

Prisons (Amendment) Bill

Bill No. 22/2013.

Read the first time on 11th November 2013.

A BILL

i n t i t u l e d

An Act to amend the Prisons Act (Chapter 247 of the 2000 Revised Edition) to make provision for the remission of sentences of imprisonment and for the better administration of prisons, and to make related amendments to certain other written laws.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Prisons (Amendment) Act 2013 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 2

2. Section 2 of the Prisons Act is amended —

(a) by inserting, immediately before the definition of “Corporation”, the following definitions:

10 ““basic condition”, in relation to a remission order, means the basic condition specified in section 50S;

“Cluster Commander” means a Cluster Commander of Prisons appointed under section 20;

15 “Commissioner” means the Commissioner of Prisons appointed under section 20;”;

(b) by deleting the definitions of “Deputy Director” and “Director” and substituting the following definitions:

20 ““default sentence” means a sentence of a term of imprisonment imposed on a person in default of the person paying a fine ordered to be paid by a court;

“Deputy Commissioner” means the Deputy Commissioner of Prisons appointed under section 20;

25 “Divisional Director” means a Divisional Director of Prisons appointed under section 20;

30 “external placement order” means an order made under section 59B in respect of a prisoner authorising the serving by the prisoner of his sentence of imprisonment in such place or places, outside the limits of any prison, as may be specified in the order;”;

(c) by deleting the words “Director, Deputy Director” in the definition of “prison officer” and substituting the words “Commissioner, Deputy Commissioner”;

(d) by deleting the definition of “prisoner” and substituting the following definition: 5

“ “prisoner” means any person, whether convicted or not, under detention in any prison or reformatory training centre or subject to an external placement order or a home detention order, but does not include a person released and at large under a remission order;”;

(e) by inserting, immediately after the definition of “registered medical practitioner”, the following definition: 10

“ “remission order” means a remission order made under any provision in Part VB;”;

(f) by inserting, immediately after the definition of “Superintendent”, the following definition: 15

“ “unlawfully at large”, in relation to a person released under a remission order, means a person who fails to submit himself to custody or detention after being required to do so under any written law, or who escapes from such custody or detention;”.

Repeal and re-enactment of section 20

3. Section 20 of the Prisons Act is repealed and the following section substituted therefor: 25

“Appointment of Commissioner, Deputy Commissioner, etc.

20.—(1) The Minister may appoint a Commissioner of Prisons, a Deputy Commissioner of Prisons and one or more Divisional Directors, Cluster Commanders or Superintendents of Prisons, and such number of prison officers, as may be necessary for the proper administration of this Act. 30

(2) The appointment of the Commissioner, Deputy Commissioner and of every Divisional Director, Cluster Commander and Superintendent shall be notified in the *Gazette*.

(3) The Deputy Commissioner and every Divisional Director and Cluster Commander may, subject to such direction as may be given by the Commissioner, exercise and perform all or any of the powers, duties and functions of the Commissioner under this Act; and any reference in this Act to the Commissioner shall, unless the context otherwise requires, be deemed to include a reference to the Deputy Commissioner, a Divisional Director or Cluster Commander acting in accordance with that direction.”.

Repeal and re-enactment of section 23

4. Section 23 of the Prisons Act is repealed and the following section substituted therefor:

“Commissioner, etc., may exercise powers of Superintendent

23.—(1) The Commissioner may exercise and perform all or any of the powers, duties and functions of the Superintendent under this Act.

(2) In addition, the Deputy Commissioner and any Divisional Director or Cluster Commander may, subject to such direction as may be given by the Commissioner, exercise and perform all or any of the powers, duties and functions of the Superintendent under this Act.”.

Amendment of section 34

5. Section 34(1) of the Prisons Act is amended —

- (a) by deleting the word “Director” and substituting the word “Commissioner”; and
- (b) by deleting the words “while the prisoners are transported to, or from, any prison and while the prisoners are at any place outside a prison”.

Amendment of section 50B

6. Section 50B of the Prisons Act is amended by deleting subsection (1) and substituting the following subsection:

“(1) For the purpose of assisting him in the discharge of his duties under this Act, the Commissioner, or any person authorised by the Commissioner, may employ such number of auxiliary police officers as the Commissioner or the authorised person considers fit as escorts or guards to ensure the safe custody of the lock-up prisoners who are under the custody of the Commissioner or the person authorised by the Commissioner, as the case may be.”.

New Part VB

7. The Prisons Act is amended by inserting, immediately after section 50D, the following Part:

“PART VB 15

REMISSION OF SENTENCES

Division 1 — General

Purpose and application

50E.—(1) This Part makes provision for the remission of sentences for the purpose of — 20

- (a) encouraging good conduct and industry by prisoners who are serving their sentences; and
- (b) facilitating the rehabilitation of prisoners and their reintegration into society.

(2) Nothing in this Part applies to prisoners committed for debt. 25

Prisoner entitled to be released when remission order made, etc.

50F.—(1) A prisoner shall be entitled to be released on the day —

- (a) a remission order is made in respect of him; or 30
- (b) his sentence of imprisonment is remitted.

(2) A person who is released and at large under a remission order shall be deemed not to be in the legal custody of the Commissioner.

(3) Every remission order shall have effect starting from the date the remission order is made.

Division 2 — Remission orders

Application

50G. This Division shall apply where a prisoner is sentenced to one or more terms of imprisonment that is not a default sentence, and is not also sentenced to life imprisonment.

Grant of remission

50H.—(1) Subject to subsections (2) and (3), a prisoner shall, upon his admission to prison, be entitled to have his sentence remitted in accordance with and subject to the provisions of this Act.

(2) A prisoner who is sentenced to an aggregate term of imprisonment of 14 days or less shall not be entitled to have his sentence remitted.

(3) A prisoner shall not be entitled to have his sentence of imprisonment remitted if his sentence of imprisonment consists wholly of —

- (a) one or more terms of imprisonment imposed as enhanced sentences under section 50T(1)(a);
- (b) one or more terms of imprisonment imposed for offences under section 50Y(1); or
- (c) any combination of paragraphs (a) and (b).

When must remission order be made

50I.—(1) The Commissioner shall make a remission order in respect of a prisoner —

- (a) unless paragraph (b) applies, on the day after the day the prisoner has served whichever of the following that ends later:
- (i) two-thirds of all the consecutive terms of imprisonment to which the prisoner was sentenced; 5
 - (ii) 14 days of his sentence; and
- (b) where the prisoner is sentenced to any enhanced sentence under section 50T(1)(a), or for any offence under section 50Y(1), and to any other sentence of imprisonment, on the day after the day the prisoner has served whichever of the following that ends later: 10
- (i) the aggregate of —
 - (A) all the terms of imprisonment to which he was sentenced as enhanced sentence under section 50T(1)(a), or for any offence under section 50Y(1); and 15
 - (B) two-thirds of all the other consecutive terms of imprisonment (if any) to which he was sentenced; 20
 - (ii) 14 days of his sentence.
- (2) Notwithstanding subsection (1), in determining whether a sentence is served for the purposes of making a remission order under subsection (1), each of the following periods, or if there is more than one such period, the aggregate of those periods, shall not be reckonable: 25
- (a) one-third of any time which the prisoner is confined in a punishment cell under this Act;
 - (b) one-third of any time spent by the prisoner in a hospital through his own fault or malingering; 30
 - (c) any period of remission which is forfeited under this Act, unless the forfeited remission is restored by the Superintendent;

(d) any period of deferment which is ordered by the President under subsection (4); and

(e) any other periods of time as may be prescribed.

(3) The Commissioner may defer making a remission order by not longer than 2 weeks in order to enable the execution of any punishment ordered by the court and which on the date the remission order would have been made under subsection (1) if not for this subsection, has not been executed.

(4) When a prisoner commits an offence while serving his sentence, the President may order the Commissioner not to make a remission order, or to defer making a remission order by such period as the President may specify, if the President is of the opinion that the offence is a grave offence, having regard to all the following factors:

(a) the nature of the offence;

(b) the punishment which the offence attracts;

(c) the circumstances in which the offence was committed;

(d) all other relevant circumstances.

Illustrations

(a) A prisoner is sentenced to 2 years' imprisonment for the offence of theft under section 379 of the Penal Code (Cap. 224) and 1 years' imprisonment for the offence of cheating under section 417 of the Code. Both sentences are ordered to run consecutively and the aggregate sentence is ordered to take effect from 1st January 2013. The prisoner will have served the requisite portion of his sentence (2 years) on 31st December 2014, and the Commissioner will be required to make a remission order on 1st January 2015.

(b) A prisoner is sentenced to 1 years' imprisonment for the offence of theft under section 379 of the Penal Code and 2 years' imprisonment as enhanced sentence under section 50T(1)(a). The prisoner's sentence is ordered to take effect from 1st January 2013. The prisoner would have served the requisite portion of his sentence (2 years and 8 months) on 31st August 2015, and the Commissioner will be required to make a remission order on 1st September 2015.

(c) A prisoner is sentenced to 1 years' imprisonment for the offence of theft under section 379 of the Penal Code. The sentence is ordered to take

effect from 1st January 2013. While serving his sentence, the prisoner spent 3 months in hospital through his own fault. The Commissioner will be required to make a remission order on 1st October 2013.

Remission order when prisoner has served 20 years of his sentence

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50J.—(1) Where a prisoner has served 20 years of his sentence but the Commissioner is not required to make a remission order under section 50I, the Minister shall review the prisoner's case and may, in his discretion, direct the Commissioner to make a remission order in respect of the prisoner.

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(2) Where the Minister has refused to direct the Commissioner to make a remission order in respect of a prisoner under subsection (1), the Minister shall, unless the prisoner is earlier released from imprisonment, review his decision at intervals not exceeding 12 months each and may, in his discretion, direct the Commissioner to make a remission order in respect of the prisoner.

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Illustration

A prisoner is sentenced to a total of 24 years' imprisonment. The sentence is ordered to take effect from 1st January 2013. After taking into account the various periods of time referred to in section 50I(2), the Commissioner is required to defer making a remission order until 1st January 2035. However, the Minister must review the prisoner's case on 1st January 2033 and may direct the Commissioner to make a remission order. If the Minister does not direct the Commissioner to make a remission order, he must review his decision no later than 1st January 2034.

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Effect of section 50I or 50J remission order on sentence

50K.—(1) Where a remission order is made in respect of a prisoner under section 50I or 50J —

- (a) the remainder of the prisoner's sentence, as determined in accordance with subsection (2), (3) or (4), as the case may be, shall be suspended; and
- (b) that remainder of the prisoner's sentence shall be remitted when the remission order expires.

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(2) If the remission order is made under section 50I and no consecutive sentence is imposed on the prisoner in respect of whom the remission order is made, the remainder of the prisoner's sentence shall be the period —

- (a) starting on the date the remission order is made; and
- (b) ending at the end of the day on which the prisoner would have completed serving his entire sentence of imprisonment if no remission order had been made.

