



# Parole

## Information Kit



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## Introduction

Parole is the release of a prisoner after they have completed part of their prison sentence. Most prisoners will be eligible for release on parole at some point during their term of imprisonment but not all prisoners can or will be released on parole. Parole eligibility dates and the rules regarding parole depend on what type of sentence the prisoner has received and other factors.

The Prisoner's Review Board ('the Board') is the main authority in Western Australia to grant, defer or refuse parole and takes into account factors affecting the offender, victims of crime, and the safety of the community.

The *Sentence Administration Act 2003* (WA) ('the Act') is the main source of law for parole in Western Australia and governs the Prisoner's Review Board.

The aim of this kit is to provide information on:

- parole generally;
- eligibility for parole; and
- the Prisoners Review Board process.

It is designed to help prisoners:

- who are eligible for parole, to apply for parole;
- to seek a review of a decision regarding parole; and/or
- to re-apply for parole.

## Who should read this kit

- Prisoners who have been sentenced to a term of imprisonment for 6 months or more and have been given a parole eligibility order by the court.
- Prisoners eligible to be considered for parole at a date set by a court including life sentences.
- Prisoners who have been denied parole, including life-sentence prisoners.
- Prisoners who have had their parole suspended or cancelled.

## Definitions and terms

Please find below an explanation of some of the words used in this kit.

Term	Definition
<b>Authorised person</b>	The registrar or a member of the Prisoner's Review Board, or a departmental officer performing certain functions (the <i>Act</i> s 108(1)).
<b>Discretionary</b>	Something decided by an exercise of judgment.
<b>Governor</b>	The Governor is the Queen's representative in WA..
<b>Mandatory</b>	Must be done.
<b>Minister</b>	In this kit means the Minister for Corrective Services.
<b>Natural justice</b>	The same meaning as procedural fairness and is concerned with the procedures used by a decision-maker. It requires that a fair and proper procedure be used when making a decision. For example, a hearing appropriate to the circumstances, lack of bias, evidence to support a decision, and an inquiry into matters in dispute.
<b>Re-socialisation</b>	A programme of a prescribed kind, that can be provided under the <i>Prisons Act 1981 (WA)</i> , to address specific issues and to better equip a prisoner for re-entry into the general community.
<b>Superintendent</b>	The superintendent or other officer or prison officer who is at the relevant time in charge of a prison.
<b>Prescribed prisoner</b>	A prisoner who (under s 23(1) of the <i>Act</i> ): <ul style="list-style-type: none"> <li>• is serving a term for a serious offence;</li> <li>• was released from serving a term for a serious offence in the 5 years before the commencement of the term that the prisoner is now serving; or</li> <li>• was subject to an early release order that was cancelled in the 2 years before the commencement of the term that the prisoner is now serving.</li> </ul>
<b>Prescribed term</b>	Under the <i>Sentencing Act 1995 (WA)</i> , a term imposed for a prison offence (prison offence means a minor prison offence or an aggravated prison offence), or a term imposed for escaping lawful custody.
<b>Serious offence</b>	Offences contained in Schedule 2 of the <i>Act</i> , namely any of these provisions of the Criminal Code: <ol style="list-style-type: none"> <li>a) Homicide, Suicide, Concealment of birth;</li> <li>b) Offences endangering life or health;</li> <li>c) Assaults;</li> <li>d) Sexual offences;</li> <li>e) Offences against liberty;</li> <li>f) Threats;</li> <li>g) Stalking;</li> <li>h) Robbery, Extortion by threats;</li> <li>i) Facilitating sexual offences against children outside WA</li> </ol> or an offence under s 60 of the <i>Censorship Act 1996 (WA)</i> or ss 61(1), 61(1A) or (2a) of the <i>Restraining Orders Act 1997 (WA)</i> .

