

1 GEO. VI. No. 20, 1937. *Prisoners' Parole Act.*

## PRISONS AND PRISONERS.

**An Act to Provide for the Reform of the Law relating to Prisons by the Creation of a Prisoners' Parole Board, and for other purposes.**

1 GEO. VI.  
No. 20.  
THE  
PRISONERS'  
PAROLE  
ACT OF 1937.

[ASSENTED TO 19TH NOVEMBER, 1937.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

\*1. This Act may be cited as "*The Prisoners' Parole Act of 1937*," and shall come into force on and from a date to be proclaimed by the Governor in Council by Proclamation published in the *Gazette*, which date is hereinafter referred to as the commencement of this Act.

Short title  
and  
commence-  
ment of Act.

2. In this Act, unless the context otherwise indicates, the following terms have the meanings respectively assigned to them, that is to say:—

Definitions.

"Board"—The Parole Board of Queensland duly constituted under this Act;

Board.

"Prescribed"—Prescribed by this Act;

Prescribed.

"Prison"—A prison within the meaning of

Prison.

† "*The Prisons Act, 1890*": the term includes a reformatory prison within the meaning of

‡ "*The Criminal Code*";

"Regulations"—Regulations made under the authority of this Act;

Regulations.

† "*The Criminal Code*"—‡ "*The Criminal Code*" within the meaning of § "*The Criminal Code Act, 1899*";

"*The Criminal Code*."

"This Act"—This Act and all Orders in Council and regulations made thereunder.

This Act.

\* Act came into force on 10th December, 1937. See Proclamation of 10th December, 1937 (*Gazette* of 11th December, 1937, page 2020).

† 54 Vic. No. 17, *supra*, page 2800.

‡ 63 Vic. No. 9, Sch. I, *supra*, page 344.

§ 63 Vic. No. 9, *supra*, page 341.

Constitution  
of Board.

3. (1.) For the purposes of this Act there is hereby constituted the Prisoners' Parole Board of Queensland (hereinafter referred to as "the Board") which Board shall, and notwithstanding anything to the contrary contained in this Act, be and be deemed to be so constituted on the passing of this Act and shall consist of five members.

Membership  
of Board.

(2.) The following five persons shall be *ex officio* the members of the Board, namely :—

- (i.) The Under Secretary, Department of Health and Home Affairs, for the time being, who shall be the chairman of the Board ;
- (ii.) The Under Secretary, Department of Justice, for the time being ;
- (iii.) The Comptroller-General of Prisons for the time being ;
- (iv.) The Commissioner of Police for the time being ;
- (v.) The Government Medical Officer at Brisbane for the time being :

Provided that in the event of there being more than one Government Medical Officer at Brisbane the Minister shall nominate one such Government Medical Officer to be, and such Government Medical Officer so nominated shall be, a member of the Board while he continues in office unless in the meantime the Minister shall change his nomination (the Minister being hereby empowered and authorised so to do).

Duration of  
office of  
member.

(3.) Each person who, under and in pursuance of subsection two of this section, is *ex officio* a member of the Board shall continue to be a member thereof for the period during which he shall hold his respective office, and his successor in office shall in like manner become and continue to be a member of the Board.

Deputy for  
member of  
Board.

(4.) Where any other person is for the time being discharging the duties of the office of any such *ex officio* member of the Board such other person shall, while he continues to discharge such duties, be and be deemed to be the deputy on the Board of such member, and shall as such deputy have and possess the powers, functions, and duties of such *ex officio* member accordingly :

Provided that the deputy for the time being of the chairman shall be the deputy chairman of the Board.

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4. (1.) The Board shall be a body corporate under the name and style of "The Prisoners' Parole Board of Queensland," and by that name shall have perpetual succession and an official seal. Board to be body corporate.

(2.) All courts, justices, and persons acting judicially shall take judicial notice of the seal of the Board affixed to any certificate or document, and shall presume that it was duly affixed. Judicial notice of seal of Board.

5. (1.) Three members shall form a quorum at any meeting of the Board. Quorum.

(2.) The chairman or, in the event of his absence, the deputy chairman shall preside at meetings of the Board. If both the chairman and the deputy chairman are absent from any meeting the members present shall elect one of their number to preside at such meeting. Chairman to preside.