(3) If the remission order is made under section 50I and 2 or more consecutive sentences are imposed on the prisoner in respect of whom the remission order is made, the remainder of the prisoner's sentence shall be the period worked out according to the following steps:

- (a) first, apportion the total time (in days) the prisoner has spent serving his aggregate sentence among each of the consecutive sentences (including default sentences) as if each sentence is served in the same proportion;
- (b) second, work out the portion (in days) of each of the consecutive sentences (including default sentences) which is not served after taking into account the portion which is deemed under paragraph (a) as having been served;
- (c) third, add the portion of each of the consecutive sentences (excluding default sentences) worked out under paragraph (b) which is not served.

Illustration

A prisoner is sentenced to 6 weeks' imprisonment on 1st January 2013 for the offence of theft under section 379 of the Penal Code (Cap. 224), 6 weeks' imprisonment for the offence of cheating under section 417 of the Code, and a default sentence of 3 weeks for the offence of house-trespass under section 448 of the Code. All 3 sentences are ordered to run consecutively and the aggregate sentence is imprisonment for a term of 15 weeks (105 days). The Commissioner makes a remission order after the prisoner has served two-thirds of his aggregate sentence, i.e. 70 days. When the remission order is made, the time spent by the prisoner serving his aggregate sentence will be divided between the 3 consecutive sentences such

that he has served the same proportion of each sentence, i.e. 28 days in relation to the sentence for theft, 28 days in relation to the sentence for cheating, and 14 days in relation to the sentence for house-trespass. The portion of the default sentence for house-trespass which has not been served (7 days) will be remitted. The portions of the sentences for theft and cheating which have not been served (14 days each) will be aggregated and the aggregate (28 days) will be the remainder of the prisoner's sentence, which will be suspended until the remission order expires, whereupon it will be remitted.

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(4) If the remission order is made under section 50J, the remainder of the prisoner's sentence shall be the period worked out according to the following steps:

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(a) first, work out the portion (in days) of the prisoner's aggregate sentence which has not been served —

(i) starting on the date of the remission order made under section 50J; and

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(ii) ending at the end of the day immediately before the day on which the Commissioner would have been required to make a remission order under section 50I in respect of the prisoner if the Minister had not directed the Commissioner to make a remission order under section 50J;

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(b) second, work out the portion (in days) of the prisoner's aggregate sentence which has not been served —

(i) starting on the day on which the Commissioner would have been required to make a remission order under section 50I in respect of the prisoner if the Minister had not directed the Commissioner to make a remission order under section 50J; and

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(ii) ending on the day the prisoner would have been released from prison had no remission order been made in respect of him;

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(c) third, apportion the portion (in days) of the prisoner's aggregate sentence worked out under paragraph (b) between each consecutive term of imprisonment (including default sentences) to which the prisoner

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was sentenced such that the same proportion of each sentence has not been served;

(d) fourth, work out the portion (in days) of all default sentences (if any) which has not been served under paragraph (c);

(e) fifth, subtract the portion of the prisoner's sentence worked out under paragraph (d) from the portion of the prisoner's unserved sentence worked out under paragraph (b); and

(f) sixth, add the portion of the prisoner's sentence worked out under paragraph (a) to the portion of the prisoner's sentence worked out under paragraph (e).

Illustration

A prisoner is sentenced to a total of 25 years' imprisonment, of which 1 years' imprisonment is a default sentence. The sentence is ordered to take effect from 1st January 2013. The last day of the prisoner's sentence if no remission order is made would be 31st December 2038. After taking into account the various periods of time referred to in section 50I(2), the Commissioner is required to defer making a remission order until 1st November 2034. The Minister reviewed the prisoner's case on 1st January 2033 and directed the Commissioner to make a remission order under section 50J on the same day. The period starting on 1st November 2034 and ending on 31st December 2038 (4 years and 2 months) will be apportioned such that 2 months of the prisoner's default sentence and 4 years of the prisoner's other sentences of imprisonment has not been served. The 4 years will be added to the period starting on 1st January 2033 and ending on 31st October 2034 (1 year and 10 months) and the total (4 years and 10 months) will be the remainder of the prisoner's sentence.

(5) The portion of a default sentence worked out under subsections (3)(b) and (4)(d) as not having been served shall be remitted upon the making of the remission order.

Duration of section 50I or 50J remission order

50L. Unless extended under section 50M or 50N, a remission order in respect of a prisoner made under section 50I or 50J shall —

- (a) have effect for a period equal to the remainder of the prisoner's sentence as determined under section 50K; and
- (b) expire at the end of the period referred to in paragraph (a).

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Extension of section 50I or 50J remission order

50M.—(1) This section applies where —

- (a) a prisoner released on a remission order made under section 50I or 50J (referred to in this section as the first remission order) is subsequently sentenced to one or more terms of imprisonment;
- (b) a second remission order is made in respect of that term or those terms of imprisonment; and
- (c) the first remission order is still in effect when the person is released on the second remission order.

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(2) Where this section applies —

- (a) the first and second remission orders shall be merged and deemed to be a single remission order made under section 50I; and
- (b) the merged remission order shall expire on the day on which the first remission order would have expired, or the day on which the second remission order would have expired, whichever is the later.

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Illustration

A prisoner is sentenced to 6 years' imprisonment for offence A. The sentence takes effect from 1st January 2013. The Commissioner makes a remission order for the sentence on 1st January 2017. Under section 50L(b), the remission order will expire at the end of the day on 31st December 2018. On his release, the prisoner commits offence B and is sentenced to 2 years' imprisonment for offence B. No enhanced sentence is imposed under section 50T. The sentence for offence B takes effect from 1st June 2017. The Commissioner makes a remission order for the sentence for offence B on 1st October 2018. Under section 50L(b) the remission order for the sentence for offence B will expire at the end of the day on 31st May 2019. Both

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remission orders will be merged and deemed to be one remission order, and the merged remission order will expire at the end of the day on 31st May 2019.

Extension of section 50I or 50J remission order when person released is unlawfully at large, etc.

50N.—(1) Where a person who is released under a remission order made under section 50I or 50J is recalled to prison by the Commissioner under section 50X but fails to present himself at such prison and on such date as specified in the notice of recall, his remission order shall be extended by a period equivalent to the period he remains unlawfully at large after the date so specified.

(2) Where the court issues a warrant of arrest against a person released under a remission order made under section 50I or 50J while his remission order is still in effect, and the person remains at large after the warrant is issued, his remission order shall be extended by a period equivalent to the period between the date the warrant is issued and the date of his arrest.

(3) Where a person released under a remission order made under section 50I or 50J is otherwise unlawfully at large while his remission order is still in effect, his remission order shall be extended by a period equivalent to the period the person is unlawfully at large.

Illustration

The Commissioner makes a remission order in respect of a prisoner on 1st January 2013. The remission order expires at the end of the day on 31st December 2013. After the prisoner is released, the Commissioner issues a notice of recall to the prisoner under section 50X, requiring the prisoner to present himself at a specified prison on 15th December 2013. The prisoner remains unlawfully at large and only presents himself at the specified prison on 14th January 2014, i.e. 30 days later. The duration of the remission order will be extended by 30 days and it will now expire at the end of the day on 30th January 2014.

*Division 3 — Remission orders for prisoners
sentenced to life imprisonment*

Application

50O. This Division shall apply to all of the following prisoners:

- (a) a prisoner who is sentenced to life imprisonment, for an offence committed on or after 21st August 1997, whether or not he is also sentenced to one or more terms of imprisonment;
- (b) a prisoner whose sentence of death for an offence committed on or after 21st August 1997 is, or has been, commuted to life imprisonment under section 334 of the Criminal Procedure Code (Cap. 68) or section 238 of the repealed Criminal Procedure Code (Cap. 68, 1985 Ed.);
- (c) a prisoner who is sentenced to be detained during the President's pleasure under section 213 of the repealed Criminal Procedure Code (Cap. 68, 1985 Ed.).

Review of sentences of life imprisonment, etc.

50P.—(1) Subject to subsection (2), where a prisoner to whom this Division applies has served 20 years of his sentence, the Minister shall review the prisoner's case and may, in the Minister's discretion, direct the Commissioner to make a remission order in respect of the prisoner.

(2) Where the Minister has refused to direct the Commissioner to make a remission order in respect of a prisoner under subsection (1), the Minister shall, unless the prisoner is earlier released from imprisonment, review his decision at intervals not exceeding 12 months each and may, in his discretion, direct the Commissioner to make a remission order in respect of the prisoner.

Effect of section 50P remission order

50Q. When a remission order is made under section 50P in respect of a prisoner to whom this Division applies —

- (a) any default sentence to which the prisoner was sentenced shall be remitted;
- (b) the sentence of life imprisonment and any other sentence of imprisonment imposed on the prisoner shall be suspended; and
- (c) the sentences referred to in paragraph (b) shall be remitted when the remission order expires.

Duration of section 50P remission order

50R. A remission order made under section 50P —

- (a) shall have effect for a period starting on the date of the remission order and ending at the end of the natural life of the person in respect of whom the remission order is made; and
- (b) shall expire at the end of the period referred to in paragraph (a).

Division 4 — Basic condition of remission order

All remission orders subject to basic condition

50S.—(1) It is the basic condition of every remission order made under Division 2 or 3 that the person released under the remission order —

- (a) shall not commit any offence (not including an offence under section 50Y(1)) while the remission order is in effect; and
- (b) shall not be convicted of that offence and sentenced to any of the following:
 - (i) a sentence of imprisonment (not including a default sentence);
 - (ii) corrective training;
 - (iii) reformatory training;
 - (iv) preventive detention.

(2) Where a person commits an offence in breach of the basic condition of his remission order, he shall be deemed to have breached the basic condition on the date of the commission of the offence.

Breach of basic condition and enhanced sentence

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50T.—(1) When a person commits an offence in breach of the basic condition of his remission order made under Division 2 or 3, the court may, in addition to imposing any sentence on the person for that offence, impose an enhanced sentence for that offence as follows:

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(a) imprisonment for a term not exceeding the remaining duration of the remission order, as determined based on the date of the commission of the offence; or

(b) imprisonment for any term or for life, if the duration of the remission order is for the person's natural life.

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(2) If a person commits 2 or more offences in breach of the basic condition of his remission order made under Division 2 or 3 —

(a) the court may, in addition to imposing any sentence on the person for those offences, impose an enhanced sentence under subsection (1) for each of those offences; and

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(b) the aggregate length of all the enhanced sentences imposed under subsection (1) shall not exceed the remaining duration of the remission order, as determined based on the date of the earliest offence committed.

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(3) In deciding whether to impose any enhanced sentence under subsection (1) or (2) with respect to any offence, and if so the length of the enhanced sentence, the court shall consider —

(a) the gravity of the offence;

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(b) whether the offence is of a similar nature to the offence for which the person under a remission order was originally sentenced;

(c) the length of time for which the person did not commit any offence after being released under that remission order; and

(d) all other relevant circumstances.

5 (4) For the purpose of this section, any extension of the duration of a remission order after the date of an offence committed in breach of its basic condition shall be disregarded in determining the remaining duration of a person's remission order based on the date of that offence.

10 (5) Notwithstanding any provision in any written law, a term of imprisonment imposed on any person as an enhanced sentence under this section shall run consecutively to all other terms of imprisonment imposed on him.