## When are you eligible for parole?

### Prisoners serving 6 months or more

Sections 19 and 20 of the *Act*:

- A court may order that a prisoner serving 6 months or more be eligible for parole.
- The date for parole eligibility is determined by the term of imprisonment imposed. If the term is:
  - 4 years or less – when the prisoner has served one-half of the term; or
  - More than 4 years – when the prisoner has served 2 years less than the term. For example, if the sentence is 7 years 6 months imprisonment, the prisoner will be eligible for parole at 5 years 6 months.
- The Board **must** consider the prisoner for parole **before** the eligibility date, however, the prisoner cannot be released on parole before the eligibility date.
- A prisoner cannot be released on parole on their eligibility date if they are sentenced to another finite sentence on other charges that continues past their original eligibility date.
- A prisoner cannot be released on parole if they are remanded in custody on other charges.
- A prisoner who is subject to deportation, removal, or extradition is not released into the community after serving the non-parole part of their sentence but is released into the custody of the appropriate officer for deportation, removal, or extradition.

### Prisoners sentenced to life imprisonment

Section 25 of the *Act* states:

- The Board cannot parole these prisoners. Only the Governor can determine the release of prisoners serving life imprisonment.
- Prisoners sentenced to life imprisonment for an offence other than murder:
  - are first eligible for release on parole 7 years after the day on which the sentence began;
  - if not released on parole, will then be considered for parole every 3 years after that.
- Prisoners sentenced to life imprisonment for an offence of murder, where the court orders parole eligibility:
  - are eligible for parole at the end of the minimum period stated by the sentencing court. *For example*, life imprisonment with a minimum of 17 years to be served;
  - if not paroled at the first eligible date, will be re-considered for parole every 3 years after that.

### Prisoners sentenced to indefinite imprisonment

Only the Governor can determine the release of prisoners serving indefinite imprisonment.

These prisoners are first eligible for parole after the completion of the minimum finite term of their sentence of imprisonment and if not released, will be re-considered for parole every 3 years after that.

### Re-socialisation programme

In almost all cases, a prisoner sentenced to life or indefinite imprisonment must complete a re-socialisation programme in order to be released on parole.

Re-socialisation programmes are designed to gradually reintegrate life/indefinite sentenced prisoners into the community to reduce the likelihood of re-offending and improve community safety.

Life and indefinite sentenced prisoners must be assessed for their suitability for the programme 2 years prior to their eligibility for parole.

Approval for these prisoners to participate in the programme is subject to consideration by the Department of Corrective Services, the Prisoners Review Board, and the Attorney General. Final approval must be granted by the Governor.

The assessment is based on a range of factors, including the prisoner's security rating, completion of recommended treatment programs, general conduct and behaviour in prison, victim issues; the prisoner's risk of re-offending and their suitability for release into the community upon completion of the programme. Prisoners are not guaranteed entry into a re-socialisation programme.

A re-socialisation programme generally consists of several stages and activities, with the prisoner expected to complete all requirements of each stage before being approved for progress to the next stage. A prisoner can be removed from a re-socialisation programme at any stage if they fail to meet the requirements.

The duration of a re-socialisation programme is tailored to meet the individual prisoner's risks and needs. Typically, a prisoner on a re-socialisation programme will be placed at a minimum-security facility, undertake supervised and unsupervised external activities, and develop their community supports through the Re-Integration Leave program.

The prisoner will also generally undertake components of the Prisoner Employment Program that includes seeking employment, work experience, vocational training, and/or paid employment.

## What the Board considers

The Board must consider the release considerations set out in s 5A of the *Act*.

The release considerations are as follows:

- 1) **The degree of risk to the community**, which includes:
  - the prisoner committing an offence when on parole;
  - the likely nature and seriousness of any such offence; and
  - the personal safety of people in the community or any individual in the community.
- 2) **The circumstances and seriousness of the offence** for which the prisoner is in custody.
- 3) Any **remarks by the court that sentenced the prisoner** to imprisonment that are relevant to (1) or (2) above.
- 4) **Issues for any victim** of the offence for which the prisoner is in custody, if the prisoner is released, including matters in a victim's submission.
- 5) The **behaviour of the prisoner when in custody** to the extent it is relevant to how the prisoner is likely to behave if released.
- 6) **Whether the prisoner has participated in programmes** available to them when in custody and if not, the reasons for not doing so.
- 7) **Prisoner's performance when participating in a programme**
- 8) **Behaviour of the prisoner when subject to any previous release order.**
- 9) The **likelihood of the prisoner committing an offence when on parole.**
- 10) The **likelihood of the prisoner complying with the standard obligations and any additional requirements of an early release order.**
- 11) **Any other consideration that is or may be relevant** to whether the prisoner should be released.