(3.) The person presiding at any meeting of the Board shall have a casting as well as a deliberative vote. Casting vote.

6. Subject to this Act, the Board shall meet at such times and conduct its business in such manner as it may decide or as may be prescribed. Procedure at meetings.

7. (1.) If any member refuses or neglects to act or to attend any duly convened meeting of the Board, all lawful acts and proceedings of the Board shall be as valid and effectual as if they had been done or authorised by the full Board. Validity of proceedings of Board.

No proceedings of the Board or of any person acting as chairman or member or deputy chairman or deputy member shall be invalidated by reason of any defect in his appointment to, or to discharge the duties of, the office constituting him chairman, or member, or deputy chairman, or deputy member, as the case may be, or by reason of there being any vacancy in the number of members at the time of such proceedings, provided that the number of members is not reduced below three.

(2.) All powers vested in the Board may be exercised by a majority of the members present at any meeting duly held, and all questions shall be decided by a majority and by open voting. Majority voting.

If any member refuses to vote, his vote shall be counted for the negative.

Secretary  
of Board.

8. The Governor in Council may appoint an officer of the Public Service to discharge the duties of secretary to the Board, and may require such officer to carry out such duties in addition to his other duties.

Board may  
recommend  
parole of  
prisoner.

9. (1.) Subject to this Act, the Board shall have authority and is hereby authorised to recommend to the Governor in Council that any prisoner who, not being an habitual criminal, is undergoing a sentence involving deprivation of liberty, or who, being an habitual criminal who has completed any such sentence is being detained at His Majesty's pleasure, may be allowed to go upon parole, in legal custody, and subject to be returned to prison.

When  
prisoner  
eligible for  
recom-  
mendation.

(2.) Notwithstanding anything contained in subsection one of this section, no prisoner shall be considered eligible for parole, and no application for parole shall be considered by the Governor in Council, unless and until such prisoner shall be considered worthy of recommendation by the Board, and the Board shall make the prescribed recommendation in his case.

Conditions  
precedent  
to recom-  
mendation  
for parole.

(3.) In no case shall the Board recommend to the Governor in Council the release on parole of a prisoner unless it is satisfied that there is reasonable ground to believe that such prisoner will, if released, be and remain at liberty without violating the law, and that his release on parole is not incompatible with the welfare of society, or unless the Board is satisfied that there are other good and sufficient reasons for the release on parole of such prisoner.

For the purposes of so satisfying itself as aforesaid, it shall be the duty of the Board—

- (i.) To inquire into and consider the record and character of the prisoner as established in prison ;
- (ii.) To inquire into and consider also the previous record and character of the prisoner, and the nature and character of the offence for which he is serving his sentence of imprisonment, and for that purpose to obtain and give due consideration to the report of the judge or justice who sentenced him, or where such judge or justice is not available, the report of a judge or justice exercising the like jurisdiction ;

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- (iii.) In the case of an habitual criminal, to satisfy itself that the conditions prescribed by \**"The Criminal Code"* as precedent to the release of an habitual criminal apply in his case ;
- (iv.) To have regard to the safety of the public or of any individual or class of persons and to the welfare of the prisoner proposed to be released ;
- (v.) To inquire into and consider all such other matters and things as it shall deem relevant and/or as may be prescribed.

(4.) The Board may in any case recommend that any prisoner may be allowed to go upon parole subject to such terms, provisions, conditions, and/or limitations as are in its opinion necessary to give effect to all or any of the matters hereinbefore required to be considered by it under subsection three of this section.

This subsection shall be read and construed so as to empower and authorise the Board to recommend different terms, provisions, conditions, and/or limitations in respect of different prisoners.

10. The Governor in Council may in his absolute discretion approve of any recommendation of the Board that a prisoner be allowed to go on parole, in legal custody, and subject to be returned to prison, or he may disapprove of any such recommendation.

When Governor in Council may allow prisoner to go on parole.

The right of approval conferred upon the Governor in Council under this section shall include and be deemed to include the power to approve of any term, provision, condition, or limitation recommended by the Board under and pursuant to subsection four of section nine of this Act subject to such extension, modification, or amendment thereof as to him shall seem fit :

Provided that, upon approving of any such recommendation, the Governor in Council may require the Board to give such directions under and pursuant to section twelve of this Act as to him shall seem fit.