Illustration

15 A person is released under a remission order having effect from 1st June 2013 to 31st December 2013. On 15th July 2013 the remission order is extended for 7 days (i.e. to 7th January 2014) under section 50N(1) because the person failed to present himself at a prison after being recalled by the Commissioner. On 1st August 2013 the person commits offence A. On
20 30th September 2013 the remission order is extended for a further 10 days (i.e. to 17th January 2014) under section 50N(1). On 21st October 2013 the person commits offence B. The person is later sentenced to imprisonment for both offences A and B, rendering him in breach of the basic condition of his remission order on 1st August 2013 and again on 21st October 2013. The
25 person's enhanced sentence for offence A cannot exceed the length of the period from 1st August 2013 to 7th January 2014. The person's enhanced sentence for offence B cannot exceed the length of the period from 21st October 2013 to 17th January 2014. The total length of the enhanced sentences for offences A and B cannot exceed the length of the period from
30 1st August 2013 to 7th January 2014.

Division 5 — Mandatory aftercare scheme

Application

50U.—(1) This Division applies where —

35 (a) a remission order is made under section 50I or 50J in respect of a prisoner;

- (b) the prisoner's remission order relates to a sentence for an offence which is specified in the First Schedule at the time the offence was committed;
- (c) the prisoner's sentence for the offence, aggregated with any other consecutive term of imprisonment to which he was sentenced, is longer than the minimum sentence (if any) which, at the time the offence was committed, is prescribed in the First Schedule in relation to the offence; 5
- (d) the prisoner has a relevant antecedent for the offence, if any such antecedent has been prescribed in the First Schedule in relation to the offence at the time the offence was committed; and 10
- (e) the prisoner is not subject to an order removing him from Singapore under the Immigration Act (Cap. 133). 15
- (2) This Division also applies where —
- (a) a remission order is made under section 50I or 50J in respect of a prisoner —
- (i) who is not, on his release, subject to an order removing him from Singapore under the Immigration Act; and 20
- (ii) whose sentence for any offence, aggregated with any other consecutive term of imprisonment to which he was sentenced, is longer than —
- (A) 15 years; or 25
- (B) such other period as may be prescribed in substitution thereof at the time of the commission of the offence or, where 2 or more offences are committed, at the time of the offence earliest committed; or 30
- (b) a remission order is made under section 50P in respect of a prisoner who is not, on his release, subject to an order removing him from Singapore under the Immigration Act.

(3) For the avoidance of doubt, where 2 remission orders are merged under section 50M and subsection (1) or (2) applies to any one of the remission orders which are merged, this Division shall apply to the merged remission order.

5 **Mandatory aftercare conditions and variations, etc.**

50V.—(1) The Commissioner may, in accordance with this section and for the purpose of facilitating a person's rehabilitation and reintegration into society, require a person to whom this Division applies to comply with mandatory aftercare conditions.

(2) The Commissioner may, by notice in writing, require a person to comply with all or any of the mandatory aftercare conditions specified in subsection (3) —

(a) at any time while the remission order relating to the person is in effect; and

(b) for any period not extending beyond the expiry of the remission order.

(3) The mandatory aftercare conditions referred to in subsection (2) are as follows:

(a) the person subject to a remission order shall attend any such counselling, therapy, test, assessment, and other activity for the purpose of facilitating his rehabilitation and reintegration into society as the Commissioner may require, at any such time and place as the Commissioner may specify in the notice under subsection (2);

(b) the person shall present himself to provide a specimen of his urine or hair for testing at any such time and place as the Commissioner may specify in the notice under subsection (2);

(c) the person shall remain indoors at his place of residence, or at such other place as the Commissioner may specify, at any such time as the Commissioner may specify in the notice under subsection (2);

- (d) the person shall allow the Superintendent and any person authorised by the Superintendent to enter his place of residence or any other place which he is required to remain at to determine his compliance with any mandatory aftercare condition or for any purpose relating to his rehabilitation; 5
- (e) to enable the electronic monitoring of his whereabouts, the person shall —
- (i) wear any electronic transmitting device issued by the Commissioner on such part of his person as the Commissioner may specify in the notice under subsection (2); 10
 - (ii) allow the Superintendent and any person authorised by the Superintendent to enter his place of residence or any other place he is required to remain at, to install, maintain, repair or retrieve any electronic monitoring device; 15
 - (iii) comply with all requirements to ensure the proper functioning of any electronic monitoring device issued to him or installed at his place of residence or any other place he is required to remain at; 20
 - (iv) comply with all reporting requirements imposed on him; and
 - (v) not tamper with any electronic monitoring device issued to him or installed at his place of residence or any other place he is required to remain at, or otherwise prevent or obstruct the electronic monitoring of his whereabouts; 25
- (f) the person shall comply with a notice of recall served on him under section 50X; and 30
- (g) the person shall comply with such other conditions for the purpose of facilitating his rehabilitation and reintegration into society as the Commissioner may specify in the notice under subsection (2).

(4) The Commissioner may, at any time by notice in writing served on a particular person —

(a) vary, cancel or add to any mandatory aftercare condition specified in subsection (3);

(b) extend or reduce the period for which the person is subject to those mandatory aftercare conditions; and in the case of an extension, such extension shall not extend beyond the expiry of the remission order; or

(c) waive, in any particular case, any of the mandatory aftercare conditions specified in subsection (3).

Compliance not required when person detained, etc.

50W. A person shall not be required to comply with any mandatory aftercare condition of his remission order —

(a) while he is admitted to and detained in an approved institution under the Misuse of Drugs Act (Cap. 185);

(b) while he is detained under the Criminal Law (Temporary Provisions) Act (Cap. 67);

(c) while he is imprisoned or otherwise in custody or detained under any other written law;

(d) to the extent that such condition is inconsistent with any condition of a supervision order made under the Misuse of Drugs Act in respect of the person;

(e) to the extent that such condition is inconsistent with any condition of a supervision order made under the Criminal Law (Temporary Provisions) Act in respect of the person; or

(f) in such other situations as may be prescribed.

Minor breaches of mandatory aftercare condition

50X.—(1) If the Commissioner is satisfied after due inquiry that a person has committed a minor breach of a mandatory aftercare condition of his remission order, the Commissioner

may do one or more of the following for the purpose of punishing the person:

- (a) administer a written warning to the person;
- (b) extend the period for which the person is subject to any mandatory aftercare condition, which period shall not extend beyond the expiry of the remission order; 5
- (c) vary, cancel or add to the mandatory aftercare conditions of the person's remission order;
- (d) recall the person to prison for a specified period in accordance with this section. 10

(2) Subject to the limits in subsection (4), the Commissioner may recall a person to prison by serving upon him a notice of recall in accordance with subsection (3).

(3) The notice of recall in subsection (2) —

- (a) shall be served — 15
 - (i) by delivering it personally to the person; or
 - (ii) by such other means as may be prescribed;
- (b) may be served by a prison officer, a police officer or an auxiliary police officer; and
- (c) shall — 20
 - (i) specify the prison to which the person is to report;
 - (ii) specify the date and time the person is required to report to the specified prison; and
 - (iii) specify, in days, the number of days for which the person is recalled. 25

(4) The Commissioner shall not recall a person —

- (a) for a period exceeding 10 days at a time;
- (b) for a cumulative period of more than 30 days;
- (c) after the expiry of the remission order; or

(d) for a period extending beyond the expiry of the remission order.

(5) When the Commissioner recalls a person to prison under this section —

5 (a) the person shall, before he reports to prison, remain subject to the remission order;

(b) the person shall, when he reports to prison, be imprisoned for the period of recall and shall, while so imprisoned, be deemed to be serving his sentence; and

10 (c) the person shall, after he has served the period of recall in prison, be released and continue to be subject to his remission order to the extent that it continues to have effect.

15 (6) If the person remains unlawfully at large after the time he is required to report to a prison by a notice of recall and is subsequently arrested, he shall immediately be imprisoned for a period equivalent to the period of recall.

Offence of serious breach of mandatory aftercare condition

20 **50Y.**—(1) A person who commits a serious breach of a mandatory aftercare condition of his remission order shall be guilty of an offence and shall be liable on conviction to —

25 (a) imprisonment for a term not exceeding the remaining duration of the remission order, as determined based on the date of the offence; or

(b) imprisonment for any term or for life, if the duration of the remission order is for life.

(2) In deciding the punishment to be imposed for an offence under subsection (1), the court shall consider —

30 (a) the gravity of the serious breach;

(b) the length of time for which the person did not commit any breach of a mandatory aftercare condition after being released under the remission order;

(c) whether the serious breach evidences a lack of commitment by the person to his rehabilitation and reintegration into society; and

(d) all other relevant circumstances.

(3) If a person commits 2 or more offences under subsection (1) — 5

(a) the court may sentence him under subsection (1) for each of those offences; and

(b) the aggregate length of all the sentences imposed under subsection (1) shall not exceed the remaining duration of the remission order, as determined based on the date of commission of the first offence. 10

(4) For the purpose of this section, any extension of the duration of a remission order after the date of commission of an offence under this section shall be disregarded in determining the remaining duration of a person's remission order based on the date of commission of the offence. 15

(5) Notwithstanding any provision in any written law, a term of imprisonment imposed under this section on any person shall run consecutively to all other terms of imprisonment imposed on him. 20

Illustration

A prisoner is released under a remission order having effect from 1st June 2013 to 31st December 2013. The remission order is subject to mandatory aftercare conditions for its whole duration. On 15th July 2013 the remission order is extended for 7 days (i.e. to 7th January 2014) under section 50N(1). On 1st August 2013 the prisoner commits a first offence under section 50Y(1). On 30th September 2013, the remission order is extended for a further 10 days (i.e. to 17th January 2014) under section 50N(1). On 21st October 2013 the prisoner commits a second offence under section 50Y(1). The prisoner's sentence for the first offence cannot exceed the length of the period from 1st August 2013 to 7th January 2014. The prisoner's sentence for the second offence cannot exceed the length of the period from 21st October 2013 to 17th January 2014. The total sentence for both offences cannot exceed the length of the period from 1st August 2013 to 7th January 2014. 25 30 35

Powers of arrest, etc.

5 **50Z.**—(1) The offence of committing a serious breach of a mandatory aftercare condition under section 50Y(1) shall be an arrestable andailable offence for the purposes of the Criminal Procedure Code (Cap. 68).

(2) A prison officer may exercise all the powers which a police officer of equivalent rank may exercise under the Criminal Procedure Code in respect of an offence of committing a serious breach of a mandatory aftercare condition under section 50Y(1).

10 (3) For the avoidance of doubt, where the Commissioner recalls a prisoner to prison under section 50X, the prisoner shall not be admitted to bail.

Division 6 — Remission of default sentences

Application

15 **50ZA.** This Division applies to a prisoner whose sentence of imprisonment consists wholly of default sentences for offences committed before, on or after the date of commencement of section 7 of the Prisons (Amendment) Act 2013.

Remission of default sentences

20 **50ZB.**—(1) A prisoner to whom this Division applies shall, upon his admission to prison, be entitled to have his sentence remitted in accordance with this section.

