to section 19, 20, 22 or 23.

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(4) A reference in this section to a serious offence does not include a reference to an offence committed before the commencement of this section.

Commencement of certain non-parole periods

20B. (1) If section 20A applies to a non-parole period and the non-parole period is specified with respect to—

- (a) an original term (for which a non-parole period was previously specified); and
- (b) a subsequent term,

the later non-parole period shall commence, or be deemed to have commenced, on the first day on which the prisoner was in custody serving the original term or on such later day as the court or the Board may specify when fixing the later non-parole period.

(2) If a court or the Board specifies such a later day, it shall state the reasons for doing so.

(3) This section has effect despite anything in section 24.

(4) In this section, “original term” and “subsequent term” have the same meanings as in section 20.

(3) Section 21 (Discretion of court)—

Section 21 (3), (4)—

After section 21 (2), insert:

(3) Notwithstanding section 20A, a court or the Board, when specifying a non-parole period with respect to a serious offence, may specify a shorter period than that required by section 20A, but only if it determines that the circumstances justify that course.

(4) If a court or the Board specifies such a shorter non-parole period, it shall state the reasons for doing so.

(4) Section 26 (General duty of the Board)—

Section 26 (3), (4)—

After section 26 (2), insert:

(3) Subsection (1) does not apply to a prisoner who is subject to a non-parole period of 6 years or more specified in accordance with section 20A, unless—

- (a) the length of the sentence for the only serious offence involved; or

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- (b) the total length of the sentences for all the serious offences involved (any two or more such sentences that are wholly or partly concurrent being treated as one sentence to the extent of their concurrence),

is less than 6 years (if no other offence is involved) or 8 years (if any other offence is involved).

(4) A reference in subsection (3) to an “other” offence is a reference to an offence that is not a serious offence.

(5) Section 26A—

After section 26, insert:

Duty of Board where serious offences involved

26A. The Board shall not make a parole order with respect to a prisoner to whom section 26 (1) does not apply, unless the Board has—

- (a) determined that release of the prisoner is appropriate, having regard to the principle that the public interest is of primary importance;
- (b) considered relevant comments (if any) made by the court when sentencing the prisoner for the serious offence or serious offences involved;
- (c) considered any reports required by regulations made for the purposes of this section to be furnished to it with respect to the prisoner;
- (d) taken into account the antecedents of the prisoner and any special circumstances of the case; and
- (e) determined that it has sufficient reason (other than that the prisoner may become liable to be deported) to believe that the prisoner, if released from custody, would be able to adapt to normal lawful community life.

(6) Schedule 5—

At the end of the Act, insert:

SCHEDULE 5—SERIOUS OFFENCES

(Sec. 4 (1))

Homicide, grievous bodily harm etc.

1. Any of the following offences:

- (a) murder or manslaughter;
- (b) an offence under sections 27–30 of the Crimes Act 1900 (attempts to murder);

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- (c) an offence under section 33 of the Crimes Act 1900 (wounding etc. with intent to do grievous bodily harm or resist arrest);
- (d) an offence under section 196 or 197 of the Crimes Act 1900 (setting fire to dwelling etc. with person therein).

Abduction and kidnapping

- 2. An offence under sections 86–91 of the Crimes Act 1900.

Robbery

- 3. An offence under sections 94–98 of the Crimes Act 1900, except the offence of stealing any chattel, money or valuable security from the person of another, as referred to in section 476 (6) (a) (ii) of that Act.

Sexual assault

- 4. An offence under or punishable under any of the following provisions of the Crimes Act 1900:
 - (a) section 61B (sexual assault category 1—inflicting grievous bodily harm with intent to have sexual intercourse);
 - (b) section 61C (sexual assault category 2—inflicting actual bodily harm etc. with intent to have sexual intercourse);
 - (c) section 61D (sexual assault category 3—sexual intercourse without consent), but only where the offence is committed against a person under the age of 10 years;
 - (d) section 66A (sexual intercourse—child under 10);
 - (e) section 66B (attempting, or assaulting with intent, to have sexual intercourse with child under 10);
 - (f) section 78H (homosexual intercourse with male under 10);
 - (g) section 78I (attempt, or assault with intent, to have homosexual intercourse with male under 10).

Drug trafficking etc.

- 5. An offence under the Drug Misuse and Trafficking Act 1985, being—
 - (a) an offence under section 23 (2) of that Act (cultivation etc. of prohibited plants);
 - (b) an offence under section 24 (2) of that Act (manufacture or production of prohibited drugs);
 - (c) an offence under section 25 (2) of that Act (supply of prohibited drugs);
 - (d) an offence under section 26 of that Act of conspiring to commit an offence referred to in paragraph (a), (b) or (c);
 - (e) an offence under section 27 of that Act of aiding, abetting, counselling, procuring, soliciting or inciting the commission of an offence referred to in paragraph (a), (b) or (c); or

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- (f) an offence under section 28 of that Act of conspiring to commit, or of aiding, abetting, counselling or procuring the commission of, an offence under the provisions of a law in force outside New South Wales which corresponds to section 23 (2), 24 (2) or 25 (2) of that Act.