11. If the Governor in Council approves of the recommendation of the Board that a prisoner shall be allowed to go upon parole, in legal custody, and subject to be returned to prison, the Board shall issue to such prisoner a parole certificate which shall be in duplicate and in the prescribed form or to the like effect.

When parole certificate may issue.

Directions  
to paroled  
prisoner.

**12. (1.)** Upon the issue of a parole certificate to a prisoner the Board may, and shall if so required by the Governor in Council, direct that so long as such person remains in Queensland he shall—

- (i.) If he is an habitual criminal, report his address and occupation to the principal officer of police at the place in which he was convicted, or at such other place as the Commissioner of Police may appoint, for such period, not exceeding two years, and at such intervals as are named by the Board ; or
- (ii.) If he is not an habitual criminal, report his address and occupation to the principal officer of police at the place in which he was convicted, or at such other place as the Commissioner of Police may appoint, for such period, not extending beyond the expiration of the term of his sentence, and at such intervals as are named by the Board ;
- (iii.) If he is allowed to go upon parole subject to terms, provisions, conditions, and/or limitations as recommended by the Board and approved by the Governor in Council, comply with each and every such term provision, condition, and/or limitation.

(2.) Any direction given by the Board under subsection one of this section (including every term, provision, condition, or limitation mentioned in paragraph (iii.) of the said subsection) shall be endorsed upon the parole certificate.

(3.) Any holder of a parole certificate so directed to report may make such report either personally or by post letter addressed to the principal officer of police at the appointed place, according as the Board shall by endorsement upon the parole certificate require.

Register of  
parole  
certificates.

**13. (1.)** Forthwith upon the issue by the Board of a parole certificate the secretary of the Board shall enter the prescribed particulars of such certificate in a register to be kept by him for the purpose, and shall retain and record one copy of such certificate, and shall transmit the other copy thereof to the superintendent of the prison in which the prisoner concerned is serving his sentence or, being an habitual criminal who has served his sentence, is being detained at His Majesty's pleasure.

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(2.) As soon as may be after the receipt by him of a parole certificate the superintendent of the prison in which the prisoner concerned is serving his sentence, or being an habitual criminal who has served his sentence is being detained at His Majesty's pleasure, shall discharge such prisoner from custody and shall upon so discharging him give to him the copy of his parole certificate.

14. A prisoner shall, upon the issue to him of a parole certificate, be entitled to be and shall be discharged from prison, and shall go upon parole, and shall not be or be liable to be returned to the same or any other prison to serve the whole or any part of the unexpired portion of his sentence or, in the case of an habitual criminal, to continue to be detained at His Majesty's pleasure, except upon the happening in respect of such prisoner during the period specified in section fifteen of this Act of any of the events hereinafter provided for in the said section fifteen.

Effect of  
issue of  
parole  
certificate.

If during the period so specified none of the events so provided for happens in respect of the holder of a certificate of parole the said section fifteen shall cease to apply to such person and such person shall, upon the expiration of the period so specified, be deemed to be finally discharged from prison and, in the case of an habitual criminal, shall cease to be an habitual criminal.

15. (1.) If during the period—

- (a) After the date of the issue to him of a parole certificate and before the expiration of the term of his sentence, in the case of a person other than an habitual criminal; or
- (b) Of two years after the issue to him of a parole certificate, in the case of an habitual criminal,

When  
paroled  
prisoner  
liable to be  
arrested.

the person so on parole—

- (i.) Fails to report his address and occupation to the proper person at the times and in the manner prescribed by his parole certificate; or
- (ii.) Is reasonably suspected by a member of the Police Force with getting his livelihood by dishonest means; or

- (iii.) On being charged with an offence punishable on indictment or summary conviction, and on being required by the court before which he is charged to give his name and address, refuses to do so, or gives a false name or a false address ; or
- (iv.) Commits any offence against \**" The Vagrants, Gaming, and Other Offences Acts, 1931 to 1936 "* (or any Act amending or in substitution therefor), or commits any indictable offence, or commits any offence punishable on conviction by imprisonment for not less than three months ; or
- (v.) Contravenes or fails to comply with any term, provision, condition, or limitation upon and subject to which he was allowed to go upon parole,

then, and in any such case any member of the Police Force may without any warrant whatsoever arrest such person so on parole and convey him to the nearest prison and there deliver him into the custody of the superintendent of such prison, who shall detain him until he is dealt with as hereinafter provided.