(2) Section 50I shall apply to a prisoner to whom this Division applies, subject to the following modifications:

25 (a) the Commissioner shall not be required to make a remission order; and

(b) on the day the Commissioner would have been required to make a remission order under section 50I, the sentence of the prisoner shall be remitted.

*Division 7 — Transitional provisions***Application**

50ZC.—(1) This Division applies to a prisoner —

- (a) convicted before, on or after the date of commencement of section 7 of the Prisons (Amendment) Act 2013 (referred to in this Division as the appointed day); 5
- (b) whose sentence of imprisonment does not include a sentence of life imprisonment for an offence committed on or after 21st August 1997; and
- (c) whose sentence of imprisonment includes a term of imprisonment (not including a default sentence) imposed for an offence committed before the appointed day. 10

(2) For the purposes of subsection (1) and this Division, a sentence of life imprisonment imposed for an offence committed before 21st August 1997 shall be deemed to be a sentence of imprisonment for a term of 20 years. 15

Remission of sentences relating to offences committed before appointed day

50ZD.—(1) This section applies to a prisoner whose sentence of imprisonment (not including any default sentence), consists wholly of terms of imprisonment imposed for an offence or offences all of which were committed before the appointed day. 20

(2) Section 50I shall apply to the prisoner, subject to the following modifications: 25

- (a) the actual making of a remission order under that section is not required; and
- (b) the sentence of the prisoner which, on the appointed day, has yet to be served shall be remitted on the day the Commissioner would have been required to make a remission order in respect of the prisoner under section 50I. 30

(3) For the avoidance of doubt, Divisions 4 and 5 do not apply when a sentence is remitted under subsection (2)(b).

5 (4) Where a prisoner to whom this section applies has served 20 years of his sentence and the Commissioner is not required under section 50I to make a remission order in respect of the prisoner, the Minister shall review the prisoner's case in accordance with section 50J and may, in the Minister's discretion, direct the Commissioner to make a remission order under section 50J.

10 (5) For the purposes of subsection (4), where a prisoner has served 20 years or more of his sentence on the appointed day, the Minister shall review the prisoner's case in accordance with section 50J as soon as practicable after the appointed day.

15 (6) When the Commissioner is directed by the Minister to make a remission order under section 50J read with subsection (4), Division 2 shall apply except that the remainder of the prisoner's sentence shall be worked out as follows instead of in accordance with section 50K(3):

20 (a) first, work out the portion (in days) of the prisoner's sentence that has not been served;

(b) second, work out the portion (in days) of the prisoner's sentence —

25 (i) starting on the day on which the Commissioner would have been required to make a remission order under section 50I in respect of the prisoner if the Minister had not directed the Commissioner to make a remission order under section 50J; and

30 (ii) ending on the day the prisoner would have been released from prison if no remission order was made in respect of him;

(c) third, subtract the portion of the prisoner's sentence worked out under paragraph (b) from the portion of the prisoner's sentence worked out under paragraph (a).

(7) The portion of the prisoner's sentence worked out under subsection (6)(b) shall be remitted upon the making of the remission order.

Illustration

A prisoner is sentenced to 36 years' imprisonment for various offences, all of which were committed before the appointed day. The sentence is ordered to take effect from 1st January 2013. While serving imprisonment the prisoner is sentenced to forfeiture of 1 month's remission for a prison offence. The Minister reviews the prisoner's case on 1st January 2033, when the prisoner has served 20 years of his sentence and directs the Commissioner to make a remission order under section 50J on the same date. The Commissioner would have been required to make a remission order under section 50I in respect of that prisoner on 1st February 2037, when the prisoner has served 24 years (comprising two-thirds of his sentence) and 1 month (comprising the forfeiture of remission) of his sentence. Consequent to the remission order under section 50J, the prisoner's sentence will be remitted save for a term of 4 years 1 month, which is the length of the period between the date of the remission order under section 50J and the date on which the Commissioner would have been required to make a remission order under section 50I. The term of 4 years 1 month will be suspended, and will be remitted upon the expiry of the remission order.

Remission of sentences for offences committed both before and on or after appointed day

50ZE.—(1) This section applies to a prisoner whose sentence of imprisonment (not including any default sentence) consists of terms of imprisonment imposed for offences committed both before the appointed day, and on or after the appointed day.

(2) The prisoner shall, upon his admission to prison, be entitled to have his sentence remitted in accordance with Division 2 as modified by subsections (3), (4), (5) and (6).

(3) When a remission order is made by the Commissioner under section 50I in respect of a prisoner to whom this section applies, the remainder of the prisoner's sentence shall be worked out as follows instead of in accordance with section 50K(2) or (3), as the case may be:

(a) first, work out the portion (in days) of the prisoner's aggregate sentence that has not been served;

- 5 (b) second, apportion the total time (in days) the prisoner spent serving his aggregate sentence among each of his consecutive terms of imprisonment (including default sentences) such that each sentence is served in the same proportion;
- (c) third, work out the portion (in days) of any default sentence which has not been served under paragraph (b);
- 10 (d) fourth, for an offence committed before the appointed day, work out the portion (in days) of the sentence which has not been served under paragraph (b);
- (e) fifth, add the portions of the prisoner's sentences worked out under paragraphs (c) and (d);
- 15 (f) sixth, subtract the portion of the prisoner's sentences worked out under paragraph (e) from the portion of the prisoner's sentence worked out under paragraph (a).

Illustration

20 A prisoner is sentenced to 9 years' imprisonment for offence A, committed before the appointed day, and 6 years' imprisonment for offence B, committed after the appointed day. Offence B is not an offence under section 50Y(1) and the sentence for offence B does not include any enhanced sentence under section 50T(1)(a). The sentences are ordered to run consecutively and to take effect from 1st January 2015. The Commissioner makes a remission order under section 50I on 1st January 2025, the day after the day where the prisoner has served two-thirds of his sentence. The time the prisoner spent serving his sentence (10 years) will be apportioned between offences A and B such that he has served the same proportion of each sentence, i.e. 6 years of the sentence for offence A and 4 years of the sentence for offence B. The portion of the sentence for offence A which has not been served (3 years) will be remitted. The portion of the sentence for offence B which has not been served (2 years) will be the remainder of the prisoner's sentence, which is suspended until the remission order expires, whereupon it will be remitted.

35 (4) Where a prisoner has served 20 years or more of his sentence on the appointed day, the Minister shall review the prisoner's case in accordance with section 50J as soon as practicable after the appointed day.

(5) If the Minister directs the Commissioner to make a remission order under section 50J, the remainder of the prisoner's sentence shall be worked out as follows instead of in accordance with section 50K(4):

- (a) first, work out the portion (in days) of the prisoner's aggregate sentence which has not been served — 5
 - (i) starting on the date of the remission order made under section 50J; and
 - (ii) ending on the day immediately before the day on which the Commissioner would have been required to make a remission order under section 50I in respect of the prisoner if the Minister had not directed the Commissioner to make a remission order under section 50J; 10
- (b) second, work out the portion (in days) of the prisoner's aggregate sentence which has not been served — 15
 - (i) starting on the day on which the Commissioner would have been required to make a remission order under section 50I in respect of the prisoner if the Minister had not directed the Commissioner to make a remission order under section 50J; and 20
 - (ii) ending on the day the prisoner would have been released from prison had no remission order been made in respect of him;
- (c) third, apportion the portion of the prisoner's aggregate sentence worked out under paragraph (b) between each consecutive term of imprisonment (including default sentences) to which the prisoner was sentenced such that the same proportion of each sentence has not been served; 25 30
- (d) fourth, work out the portion (in days) of all sentences (other than default sentences) for offences committed on or after the appointed day as apportioned under paragraph (c);

- (e) fifth, add the portion of the prisoner's sentence worked out under paragraph (a) to the portion of the prisoner's sentence worked out under paragraph (d).

Illustration

5 A prisoner is sentenced to 18 years' imprisonment for offence A, committed before the appointed day, and 15 years' imprisonment for offence B, committed after the appointed day. Offence B is not an offence under section 50Y(1) and the sentence for offence B does not include any enhanced sentence under section 50T(1)(a). The sentences are ordered to run
10 consecutively and to take effect from 1st January 2015. The Minister reviews the prisoner's case on 1st January 2035, when the prisoner has served 20 years of his sentence and directs the Commissioner to make a remission order under section 50I on the same date. The Commissioner would have been required to make a remission order under section 50I on 1st January 2037,
15 when the prisoner has served 22 years (two-thirds) of his sentence. If the prisoner had continued to serve his sentence until the Commissioner made a remission order on that date, the portion of the prisoner's sentence of 33 years which would have not been served would be 11 years. This would be apportioned proportionally between the sentences for offences A and B, such that 6 years of the sentence for offence A has not been served and 5 years for offence B has not been served. The portion for offence A which has not been served (6 years) will be remitted. The portion for offence B (5 years) which has not been served will be added to the portion of the prisoner's sentence from the date on which the Minister directs the Commissioner to make the remission order under section 50I to the day on which the Commissioner would have been required to make a remission order under section 50I (2 years). The aggregate term (7 years) so determined would be suspended and would be remitted when the remission order expires.

25
30 (6) The following portions of a prisoner's sentence shall be remitted:

- (a) the portion of any default sentence as worked out under subsection (3)(c) or (5)(c);
(b) the portion of any sentence for an offence committed before the appointed day, as worked out under subsection (3)(d) or (5)(c).
- 35

Application of Divisions 4 and 5

50ZF.—(1) For the avoidance of doubt —

- (a) Division 4 shall apply to a prisoner referred to in section 50ZC who is released under a remission order made under section 50I or 50J read with the provisions of this Division; and 5
- (b) Division 5 shall apply to a prisoner referred to in section 50ZC —
 - (i) who is released under a remission order made under section 50I or 50J read with the provisions of this Division; and 10
 - (ii) to whom section 50U applies.

(2) Division 5 shall also apply to a prisoner referred to in section 50ZC —

- (a) who is released under a remission order made under section 50J read with the provisions of this Division; and 15
- (b) to whom section 50U would apply if any of the offences he committed before the appointed day had been committed on the appointed day.

Illustration

In the Illustration to section 50ZE(4), Division 5 would apply to the prisoner if section 50U would apply to the prisoner if offence A is deemed to be an offence committed on the appointed day. 20

Minister may prescribe additional transitional provisions

50ZG. For a period of 2 years after the appointed day, the Minister may prescribe such additional provisions of a savings or transitional nature consequent on the enactment of this Part as he may consider necessary or expedient.”. 25

Repeal and re-enactment of section 52

8. Section 52 of the Prisons Act is repealed and the following section substituted therefor: 30

“Order for home detention

52. Subject to section 53, the Commissioner may, for the purpose of facilitating a prisoner’s rehabilitation and reintegration into society, by order release a prisoner who is eligible for home detention for a period not exceeding 12 months or such other period as the Minister may, by notification in the *Gazette*, prescribe in substitution thereof.”.