## Examples of factors for and against being approved for parole

Factors in favour of getting parole	Factors against getting parole
Clean record apart from the current offence	Previous offending prior to the current offence
Done what is required under a community order in the past	Has a history of not doing what is required under community orders or has shown a lack of regard for court orders or authority
Completed a re-socialisation programme	Not started or finished a re-socialisation programme
Taken steps to address the offending behaviour – including participation and/or completion of programmes	Failed to make a genuine effort to undertake available programmes
Shown to have future plans – eg accommodation, employment	No or limited plans for release
Excellent/good behaviour in prison	Bad behaviour in prison
First time seeking release on parole, or been released on parole previously and not committed offences whilst on parole	Been released on parole previously and committed offences whilst on parole
Supervision and conditions of parole will assist in treatment gains	Further treatment gains required before being able to be released on parole.
If convicted of a sexual offence and/or violent offence, has completed specific programmes	Current offending is of a violent or sexual nature, but specific programmes not completed.
If abuse of alcohol or drugs contributed to offending behaviour, completed specific programmes	History of substance abuse contributed to offending but this has not been addressed.

## What the Board will receive

Depending on what type of sentence of imprisonment the prisoner is serving, the Board will be provided with a Parole Review Report and/or Parole Review Checklist and a Community Corrections Officer parole assessment report before the parole eligibility date in order to consider the prisoner's suitability for parole. The Board does not permit legal representation at the hearing when parole is considered.

## Checklist and Report<sup>1</sup>

If you are a prisoner serving 6 months or more and the court made a parole eligibility order at the time of sentence, you will be assessed for parole on the basis of the **Parole Review Checklist and Community Corrections parole report**, as well as your parole plan and any other relevant documents

- The Parole Review Checklist is completed by the prison and received by the Board at least 8 weeks prior to your earliest eligibility date (EED) for release on parole. Any relevant

<sup>1</sup> Department of Corrective Services, *Policy Directive 78 – Parole - Procedures*

documentation such as your parole plan, treatment reports, and letters of support will be sent with the Checklist.

- The Checklist will include all relevant information for the Board and comments from the Superintendent. The Superintendent's recommendations will include whether parole should be unsupervised or supervised, any conditions of release, and the reasons for these recommendations.
- The Checklist and report will cover the release considerations set out above, as well as any other relevant matters such as extradition or deportation issues, an educational/vocational summary, medical/mental health issues, release plans, and outstanding court matters.
- If you are a prisoner seeking review or re-applying for parole, you will have a further parole review checklist or parole addendum report completed and forwarded to the Board at least 14 days prior to the review date. Any relevant documentation, as above, will be sent with the report. See further under "If you are denied parole" below.

If you are a prisoner serving a sentence of **life imprisonment** or **an indefinite term of imprisonment** you will have a Parole Review – EXCO (Executive Council) Approval report completed.

- Any relevant reports, such a psychological report, will also be considered when completing this report.
- This report and any relevant documentation will be forwarded to Sentence Management, who will then forward these with a covering letter to the Board.
- If you are a prisoner on a re-socialisation programme then a re-socialisation programme progress report will also be provided to the Board.
- The Board will forward a report and recommendation to the Minister, who will then advise the Governor. The Governor is the only person who can release on parole, prisoners with this type of sentence.

## **What to include in your application/submission to the Board**

As mentioned above, the Board will receive a checklist/report, which will be completed with you. You can also submit any additional relevant documents such as your parole plan, treatment reports, and letters of support.

The additional documents should include the following information.

### **1. Background**

- What led to your imprisonment?
- Family, friends, spouse.
- Past education and work history.
- Any past drug or alcohol problems.
- Health and recreational activities.

### **2. Prisoner's attitudes**

How you feel about the offending behaviour:

- how you think it affected the victims
- how have you tried to assess the behaviour and make changes
- how your past contributed to the offending behaviour, and
- how you will change that when you leave prison.

