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SUMMARY OFFENCES LAW AND PRACTICE QUEENSLAND

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UPDATED COMMENTARY

Annotations have been included in the following:

Penalties and Sentences Act 1992

Cumulative sentences and declaring pre-sentence custody

See [PSA.159A.20], particularly the discussion of *R v Whitely* [2021] QSC 154; *R v Wilson* [2022] QCA 18 and *R v Braeckmans* [2022] QCA 25 for a consideration of declarations of pre-sentence custody in cases of cumulative sentences of imprisonment following the amendment to s 159A removing the requirement that time spent in pre-sentence custody be only for the offences being dealt with “and for no other reason”. See [PSA.156A.70].

Presentence custody: s 159A (old s 161(1))

In *R v Whitely* [2021] QSC 154, Bowskill J considered s 159A as amended. Her Honour noted that the section, prior to its amendment left “no question of time the offender had served, under a sentence of imprisonment previously imposed, being the subject of a declaration of time served under s 159A, in respect of other offences.” See [PSA.159A.20].

Calculating a new parole eligibility date

When fixing a new parole eligibility date for a prisoner who has been sentenced to a further term of imprisonment, the court must set a date that relates to the entire period of imprisonment being served, but it is not necessary that this date be calculated “as some proportion of the period of imprisonment”. See [PSA.160E.10].

Bail Act 1980

Practice Notes

In *Re DNV* [2020] QSC 276 in which His Honour refused to include a condition of a bail undertaking which would see that the person “may be excused from compliance with the conditions of the undertaking generally or for a specific period with prior written consent of the Office of the Director of Public Prosecutions.” See [BA.11.80].

Powers of the Supreme Court with respect to s 11A

In *Attorney-General v WTA* (2020) 5 QR 710, Davis J determined that, while a release order under s 11A is not a grant of bail, the powers of the Supreme Court under s 10 (General powers as to bail) extend to such orders, having regard to the Act “as a whole and the scheme thereby established”. See [BA.11A.20].

Application of certain provisions of the Youth Justice Act 1992 on a review

In *Re JRP* [2022] QSC 33, North J considered the application of two provisions of the *Youth Justice Act 1992* to an application for review under s 19B. See [BA.19B.40].