Amendment of section 54

9. Section 54 of the Prisons Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(1) A prisoner subject to a home detention order shall —

(a) attend any such counselling, therapy, test, assessment, and other activity for the purpose of facilitating his rehabilitation and reintegration into society as the Commissioner may require, at any such time and place as the Commissioner may specify;

(b) present himself to provide a specimen of his urine or hair for testing at any such time and place as the Commissioner may specify;

(c) remain indoors at his place of residence, or at such other place as the Commissioner may specify, at any such time as the Commissioner may specify;

(d) allow the Superintendent and any person authorised by the Superintendent to enter his place of residence, or any other place he is required to remain at, to determine his compliance with any condition of the home detention order or for any purpose relating to his rehabilitation;

(e) to enable the electronic monitoring of his whereabouts —

- (i) wear any electronic transmitting device issued by the Commissioner on such part of his person as the Commissioner may specify; 5
- (ii) allow the Superintendent and any person authorised by the Superintendent to enter his place of residence, or any other place he is required to remain at, to install, maintain, repair or retrieve any electronic monitoring device; 10
- (iii) comply with all requirements to ensure the proper functioning of any electronic monitoring device issued to him or installed at his place of residence or any other place he is required to remain at; 15
- (iv) comply with all reporting requirements imposed on him; and
- (v) not tamper with any electronic monitoring device issued to him or installed at his place of residence, or any other place he is required to remain at, or otherwise prevent or obstruct the electronic monitoring of his whereabouts; and 20

(f) comply with such other conditions as the Commissioner may specify in the order.”; and

(b) by deleting the word “Director” in subsection (2) and substituting the word “Commissioner”. 30

Amendment of section 57

10. Section 57(1) of the Prisons Act is amended by inserting, immediately after the words “is satisfied”, the words “after due inquiry”.

Amendment of section 59

11. Section 59 of the Prisons Act is amended by deleting paragraph (a) and substituting the following paragraph:

5 “(a) enter and search a place without a warrant to effect the arrest of any prisoner who has failed to return to prison after —

(i) he has been recalled by the Superintendent under section 56(1)(b); or

10 (ii) the Commissioner revokes the home detention order under section 57(1); and”.

New Part VIA

12. The Prisons Act is amended by inserting, immediately after section 59, the following Part:

“PART VIA

15 EXTERNAL PLACEMENT SCHEME

Interpretation of this Part

59A. In this Part —

20 “external placement”, in relation to a prisoner, means the serving by the prisoner of his sentence of imprisonment in such place or places, outside the limits of any prison, as may be specified in the external placement order;

“external placement order” means an order made under section 59B;

25 “Superintendent”, in relation to a prisoner, means the Superintendent of the prison from which the prisoner is released for external placement.

External placement order

30 59B.—(1) The Minister may, if he is of the view that it is more appropriate for a prisoner to serve the prisoner’s sentence in a place other than a prison, direct the Commissioner to make an

external placement order in respect of the prisoner for a period not exceeding 12 months.

(2) The Minister may direct the Commissioner to extend the duration of an external placement order for one or more times, by a period not exceeding 12 months each time. 5

(3) In determining for the purposes of subsections (1) and (2) and section 59H(1) whether it is more appropriate for a prisoner to serve his sentence in a place other than a prison —

(a) the Minister shall have regard to the following factors:

(i) that it is ordinarily in the public interest that prisoners serve their sentences of imprisonment in a prison; and 10

(ii) the threat, if any, likely to be posed by the prisoner to public safety if he is released or continues to be released on external placement; and 15

(b) the Minister may have regard to the following factors:

(i) the physical condition of the prisoner;

(ii) the mental condition of the prisoner; and

(iii) any other relevant circumstances. 20

Effect of external placement order

59C.—(1) A prisoner shall be released on the day an external placement order is made in respect of him.

(2) Where an external placement order is in force in respect of a prisoner, the prisoner is deemed — 25

(a) to be still serving his sentence of imprisonment; and

(b) to be still in the lawful custody of the Superintendent.

Conditions for external placement

59D.—(1) A prisoner subject to an external placement order —

(a) shall remain indoors at his place of residence, or at such other place as the Commissioner may specify, at such times as the Commissioner may specify;

(b) shall allow the Superintendent and any person authorised by the Superintendent to enter his place of residence, or any other place he is required to remain at, to determine his compliance with any condition of the external placement order or for any purpose relating to his rehabilitation;

(c) shall do all of the following to enable the electronic monitoring of his whereabouts:

(i) wear any electronic transmitting device issued by the Commissioner on such part of his person as the Commissioner may specify;

(ii) allow the Superintendent and any person authorised by the Superintendent to enter his place of residence, or any other place he is required to remain at, to install, maintain, repair or retrieve any electronic monitoring device;

(iii) comply with all requirements to ensure the proper functioning of any electronic monitoring device issued to him or installed at his place of residence or any other place he is required to remain at;

(iv) comply with all reporting requirements imposed on him by the Commissioner; and

(v) not tamper with any electronic monitoring device issued to him or installed at his place of residence, or any other place he is required to remain at, or otherwise prevent or obstruct the electronic monitoring of his whereabouts; and

(d) shall comply with such other conditions as the Commissioner may specify in the external placement order.

(2) The matters to be specified by the Commissioner under subsection (1) shall be specified by notice in writing. 5

(3) The Commissioner may, at any time and by notice in writing served on any particular prisoner subject to an external placement order —

(a) vary, cancel or add to any of the conditions specified in subsection (1); or 10

(b) exempt the prisoner from any of the conditions specified in subsection (1).

Recall to prison

59E.—(1) If a Superintendent has reason to suspect that a prisoner who is subject to an external placement order has failed to comply with any of the conditions of his external placement order, or has committed a disciplinary offence while being so subject, the Superintendent may — 15

(a) make such inquiry as may be necessary to ascertain whether the prisoner has failed to comply with any of the conditions of the external placement order or committed a disciplinary offence while being so subject; and 20

(b) recall the prisoner to prison pending the completion of the inquiry.

(2) The external placement order for a prisoner who is recalled to prison under subsection (1)(b) shall continue to be in force notwithstanding the fact that he is recalled to prison. 25

Revocation of external placement order

59F.—(1) If the Commissioner is satisfied after due inquiry that — 30

(a) a prisoner failed to return to prison after he was recalled to prison under section 59E(1)(b);

(b) a prisoner failed to comply with any of the conditions of his external placement order;

(c) a prisoner committed a disciplinary offence while being subject to an external placement order;

5 (d) the whereabouts of a prisoner can no longer be electronically monitored at his place of residence, or at such other place or places at which the prisoner is required to remain within doors under the conditions of his external placement order; or

10 (e) it is necessary in the public interest to do so,

the Commissioner may revoke the external placement order in respect of that prisoner and, if the prisoner is not already detained in prison, recall the prisoner to prison; and the prisoner shall, if then at large, be deemed to be unlawfully at large.

15 (2) Upon the revocation of the external placement order under subsection (1), the prisoner shall serve the unexpired part of his sentence of imprisonment in prison.

Suspension of external placement order

20 **59G.** Subject to subsection (2), where a prisoner subject to an external placement order is punished with any punishment under section 70(1)(a) or (b) or section 71(1)(b) or (c) or both, his external placement order shall, unless revoked under section 59F, be suspended for the following period, starting from the date on which the prisoner is punished:

25 (a) the period that the prisoner is confined in a punishment cell pursuant to an order under section 70(1)(a) or 71(1)(b);

(b) the period of remission which is forfeited pursuant to an order under section 70(1)(b) or 71(1)(c); or

30 (c) the sum of the period for which the prisoner is ordered to undergo confinement under section 70(1)(a) or 71(1)(b) and the period of remission forfeited under section 70(1)(b) or 71(1)(c).

Cancellation of external placement order

59H.—(1) The Minister may, if he is of the view that it is no longer appropriate for a prisoner released under an external placement order to serve the prisoner’s sentence in a place other than a prison, cancel the external placement order in respect of that prisoner and recall the prisoner to prison; and the prisoner shall, if at large, then be deemed to be unlawfully at large. 5

(2) Upon the cancellation of the external placement order under subsection (1), the prisoner shall serve the unexpired part of his sentence of imprisonment in prison. 10

Powers to enter and search

59I. A police officer of or above the rank of Assistant Superintendent of Police or a police officer authorised by him may —

(a) enter and search a place without a warrant to effect the arrest of any prisoner who has failed to return to prison after — 15

(i) the prisoner is recalled by the Superintendent under section 59E(1)(b);

(ii) the Commissioner revokes the external placement order under section 59F(1); or 20

(iii) the Minister cancels the external placement order under section 59H(1); and

(b) in order to effect an entrance into that place, break open any outer or inner door or window of that place if he cannot otherwise obtain admittance thereto.”. 25

Repeal and re-enactment of section 66

13. Section 66 of the Prisons Act is repealed and the following section substituted therefor:

“Unauthorised articles, communications and recordings

66.—(1) Any person who, without the authority of this Act, the regulations made under this Act or the express permission of the Commissioner —

- 5 (a) conveys, supplies or causes to be supplied or conveyed to any prisoner, or hides or places for his use any unauthorised article;
- (b) brings or attempts by any means to introduce into any prison, or places or attempts to place where prisoners labour, any unauthorised article;
- 10 (c) brings or attempts to bring out of any prison, or conveys from any prisoner, any unauthorised article;
- (d) makes any audio or visual recording in a prison;
- (e) communicates with a prisoner, in circumstances where he knows or ought reasonably to know that the communication is likely to encourage, incite or agitate any prisoner to commit a prison offence, and thereby encourages, incites or agitates a prisoner to commit a prison offence;
- 15 (f) does any act, or omits to do any act which he is required by law to do, which he knows or ought reasonably to know is likely to have any of the following effects, and does have such effect:
 - 20 (i) prejudicing the safe custody of prisoners, the safety of any person in a prison, or the security of a prison; or
 - 25 (ii) prejudicing the maintenance of good order and discipline in a prison,

shall be guilty of an offence.

- 30 (2) Any prison officer who, without the authority of this Act, the regulations made under this Act or the express permission of the Commissioner —

- (a) knowingly suffers any unauthorised article to be sold to or received or used by or on behalf of any prisoner;
- (b) lends or gives to any prisoner any unauthorised article;
- (c) knowingly suffers any unauthorised article to be brought out of any prison, or to be conveyed from any prisoner; 5
- (d) knowingly suffers the making of any audio or visual recording in a prison; or
- (e) knowingly suffers any act or omission which he knows or ought reasonably to know is likely to have any of the following effects, and does have such effect: 10
 - (i) prejudicing the safe custody of prisoners, the safety of any person in a prison, or the security of a prison; or
 - (ii) prejudicing the maintenance of good order and discipline in a prison, 15

shall be guilty of an offence.