Your time in prison:

- offences that may have occurred
- your activities, including recreational, educational and work, and
- interactions with others in the prison.

3. Future plans

- Immediate and long term goals.
- How you will deal with your past and future problems
- Your main concerns
- Employment or training opportunities
- Future accommodation
- Future education
- Plans to start or continue with treatment programs.

4. References

- Ensure that all future plans are supported with references – such as a letter from your prospective employer or a letter confirming accommodation.

## The Board's decision

The Board must give a prisoner written notice of any decision made about them as soon as possible after the decision is made (s 107B). However, under s 114 of the *Act*, the Board may withhold the reasons for a decision if it is in the public interest to do so.

Under s 115 of the *Act* the rules of natural justice (procedural fairness), do not apply to certain actions by the Governor, the Minister, the Board, an authorised person, or the CEO. This applies to s 115A, which includes when the Board may review decisions about release.

## If you are denied parole

### Getting an adverse decision

If you have received an adverse decision about being released on parole you can request a review under s 115A(5) of the *Act*, or you can re-apply.

### Seeking a review

The request for a review must be on the grounds that the person who made the decision either (section 115A(6)):

- did not comply with the *Act* or regulations;
- made an error of law; or
- used incorrect or irrelevant information or was not provided with relevant information.

The request must (section 115A(7)):

- be in writing;
- state the reasons for seeking the review; and
- include any submissions that the applicant wants to make to the Board about the decision concerned and the reasons for it.

Once this request is made the chairperson of the Board must consider it and review the decision and may:

- confirm, amend or cancel the decision;
- make another decision; or
- refer the decision to the Board for further consideration.

The 'review' however is not a reviewable decision as provided for in s 115A(4) of the *Act*. This means the prisoner is limited to only one review.

### **Re-applying for parole**

Once you have reached the date of eligibility for parole, you may apply for release on parole at any time and as many times as you like during your sentence. However, you must show that your circumstances have changed since your previous application for parole was denied, cancelled or suspended.

For example, if outstanding treatment needs were a factor for you not being approved parole, you must be able to show that you have participated in or completed relevant treatment programmes and can show positive outcomes from those programmes.

If you are denied parole or have had your parole cancelled there is no obligation for the Board to reconsider you for parole again, it will usually only be considered by a prisoner-initiated application. This does not apply to prisoners serving life imprisonment or indefinite imprisonment where there are set times for review in the legislation, as noted above.

### **What happens if you receive parole?**

If you are approved for parole, a parole order will be made stating the date that parole starts and ends, whether it is supervised or unsupervised, and the obligations of the parole order.

You will have to acknowledge in writing that you understand and will comply with the standard obligations of the parole order, and any additional requirements if applicable. These obligations/requirements are to ensure that you can integrate back into the community and require you to have regular contact with a community corrections officer ('CCO').

### **Standard obligations (s 29 and s 76 of the Act)**

The standard obligations include:

- Reporting to a community corrections centre within 72 hours after being released, or as directed by a CCO;
- Notifying a CCO of any change of address or place of employment within 2 working days after the change;
- Complying with the lawful orders or directions of any CCO;
- If under a community corrections order, doing community work and/or community corrections activities as the manager of a centre determines and directs and doing that work to the satisfaction of the person supervising the work;
- If under a pre-sentence order or a community corrections order and the person on parole is:
  - at a centre;
  - doing community work;
  - doing community corrections activities; or
  - performing any requirement of a programme,

- they must follow specific rules set out in s 76(4) of the *Act*;
- Any other obligations on the offender under s 76 of the *Act*.

### Additional requirements (s 30 of the *Act*)

The additional requirements can include:

- where the prisoner must reside;
- anything to prevent a victim of the offence from coming into contact with the prisoner;
- the prisoner must wear a device for monitoring purposes;
- the prisoner must allow the installation of any monitoring device or equipment at their place of residence;
- if the CEO of community corrections so directs, the prisoner must:
  - wear a monitoring device;
  - allow the installation of any monitoring device or equipment at their place of residence;
- the prisoner must not leave Western Australia except with and in accordance with the written permission of the CEO;
- anything to facilitate the prisoner's rehabilitation;
- the prisoner must, in each period of 7 days, do the prescribed number of hours of community corrections activities;
- the prisoner must:
  - seek or engage in gainful employment or in vocational training; or
  - engage in gratuitous work for an organisation approved by the CEO;
- any other requirements.