(2.) When a person on parole has been arrested and is being detained in a prison under and in pursuance of subsection one of this section the Board shall, as soon as conveniently may be, determine whether or not it will cancel his parole certificate.

Subject as hereinafter provided, the Board may at its absolute discretion cancel the parole certificate of any person on parole who has been arrested and is being detained in prison under and in pursuance of subsection one of this section :

Provided that—

- (a) The Board may cancel the parole certificate of any person on parole who has been arrested under and in pursuance of paragraph (i.) of subsection one of this section unless such person satisfies the Board that he had a reasonable excuse for his failure to report his address and occupation ;

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\* 22 Geo. V. No. 27 and amending Acts, *supra*, pages 13987 *et seq.*



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- (b) The Board may cancel the parole certificate of any person on parole who has been arrested under and in pursuance of paragraph (ii.) of subsection one of this section if it appears to the Board that there are reasonable grounds for believing he is getting his livelihood by dishonest means ;
- (c) The Board may cancel the parole certificate of any person on parole who has been arrested under and in pursuance of paragraph (iv.) of subsection one of this section if the Board is satisfied that such person committed an offence against \**"The Vagrants, Gaming, and Other Offences Acts, 1931 to 1936"* (or any Act amending or in substitution therefor) or committed any indictable offence, or committed any offence punishable on conviction by imprisonment for not less than three months, and in any such case it shall be immaterial that the person whose parole certificate is so cancelled has not been charged with or convicted of the offence which the Board is satisfied was committed by him.

(3.) If a parole certificate is cancelled by the Board under and pursuant to subsection two of this section the holder of such parole certificate shall by such cancellation be and be deemed to be forthwith recommitted, and the person so recommitted shall—

- (i.) In the case of a person other than an habitual criminal, be liable upon recommitment to undergo the punishment which he was undergoing at the time of the issue to him of a parole certificate for a term equal to the period from the date of the issue of such parole certificate to the date of the expiration of his original sentence ; or
- (ii.) In the case of an habitual criminal, be liable upon recommitment to be further detained during His Majesty's pleasure.

(4.) Nothing in this section contained shall prevent or be deemed to prevent the issue to a person so recommitted of another parole certificate, but the fact that a prisoner has been so recommitted and his parole

Parole  
certificate  
cancelled  
by  
recommitment.

When  
prisoner  
may be  
again  
paroled.

\* 22 Geo. V. No. 27 and amending Acts, *supra*, pages 13987 *et seq.*

certificate cancelled shall receive due consideration from the Board prior to its recommendation that a further parole certificate be issued to him.

Cancelled  
parole  
certificate  
to be  
surrendered.

(5.) The Board upon cancelling a parole certificate under and pursuant to this section shall require the holder thereof to deliver up his parole certificate to the Board.

When a parole certificate is cancelled under and pursuant to this section the secretary of the Board shall note the register accordingly :

Provided that every parole certificate shall be effectually cancelled notwithstanding that same is not delivered up to the Board.

Evidence.

16. (1.) The register of parole certificates or any parole certificate shall be and be deemed to be respectively a book or document of such a public nature as to be admissible in evidence on its mere production from the proper custody, and the secretary of the Board shall be the person having the proper custody thereof.

(2.) Any document certified by the secretary under his hand and the seal of the Board as being a copy of or abstract from any particulars contained in the register of parole certificates, or a copy of a parole certificate, shall be conclusive evidence in all proceedings of the particulars of or from which it is certified to be a copy or abstract, or of the parole certificate of which it is certified to be a copy, as the case may be.

Any document purporting to be certified by the secretary under his hand and the seal of the Board as aforesaid shall be admissible in all proceedings whatsoever, and every court, judge, and justice shall take judicial notice of the seal of the Board and the signature of the secretary thereto.

Saving.

17. (1.) Nothing in this Act affects His Majesty's Royal Prerogative of Mercy, and nothing in this Act affects the power of the Governor, upon the recommendation of the Supreme Court or a judge thereof, to direct, under and pursuant to the provisions of \**"The Criminal Code,"* the discharge of an habitual criminal :

Provided that a prisoner desirous of the exercise on his behalf of His Majesty's Royal Prerogative of Mercy shall make application in the first instance to the Board.