(3) Any person guilty of an offence under this section shall be liable on conviction to a fine not exceeding \$3,000 or to imprisonment for a term not exceeding 12 months or to both and, if he is a prison officer, he may, unless the conviction is reversed on appeal, be dismissed from his office, and all arrears of pay due to him may be forfeited. 20

(4) In this section, “unauthorised article” means —

- (a) any letter or document;
- (b) any electronic storage device; 25
- (c) any intoxicating substance, drug or stimulant;
- (d) any food or drink;
- (e) any item of clothing;
- (f) money; or
- (g) any article not specifically authorised by the Commissioner to be brought into or out of a prison.”. 30

Repeal and re-enactment of section 67

14. Section 67 of the Prisons Act is repealed and the following section substituted therefor:

“Prisoner may be allowed to work

5 **67.** Whenever any person is sentenced to imprisonment, the person may be allowed to work at any labour prescribed under this Act, and for which he is certified as fit by the medical officer.”.

New section 77A

10 **15.** The Prisons Act is amended by inserting, immediately after section 77, the following section:

“Superintendent may restore remission

15 **77A.** The Superintendent may, in his discretion, restore to any prisoner a period of remission or any portion thereof which had previously been forfeited by such prisoner.”.

Repeal and re-enactment of section 82

16. Section 82 of the Prisons Act is repealed and the following section substituted therefor:

“Minister may amend Schedules

20 **82.—**(1) The Minister may, by order published in the *Gazette*, amend the First or Second Schedule.

(2) An order made under this section may contain such saving and transitional provisions as are necessary or expedient for the purposes of the order.

25 (3) All orders made under this section shall be presented to Parliament as soon as possible after publication in the *Gazette*.”.

Amendment of section 83

17. Section 83 of the Prisons Act is amended by deleting subsection (2) and substituting the following subsections:

“(2) Subject to subsection (3), any District Court or Magistrate’s Court shall, notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), have the jurisdiction to try any offence under this Act and to impose the full punishment in respect of the offence. 5

(3) Any District Court or Magistrate’s Court shall, if it has jurisdiction under the Criminal Procedure Code to try an offence alleged to have been committed in breach of the basic condition of a remission order specified under section 50S, have the power to impose the full enhanced sentence under section 50T for that offence, notwithstanding any provision to the contrary in the Criminal Procedure Code.”. 10

Amendment of section 84

18. Section 84(2) of the Prisons Act is amended —

(a) by inserting, immediately after paragraph (i), the following paragraphs: 15

“(j) the early discharge of prisoners who become entitled to release on a date which falls on a Sunday or public holiday;

(ja) the release of prisoners on remission orders or on external placement orders and the due administration of such orders; 20

(jb) the classification of breaches of the mandatory aftercare conditions of remission orders to be serious breaches and minor breaches;” and 25

(b) by deleting the words “advisory committees” in paragraph (ka) and substituting the words “committees, however named, of an advisory nature,”.

New First Schedule

19. The Prisons Act is amended by inserting, immediately after section 84, the following Schedule: 30

“FIRST SCHEDULE

Section 50U(1)

OFFENCES SUBJECT TO MANDATORY
AFTERCARE CONDITIONS

5	<i>Offences</i>	<i>Description*</i>	<i>Minimum sentence</i>	<i>Relevant Antecedent</i>
	Arms Offences Act (Cap. 14)			
	Section 3(1), (2), (3) or (4)	Unlawful possession of arms or ammunition	1 year	-
10	Section 8	Exhibiting imitation arm when committing scheduled offence	1 year	-
	Corrosive and Explosive Substances and Offensive Weapons Act (Cap. 65)			
15	Section 3	Possession of corrosive or explosive substance for the purpose of causing hurt	1 year	-
20	Section 5	Consorting with person carrying corrosive or explosive substance	1 year	-
	Explosive Substances Act (Cap. 100)			
25	Section 3	Causing explosion likely to endanger life or property	1 year	-
30	Section 4	Attempt to cause explosion, or for making or keeping explosives with intent to endanger life or property	1 year	-
	Section 6 (but only in relation to an offence under section 3 or 4)	Abetment	1 year	-
35	Hostage-Taking Act (Cap. 126C)			
	Section 3(1)	Hostage-Taking	1 year	-
	Misuse of Drugs Act (Cap. 185)			
	Section 5	Trafficking in controlled drugs	1 year	-

<i>Offences</i>	<i>Description*</i>	<i>Minimum sentence</i>	<i>Relevant Antecedent</i>	
Section 6	Manufacture of controlled drug	1 year	-	
Section 7	Import and export of controlled drugs	1 year	-	5
Section 8	Possession and consumption of controlled drugs	1 year	-	
Section 9	Possession of pipes, utensils, etc.	1 year	-	10
Section 10	Cultivation of cannabis, opium and coca plants	1 year	-	
Section 10A(1)	Manufacture, supply, possession, import or export of equipment, materials or substances useful for manufacture of controlled drugs	1 year	-	15
Section 11	Responsibility of owners, tenant, etc.	1 year	-	20
Section 11A(1)	Arranging or planning gatherings where controlled drugs are to be consumed or trafficked	1 year	-	25
Section 12	Abetments and attempts	1 year	-	
Section 12A	Causing or procuring young person or vulnerable person to commit certain offences	1 year	-	30
Section 13	Abetting or procuring commission of offences outside Singapore	1 year	-	
Section 14	Offences by director, etc., of body corporate	1 year	-	35
Section 30(1)	Obstruction of inspection or search	1 year	-	
Section 31(2)	Failure to provide urine specimen	1 year	-	

	<i>Offences</i>	<i>Description*</i>	<i>Minimum sentence</i>	<i>Relevant Antecedent</i>
	Section 31A(2)	Failure to provide hair specimen	1 year	-
5	Section 40B(4)(a)	Failure to comply with order to submit for taking of photograph and finger impressions, provide particulars as required, and submit to the taking of body samples	1 year	-
10				
	Misuse of Drugs (Approved Institutions and Treatment and Rehabilitation) Regulations (Rg 3)			
15	Regulation 10(4)	Failure to provide finger impressions	1 year	-
	Regulation 12(5)	Failure to return to approved institution	1 year	-
20	Regulation 15(6)	Failure to comply with requirement of supervision order	1 year	-
	Misuse of Drugs (Controlled Equipment, Material and Substances) Regulations (Rg 7)			
	Regulation 12(1)	Contravention of regulations	1 year	-
25	Regulation 12(2)	Failure to comply with requirement of Director, etc.	1 year	-
	Regulation 12(3)	Making of false declaration, etc.	1 year	-
30	Penal Code (Cap. 224)			
	Section 130E	Genocide	1 year	-
	Section 148	Rioting, armed with a deadly weapon	1 year	-
35	Section 304	Culpable homicide not amounting to murder	1 year	-
	Section 307	Attempt to murder	1 year	-
	Section 325	Voluntarily causing grievous hurt	1 year	-

<i>Offences</i>	<i>Description*</i>	<i>Minimum sentence</i>	<i>Relevant Antecedent</i>	
Section 326	Voluntarily causing grievous hurt by dangerous weapons or means	1 year	-	5
Section 354A(1)	Outraging modesty in certain circumstances	1 year	-	
Section 363	Kidnapping	1 year	-	
Section 375	Rape	1 year	-	10
Section 376	Sexual assault by penetration	1 year	-	
Section 376A	Sexual penetration of minor under 16	1 year	-	
Section 376F(1) (but only if punishment is imposed under subsection (3))	Procurement of sexual activity with person with mental disability, where penetration is involved	1 year	-	15
Section 376G(1) (but only if punishment is imposed under subsection (4))	Incest by man against a woman under 14	1 year	-	20
Section 377(3)	Causing another person to sexually penetrate a corpse	1 year	-	25
Section 377B(3)	Causing another person to sexually penetrate a living animal or be sexually penetrated by a living animal	1 year	-	30
Section 379	Theft	1 year	A drug-related antecedent	
Section 379A	Theft of a motor vehicle	1 year	Ditto	35
Section 380	Theft in dwelling-house, etc.	1 year	Ditto	
Section 381	Theft by clerk or servant of property in possession of master	1 year	Ditto	40

	<i>Offences</i>	<i>Description*</i>	<i>Minimum sentence</i>	<i>Relevant Antecedent</i>
5	Section 382	Theft after preparation made for causing death or hurt in order to commit theft	1 year	Ditto
	Section 384	Extortion	1 year	Ditto
10	Section 385	Putting person in fear of harm in order to commit extortion	1 year	Ditto
	Section 386	Extortion by putting a person in fear of death or grievous hurt	1 year	Ditto
15	Section 387	Putting person in fear of death or grievous hurt in order to commit extortion	1 year	Ditto
20	Section 388	Extortion by threat of accusation of an offence punishable with death, or imprisonment, etc.	1 year	Ditto
	Section 389	Putting person in fear of accusation of offence, in order to commit extortion	1 year	Ditto
25	Section 392	Robbery	1 year	Ditto
	Section 393	Attempt to commit robbery	1 year	Ditto
	Section 394	Voluntarily causing hurt in committing robbery	1 year	Ditto
	Section 395	Gang-robbery	1 year	-
30	Section 399	Making preparation to commit gang-robbery	1 year	A drug-related antecedent
	Section 400	Belonging to gang-robbers	1 year	-
35	Section 401	Belonging to wandering gang of thieves	1 year	A drug-related antecedent
	Section 402	Assembling for purpose of committing gang-robbery	1 year	Ditto

<i>Offences</i>	<i>Description*</i>	<i>Minimum sentence</i>	<i>Relevant Antecedent</i>	
Section 403	Dishonest misappropriation of property	1 year	Ditto	5
Section 404	Dishonest misappropriation of property possessed by a deceased person at the time of his death	1 year	Ditto	10
Section 406	Criminal breach of trust	1 year	Ditto	
Section 407	Criminal breach of trust by carrier, etc.	1 year	Ditto	
Section 408	Criminal breach of trust by clerk or servant	1 year	Ditto	15
Section 409	Criminal breach of trust by public servant, or by banker, merchant or agent	1 year	Ditto	
Section 411	Dishonestly receiving stolen property	1 year	Ditto	20
Section 412	Dishonestly receiving property stolen in the commission of a gang-robbery	1 year	Ditto	
Section 413	Habitually dealing in stolen property	1 year	Ditto	25
Section 414	Assisting in concealment or disposal of stolen property	1 year	Ditto	
Section 417	Cheating	1 year	Ditto	30
Section 418	Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect	1 year	Ditto	35
Section 419	Cheating by personation	1 year	Ditto	
Section 420	Cheating and dishonestly inducing a delivery of property	1 year	Ditto	40

	<i>Offences</i>	<i>Description*</i>	<i>Minimum sentence</i>	<i>Relevant Antecedent</i>
5	Section 421	Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors	1 year	Ditto
10	Section 422	Dishonestly or fraudulently preventing a debt or demand due to the offender from being made available for his creditors	1 year	Ditto
15	Section 423	Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration	1 year	Ditto
20	Section 424	Dishonest or fraudulent removal or concealment of property or release of claim	1 year	Ditto
	Section 447	Criminal trespass	1 year	Ditto
	Section 448	House-trespass	1 year	Ditto
25	Section 449	House-trespass in order to commit an offence punishable with death	1 year	Ditto
	Section 450	House-trespass in order to commit an offence punishable with imprisonment for life	1 year	Ditto
30	Section 451	House-trespass in order to commit an offence punishable with imprisonment	1 year	Ditto
35	Section 452	House-trespass after preparation made for causing hurt, etc.	1 year	Ditto
	Section 453	Punishment for lurking house-trespass or house-breaking	1 year	Ditto
40	Section 454	Lurking house-trespass or house-breaking in order to	1 year	Ditto