The following is an **example** of a parole order:

A prisoner is released on parole for a six-month period of supervision subject to the standard obligations under section 29 of the *Sentence Administration Act 2003* with the following additional requirements:

- attend substance abuse counselling;
- provide random urinalysis for all illicit drugs; and
- not to drive whilst legally disqualified to do so.

### What happens if you breach parole?

If any conditions or requirements of parole are breached during the supervision period then it is likely that your parole will be suspended or cancelled and you will be arrested and returned to prison.

**Examples** of breaches include:

- Being charged with new offences
- Testing positive to drugs or alcohol
- Possessing drugs or alcohol
- Admitting to using drugs or alcohol
- Being in a place from which you have been prohibited while on parole
- Failing to report for supervision
- Failing to attend urinalysis

- Disorderly conduct
- Failing to attend treatment programmes or counselling

As conduct when on parole is a release consideration, the outcome of your parole being cancelled or suspended will have a negative effect in any future application for parole.

### **Suspension of parole**

If your parole is suspended, you become liable to resume serving the rest of your sentence in prison unless you successfully apply to have the suspension lifted.

### **Cancellation of parole**

If your parole is cancelled, you become liable to resume serving the rest of your sentence in prison unless you successfully apply for another parole order in relation to that sentence at a later stage.

### **Automatic cancellation of parole if imprisoned for new offence committed while on parole**

If you are on parole and you are imprisoned for committing an offence, your parole will automatically be cancelled. You will then have to serve the remainder of your old sentence and the new sentence. This rule applies even if you have finished your parole by the time you are sentenced for the new offence.

How much of the old sentence you must serve depends on how long you were on parole before the new offence occurred. You get credit on your old sentence for “clean street time” which is the period between your release and when the new offence was committed.

### **How to ensure you do not breach parole**

When a parole order is made in your favour it is essential that you understand all the conditions that you must follow including the standard requirements and any additional requirements.

It is important to understand that once any of the conditions are breached, you may not be given a second chance, as one breach is enough to have your parole cancelled or suspended.

### **Programmes**

Participation and completion of relevant programmes in prison is a key part of a prisoner’s rehabilitation and greatly affects the chances of being released on parole.

During case management, you will be assessed for the appropriate programmes based on your individual needs. You will be placed into the programme/s as they become available. Your case officer is the best contact for information on the availability and schedule of relevant programmes.

In regard to parole, you will need to participate and/or complete and show sufficient gains in the treatment programmes applicable to you. Programmes can range from general offending programmes to specific programmes relevant to the offending the subject of your conviction, including violent offending, sexual offending, and substance abuse.

### **How Legal Aid WA can assist with parole issues**

Legal Aid WA can provide general information on parole issues. If you would like to speak to Legal Aid you should put your name down to see Legal Aid representative when they visit your prison. If there is no regular visit by Legal Aid to your prison, contact the nearest Legal Aid WA office to arrange to speak to someone. Contact details are at the end of this kit.

## Example letter – seeking review of a parole decision

SAMPLE LETTER ONLY  
Please use as a guide only

**[Date of the letter]**

Prisoners Review Board  
GPO Box C127  
PERTH WA 6839

Dear Chairperson of the Board,

**RE: REQUEST FOR REVIEW OF [STATE THE TYPE OF DECISION HERE]**

I refer to the Prisoner's Review Board decision of **[Insert the DATE of the decision]**, to **[State the DETAILS OF THE DECISION, e.g., denied parole]**.

I seek a review of the above decision based on the ground/s that the person who made the decision **[State the grounds – must be either:**

- **did not comply with this Act or the regulations;**
- **made an error of law; or**
- **used incorrect or irrelevant information or was not provided with relevant information.]**

**[Provide the exact reasons for the request and attach information].**

In addition to the above reasons I attach **[name of document]** to show **[reason for the document]**.