\* 63 Vic. No. 9, Sch. I., *supra*, page 344.

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The Board shall consider every such application with respect to all matters prescribed by this Act to be considered by it prior to recommending the grant of a parole certificate, and may, subject to such consideration, recommend to the Minister—

- (a) The exercise on behalf of the prisoner concerned of His Majesty's Royal Prerogative of Mercy ; or
- (b) The refusal of the exercise on behalf of the prisoner concerned of His Majesty's Royal Prerogative of Mercy ; or
- (c) The issue to the prisoner concerned of a parole certificate under and in accordance with this Act ; or
- (d) The issue to the prisoner concerned for a limited period of a parole certificate under and in accordance with this Act and the exercise (subject to his good behaviour while on parole) at the expiration of such limited period on behalf of the prisoner concerned of His Majesty's Royal Prerogative of Mercy.

The Minister may in his discretion accept the recommendation of the Board, or may refuse to accept same, or may refer same back to the Board for further consideration.

(2.) Where a parole certificate is issued to a prisoner for a limited period under paragraph (d) of subsection one of this section, such parole certificate shall be and be deemed to be so issued under and in pursuance of this Act, and to the intent that while such parole certificate remains in force all of the provisions of this Act shall, *mutatis mutandis*, apply and extend thereto.

**18.** No action, claim, or demand whatsoever shall lie or be made or allowed by or in favour of any person whomsoever against His Majesty or the Crown or the Minister for or in respect of damage, loss, or injury sustained or alleged to be sustained by reason of the passing of this Act or of its operation or anything done or omitted to be done or purporting to be done or omitted to be done under this Act. Indemnity.

No action, claim, or demand whatsoever shall lie or be made or allowed by or in favour of any person whomsoever against the Parole Board or any member, officer, employee, or person acting under the authority of the Parole Board, or against any member of the Police Force for or in respect of any damage, loss, or injury sustained or alleged to be sustained by reason of the passing of this Act or of its operation or anything done or omitted to be done or purporting to be done or omitted to be done under this Act unless the plaintiff proves to the satisfaction of the court that the act or omission was done or omitted to be done without the exercise of good faith and maliciously and without reasonable and probable cause.

**Regulations.**

**19.** (1.) The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.

Without limiting the generality of these provisions, regulations may be made for or in respect of all or any of the following matters, namely :—

- (a) The form of the register of parole certificates and the particulars to be entered therein ;
- (b) The form of parole certificates and the method of recording same by the secretary ;
- (c) All matters required or permitted by this Act to be prescribed.

(2.) All such regulations may be made on the passing of this Act.

(3.) All regulations made or purporting to be made under this Act shall, upon being published in the *Gazette*, have the same effect as if they were enacted in this Act and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever.

The publication in the *Gazette* of any such regulation shall be conclusive evidence of the power and authority to make same and of all matters contained therein.

All such regulations shall be laid before Parliament forthwith if then sitting ; and, if not then sitting, within fourteen days after the commencement of the next ensuing session.

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If the Legislative Assembly, within the next fourteen sitting days after any regulations have been so laid before such House, resolves that such regulations or any of them ought to be annulled the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such regulations or to the making of any fresh regulations.

For the purpose of this subsection the term "sitting days" shall mean days on which the House actually sits for the despatch of business.

**20.** Nothing in this Act shall prevent or be deemed to prevent any person from being proceeded against (and whether upon indictment or otherwise) at any time while he is on parole for any offence alleged to have been committed by him, and whether during the period of his parole or during any other period, against any other Act or law, or prevent or be deemed to prevent the adjudicating court upon his conviction for such alleged offence from sentencing him to any prescribed penalty (and whether by way of fine, or imprisonment, or both fine and imprisonment): Act not to affect penal proceedings.

Provided that where the adjudicating court sentences the person concerned to a term of imprisonment it may direct that, in the event of his parole certificate being cancelled, such term shall take effect upon the expiration of the term of imprisonment which such person will be required to serve by reason of such cancellation.

**21.** The costs, charges, and expenses of the administration of this Act shall be paid and discharged Appropriation. from the Consolidated Revenue Fund, which is hereby appropriated accordingly.

## PROTECTION OF ANIMALS AND BIRDS.

*See FAUNA.*