<i>Offences</i>	<i>Description*</i>	<i>Minimum sentence</i>	<i>Relevant Antecedent</i>	
	commit an offence punishable with imprisonment			5
Section 455	Lurking house-trespass or house-breaking after preparation made for causing hurt, etc.	1 year	Ditto	
Section 456	Lurking house-trespass by night or house-breaking by night	1 year	Ditto	10
Section 457	Lurking or house-trespass by night or house-breaking by night in order to commit an offence punishable with imprisonment	1 year	Ditto	15
Section 458	Lurking house-trespass by night or house-breaking by night after preparation made for causing hurt, etc.	1 year	Ditto	20
Section 459	Grievous hurt caused while committing lurking house-trespass or house-breaking	1 year	Ditto	25
Section 460	Lurking house-trespass by night or house-breaking by night when death or grievous hurt is caused	1 year	Ditto	30
Section 461	Dishonestly breaking open any closed receptacle containing or supposed to contain property	1 year	Ditto	35
Section 462	Punishment for same offence when committed by person entrusted with custody	1 year	Ditto	40

Note:

In this Schedule, a drug-related antecedent means a conviction under —

- (a) section 5, 6, 7, 8, 9, 10, 10A(1), 11, 11A(1), 12, 12A, 13, 14, 30(1), 31(2), 31A(2) or 40B(4)(a) of the Misuse of Drugs Act (Cap. 185);
- 5 (b) regulation 10(4), 12(5) or 15(6) of the Misuse of Drugs (Approved Institutions and Treatment and Rehabilitation) Regulations (Rg 3); or
- (c) regulation 12(1), (2) or (3) of the Misuse of Drugs (Controlled Equipment, Material and Substances) Regulations (Rg 7).

**Note:* The short description of offences in this Schedule is for ease of reference only.”.

10 **Renaming of Schedule**

20. The Prisons Act is amended by renaming the existing Schedule as the Second Schedule and by deleting the Schedule heading and reference and substituting the following Schedule heading and reference:

15 “DISQUALIFICATION FROM BEING RELEASED
ON HOME DETENTION

Section 53(1)(b)”.

Miscellaneous amendments

20 **21.**—(1) The Prisons Act is amended by deleting the word “Director” wherever it appears in the following provisions and substituting in each case the word “Commissioner”:

25 Sections 5(1), 6(1) and (2) and section heading, 7(1) and (2), 21, 22 and section heading, 24, 25, 26, 39(1) and (2) and section heading, 42(1) and (2), 43(1) and (2), 44(1), (3) and (5), 50A, 50C(1) and (2), 51 (definition of “home detention order”), 57(1), 60(2), 71(2), (3), (4), (5) and (6) and 84(2)(l).

(2) Section 53(1) of the Prisons Act is amended by deleting the words “the Schedule” in paragraph (b) and substituting the words “the Second Schedule”.

30 (3) Where in any written law or contract or other document, reference is made to the Director of Prisons or the Deputy Director of Prisons, such references shall be read as references to the Commissioner of Prisons and the Deputy Commissioner of Prisons, respectively.

Related amendments to other written laws

22. The provision of the Acts specified in the first column of the Schedule are amended in the manner set out in the second column thereof.

THE SCHEDULE

5

Section 22

RELATED AMENDMENTS TO OTHER WRITTEN LAWS

<i>First column</i>	<i>Second column</i>	
1. Banishment Act (Chapter 18, 1985 Ed.)		10
The Schedule	(i) Delete the words “Director of Prisons” wherever they appear in Form 1 and substitute in each case the words “Commissioner of Prisons”.	15
	(ii) Delete the words “Director of Prisons” wherever they appear in Form 3 and substitute in each case the words “Commissioner of Prisons”.	
2. Criminal Procedure Code (Chapter 68, 2012 Ed.)		20
(a) Sections 112(4), 304(3) and (4), 305(3) and (4), 313(a), (b), (i), (j), (k) and (l), 317(1) and (2), 324, 341(7) and 352(6)	Delete the words “Director of Prisons” wherever they appear and substitute in each case the words “Commissioner of Prisons”.	25
(b) Section 123	Insert, immediately after subsection (6), the following subsection: “(6A) If the accused is subject to a remission order made under the Prisons Act (Cap. 247) and it is intended to prove the remission order for the purpose of affecting the punishment the court is	30

THE SCHEDULE — *continued**First column**Second column*

competent to award, the charge must state —

(a) the fact of the remission order; and

(b) the remaining duration of the remission order on the date of the offence stated in the charge,

but if the statement is omitted, the court may add it at any time before sentence is passed.”.

3. Extradition Act
(Chapter 103, 2000 Ed.)

Second Schedule

(i) Delete the words “Director of Prisons” wherever they appear in Form 5 and substitute in each case the words “Commissioner of Prisons”.

(ii) Delete the words “the said Director” in Form 5 and substitute the words “the said Commissioner”.

(iii) Delete the words “Director of Prisons” wherever they appear in Form 6 and substitute in each case the words “Commissioner of Prisons”.

4. Intoxicating Substances Act
(Chapter 146A, 2001 Ed.)

(a) Section 2

(i) Insert, immediately after the definition of “article liable to seizure”, the following definition:

THE SCHEDULE — *continued*

<i>First column</i>	<i>Second column</i>	
	“ “Commissioner of Prisons” means the Commissioner of Prisons appointed under section 20 of the Prisons Act (Cap. 247);”.	5
	(ii) Delete the definition of “Director of Prisons”.	
(b) Section 19(1)(a), (2) and (3)	Delete the words “Director of Prisons” wherever they appear and substitute in each case the words “Commissioner of Prisons”.	10
(c) Section 25	Delete subsection (1) and substitute the following subsection: “(1) For the purpose of assisting him in the discharge of his duties under this Act, the Commissioner of Prisons may employ such number of auxiliary police officers as he considers fit as escorts or guards to ensure the safe custody of the inmates who are under his custody.”.	15 20
5. Misuse of Drugs Act (Chapter 185, 2008 Ed.)		
(a) Section 2	(i) Insert, immediately before the definition of “committee of inquiry”, the following definition: “ “Commissioner of Prisons” means the Commissioner of Prisons appointed under section 20 of the Prisons Act (Cap. 247);”.	25 30
	(ii) Delete the definition of “Director of Prisons”.	

THE SCHEDULE — *continued**First column**Second column*

5	<p>(b) Sections 33A(3) and 36(1)(a), (2) and (3)</p>	<p>Delete the words “Director of Prisons” wherever they appear and substitute in each case the words “Commissioner of Prisons”.</p>
10	<p>(c) Section 57</p>	<p>Delete subsection (1) and substitute the following subsection:</p> <p style="padding-left: 40px;">“(1) For the purpose of assisting him in the discharge of his duties under this Act, the Commissioner of Prisons may employ such number of auxiliary police officers as he considers fit as escorts or guards to ensure the safe custody of the inmates who are under his custody.”.</p>
15	<p>6. Parliament (Privileges, Immunities and Powers) Act (Chapter 217, 2000 Ed.)</p>	
20	<p>Section 30(5)</p>	<p>Delete the words “Director of Prisons” and substitute the words “Commissioner of Prisons”.</p>
25	<p>7. Penal Code (Chapter 224, 2008 Ed.)</p> <p>Section 227</p>	<p>Repeal.</p>
30	<p>8. Probation of Offenders Act (Chapter 252, 1985 Ed.)</p> <p>Section 2</p>	<p>Delete the words “Director of Prisons” in the definition of “prison officer” and substitute the words “Commissioner of Prisons”.</p>

THE SCHEDULE — *continued*

<i>First column</i>	<i>Second column</i>	
9. Singapore Armed Forces Act (Chapter 295, 2000 Ed.)		
Section 123	Delete the words “Director of Prisons” and substitute the words “Commissioner of Prisons”.	5
10. Singapore Corporation of Rehabilitative Enterprises Act (Chapter 298, 1985 Ed.)		10
(a) Section 4(1)	Delete the words “Director of Prisons” in paragraph (c) and substitute the words “Commissioner of Prisons”.	
(b) Section 15	Delete paragraph (e) and substitute the following paragraph: “(e) to provide any prisoner with work for the purposes of section 67 of the Prisons Act (Cap. 247);”.	15

EXPLANATORY STATEMENT

This Bill seeks to amend the Prisons Act (Cap. 247) for the following main purposes:

- (a) to provide a regime for the remission of certain sentences imposed on prisoners;
- (b) to introduce the external placement scheme; and
- (c) to make certain other changes to the administration of prisons.

The Bill also makes related amendments to certain other written laws.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to insert new definitions and to make consequential amendments to other definitions.

Clause 3 repeals and re-enacts section 20 —

- (a) to empower the Minister to appoint a Commissioner of Prisons (the Commissioner), a Deputy Commissioner of Prisons, and one or more Divisional Directors, Cluster Commanders or Superintendents of Prisons and such number of prison officers as may be necessary for the proper administration of the Act; and
- (b) to provide that the Deputy Commissioner of Prisons and every Divisional Director or Cluster Commander may, subject to any direction of the Commissioner, exercise the powers of the Commissioner.

Clause 4 repeals and re-enacts section 23 to allow the Deputy Commissioner of Prisons and any Divisional Director or Cluster Commander of Prisons to exercise and perform all or any of the powers, duties and functions of the Superintendent of Prisons, subject to any direction of the Commissioner.

Clauses 5(a), 9(b) and 21(1) make amendments to the Act that are consequential to the re-designation of the Director of Prisons as the Commissioner of Prisons.

Clause 5(b) amends section 34(1) to allow the Commissioner to employ auxiliary police officers as escorts and guards to ensure the safe custody of prisoners under his custody.

Clause 6 amends section 50B(1) to allow the Commissioner or any person authorised by the Commissioner to employ auxiliary police officers as escorts or guards to ensure the safe custody of lock-up prisoners under his custody or the custody of any person authorised by him.

Clause 7 inserts a new Part VB (comprising 7 Divisions (new sections 50E to 50ZG)) to make provision for the remission of sentences of terms of imprisonment.

The new section 50E states the purposes of remission of sentences granted under new Part VB, and provides that new Part VB does not apply to prisoners committed for debt.

The new section 50F provides that a prisoner is entitled to be released on the day a remission order is made in respect of him or when his sentence of imprisonment is remitted. A person who is released and at large under a remission order is deemed not to be in the legal custody of the Commissioner.

The new Division 2 relates to remission orders for prisoners sentenced to certain terms of imprisonment.

The new section 50G provides that Division 2 applies where a prisoner is sentenced to one or more terms of imprisonment that is not a default sentence, and is not also sentenced to life imprisonment.

The new section 50H provides for the circumstances that a prisoner is entitled to have his sentence remitted. Such remission will be in accordance with and subject to the provisions of the Act.

The new section 50I provides for the time at which the Commissioner is required to make a remission order, and the power of the President to order the Commissioner not to make a remission order, or defer making a remission order, in respect of a prisoner who has committed a grave offence while serving his sentence.

The new section 50J provides that where a prisoner has served 20 years of his sentence but the Commissioner is not required to make a remission order under new section 50I, the Minister is required to review the prisoner's case and may, in his discretion, direct the Commissioner to make a remission order. If the Minister does not direct the Commissioner to make a remission order, he is required to review the prisoner's case at intervals not exceeding 12 months. This is intended to bring the treatment of such prisoners in line with the treatment for prisoners sentenced to life imprisonment.

The new section 50K provides for the effect of a remission order on the sentence of a prisoner. Generally, when a remission order is made, the remainder of a prisoner's sentence will be suspended and will be remitted when the remission order expires. In determining the remainder of a prisoner's sentence —

- (a) the unserved portions of terms of imprisonment other than default sentences will be counted;
- (b) the unserved portions of default sentences will generally not be counted and will be remitted; and
- (c) for prisoners released under a remission order made under section 50J, the portion of their sentences from the date of the remission order to the date on which the Commissioner is required to make a remission order under section 50I will be counted, even where it is attributable to a default sentence.

The new section 50L provides for the duration of a remission order. A remission order has effect for a period, commencing from the date the remission order is made, equivalent to the remainder of a prisoner's sentence as determined under section 50K and will expire on the last day of that period.

The new section 50M provides for the merger of a remission order with a subsequent remission order, and for the date of expiry of the merged remission order.

The new section 50N provides for the extension of the duration of a remission order in certain circumstances where the person released under the remission order is unlawfully at large. In effect, the remaining duration of a remission order will not be reduced in such circumstances.

The new Division 3 relates to remission orders for prisoners sentenced to life imprisonment.

The new section 50O provides that Division 3 applies —

- (a) where a prisoner is sentenced to life imprisonment for an offence committed on or after 21st August 1997, whether or not he is also sentenced to one or more terms of imprisonment;
- (b) where a prisoner's sentence of death for an offence committed on or after 21st August 1997 is or has been commuted to life imprisonment under section 334 of the Criminal Procedure Code (Cap. 68) or section 238 of the repealed Criminal Procedure Code (Cap. 68, 1985 Ed.); and
- (c) where a prisoner is sentenced to detention during the President's pleasure under section 213 of the repealed Criminal Procedure Code.

A sentence of life imprisonment for an offence committed before 21st August 1997 is deemed to be a sentence of imprisonment for a term of 20 years, following the decision of the Court of Appeal in *Abdul Nasir bin Amer Hamsah v. Public Prosecutor* [1997] 2 SLR(R) 842.

The new section 50P provides that where a prisoner has served 20 years of his sentence of life imprisonment, the Minister is required to review the prisoner's case and may, in his discretion, direct the Commissioner to make a remission order. If the Minister does not direct the Commissioner to make a remission order, he is required to review the prisoner's case at intervals not exceeding 12 months.

The new section 50Q provides for the effect of a remission order under the new section 50P on a sentence of life imprisonment.

The new section 50R provides for the duration of a remission order under the new section 50P.

The new Division 4 relates to the basic condition of a remission order.

The new section 50S provides that a remission order made under Division 2 or 3 will be subject to the basic condition that the person released under the remission order must not commit an offence while he is subject to the remission order, and be punished with imprisonment, corrective training, reformatory training or preventive detention for that offence. A prisoner on remission order will not be in breach if other forms of punishment are imposed for the offence.

The new section 50T provides for the power of the court to impose an enhanced sentence on a person who commits an offence in breach of the basic condition of a remission order. The maximum duration of the enhanced sentence depends on the remaining duration of the remission order at the time the offence was committed.

The new Division 5 relates to the mandatory aftercare scheme.

The new section 50U describes the scope of application of the new Division 5.

The new section 50V empowers the Commissioner to require a person to whom Division 5 applies to comply with mandatory aftercare conditions. The new section also sets out the mandatory aftercare conditions.

The new section 50W provides that compliance with mandatory aftercare conditions is not required in certain circumstances.

The new section 50X provides for the power of the Commissioner to recall a person released on remission order to prison, or to impose certain other punishments, for a minor breach of a mandatory aftercare condition.

The new section 50Y provides for a serious breach of a mandatory aftercare condition to be an offence and the punishment for such offence.

The new section 50Z provides for certain powers of a prison officer when a person commits a serious breach of a mandatory aftercare condition. The maximum duration of imprisonment that can be imposed for an offence depends on the remaining duration of the remission order at the time of the offence.

The new Division 6 relates to the remission of default sentences.

The new section 50ZA provides that Division 6 applies to a prisoner whose sentence of imprisonment consists wholly of default sentences for offences committed before, on or after the appointed day, which is the operative date for the new Part VB.

The new section 50ZB provides that new section 50I (relating to the time at which the Commissioner is required to make a remission order) will apply to a prisoner to whom Division 6 applies, but with certain modifications. This is intended to preserve the existing position for such prisoners.

The new Division 7 makes transitional provisions. The provisions are intended to preserve the existing position for the remission of sentences for offences committed before the operative date for the new Part VB.

The new section 50ZC provides that Division 6 applies to a prisoner —

- (a) convicted before, on or after the appointed day;
- (b) whose sentence of imprisonment does not include a sentence of life imprisonment for an offence committed on or after 21st August 1997; and
- (c) whose sentence of imprisonment includes a term of imprisonment committed before the appointed day.

A sentence of life imprisonment for an offence committed before 21st August 1997 is deemed to be a sentence of imprisonment for a term of 20 years for this purpose, following the decision of the Court of Appeal in *Abdul Nasir bin Amer Hamsah v. Public Prosecutor* [1997] 2 SLR(R) 842.

The new section 50ZD applies to a prisoner whose sentence of imprisonment, apart from default sentences, consists wholly of terms of imprisonment imposed for offences committed before the appointed day.

The new section 50ZE applies to a prisoner whose sentence of imprisonment, apart from default sentences, consists of terms of imprisonment imposed for offences committed both before the appointed day, and on or after the appointed day.

Generally, under the new sections 50ZD and 50ZE —

- (a) default sentences and sentences for offences committed before the appointed day will be remitted by operation of law consistently with the existing position;
- (b) sentences for offences committed on or after the appointed day will be remitted under a remission order made under section 50I; and
- (c) prisoners who have served 20 years or more of their sentences will have their sentences reviewed by the Minister in accordance with section 50J, who may in his discretion direct the Commissioner to make a remission order. This is to bring the treatment for such prisoners in line with the treatment for prisoners sentenced to life imprisonment.

The new section 50ZF provides for the application of Division 4 (relating to the basic condition of a remission order) and Division 5 (relating to the mandatory aftercare scheme) in respect of certain prisoners.

The new section 50ZG provides for the power of the Minister to make further provisions of a savings or transitional nature for 2 years after the appointed day.

Clause 8 repeals and re-enacts section 52 to clarify that a home detention order is for the purpose for facilitating a prisoner's rehabilitation and his reintegration into society, to distinguish a home detention order from an external placement order under the new Part VIA.

Clause 9(a) replaces section 54 to update the conditions to be complied with by a prisoner subject to a home detention order.

Clause 10 amends section 57(1) to clarify that the Commissioner may revoke a home detention order only after due inquiry.

Clause 11 amends section 59 to confer powers to enter and search a place without a warrant to effect the arrest of a prisoner who has failed to return to prison after the Commissioner revokes the prisoner's home detention order under section 57(1).

Clause 12 inserts a new Part VIA (comprising new sections 59A to 59I) to create the External Placement Scheme, which is modelled after the Home Detention Scheme in the existing Part VI.

The new section 59A defines certain terms used in the new Part VIA.

The new section 59B empowers the Minister to direct the Commissioner to make an external placement order in respect of a prisoner if the Minister is of the view that it is more appropriate for a prisoner to serve his sentence in a place other than a prison. The external placement order may be for a duration of up to 12 months and may be renewed for 12 months at a time. In determining whether it is more appropriate for a prisoner to serve his sentence in a place other than a prison, the Minister is to have regard to certain factors.

The new section 59C provides that a prisoner released on an external placement order shall be deemed to be serving his sentence of imprisonment and to be in the lawful custody of the Superintendent.

The new section 59D sets out the conditions to be complied with by a prisoner subject to an external placement order, and provides for the power of the Commissioner to vary, cancel, add to or exempt a prisoner from such conditions.

The new section 59E provides for certain powers of the Superintendent to recall the prisoner to prison if he has reason to suspect that a prisoner has failed to comply with any of the conditions of the external placement order.

The new section 59F provides for the power of the Commissioner to revoke an external placement order in certain circumstances, and the effect of such revocation.

The new section 59G provides for the suspension of an external placement order in certain circumstances.

The new section 59H provides for the power of the Minister to cancel an external placement order and the effect of such cancellation.

The new section 59I provides for certain powers of the police.

Clause 13 repeals and re-enacts section 66 to update the list of unauthorised articles for the purposes of that section and to provide for offences relating to such unauthorised articles.

Clause 14 repeals and re-enacts section 67 to clarify that labour for prisoners is a privilege and not a requirement.

Clause 15 inserts a new section 77A to make statutory provision for the power of a Superintendent to restore to a prisoner any remission forfeited by the prisoner.

Clause 16 repeals and re-enacts section 82 to provide for the power of the Minister to amend the First and Second Schedules.

Clause 17 amends section 83 to provide that any District Court or Magistrate's Court will have jurisdiction to impose the full enhanced sentence under section 50T for an offence committed in breach of the basic condition specified

under section 50S, if it has the jurisdiction to try the offence under the Criminal Procedure Code.

Clause 18 amends section 84(2) to clarify the regulation-making power of the Minister.

Clause 19 inserts a new First Schedule listing the offences and, where applicable, the minimum sentence and relevant antecedents for the offence, which are subject to a mandatory aftercare scheme.

Clause 20 renames the existing Schedule as the Second Schedule and replaces the Schedule heading and reference.

Clause 21(1) makes amendments to the Act that are consequential upon the re-designation of the Director of Prisons and the Deputy Director of Prisons as the Commissioner of Prisons and the Deputy Commissioner of Prisons, respectively.

Clause 21(2) makes an amendment to section 53(1) consequential upon the renaming of the Schedule.

Clause 21(3) provides for references to the Director of Prisons or the Deputy Director of Prisons in any written law or contract or other document to be read as references to the Commissioner of Prisons and the Deputy Commissioner of Prisons, respectively.

Clause 22 and the Schedule make related amendments to certain other written laws. Significantly —

- (a) a new subsection (6A) is inserted into section 123 of the Criminal Procedure Code to require the fact and duration of a remission order to be stated in a charge if the remission order is sought to be relied upon in sentencing;
- (b) section 25 of the Intoxicating Substances Act (Cap. 146A) and section 57 of the Misuse of Drugs Act are amended to allow the Commissioner to employ auxiliary police officers as escorts and guards to ensure the safe custody of prisoners under his custody; and
- (c) section 227 of the Penal Code is repealed in view of the amendments made by the Bill relating to the remission of sentences.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