Thank you for your time in reviewing my case. I look forward to hearing from you and receiving written notice of your decision.

Yours sincerely

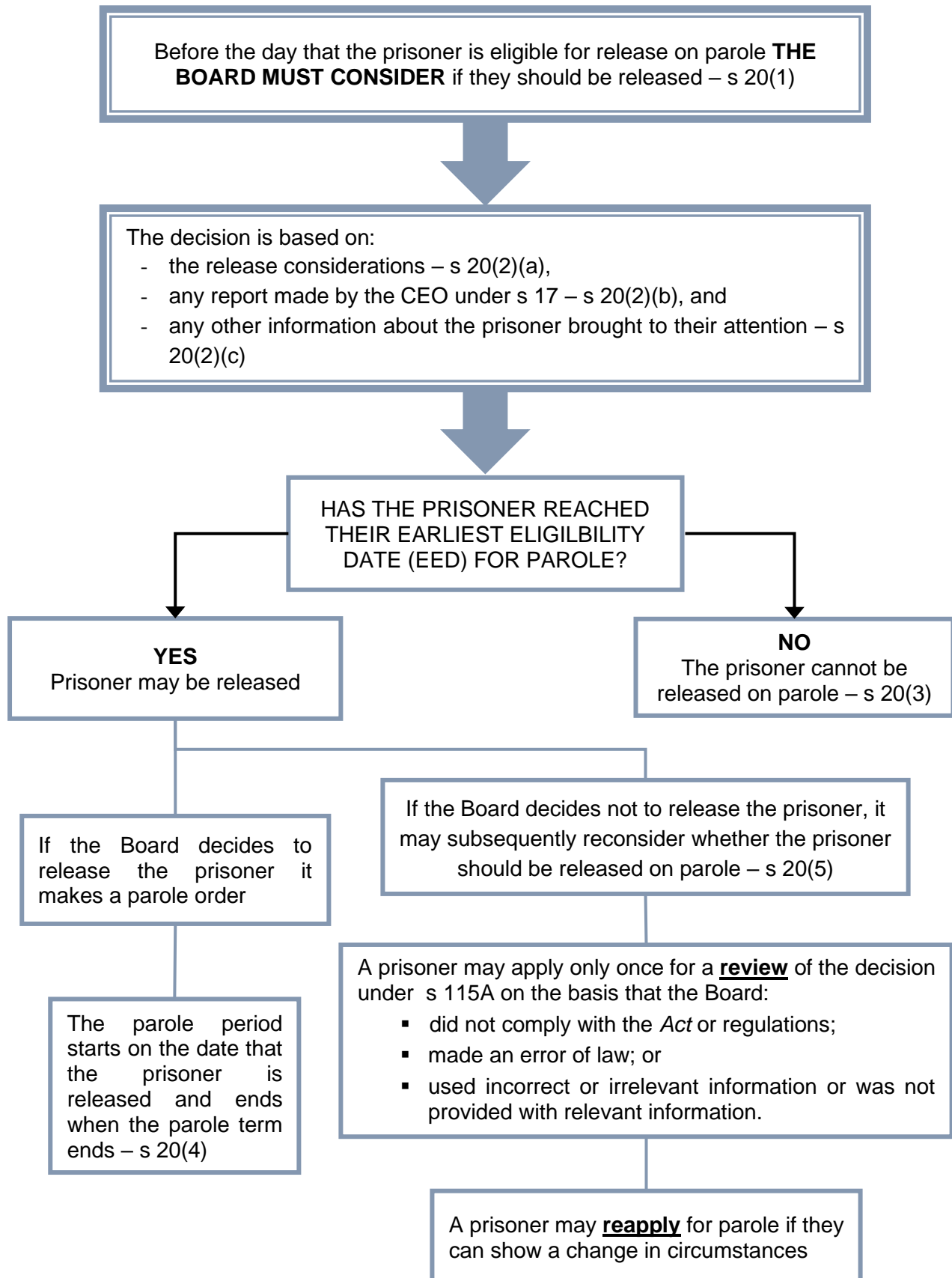
**[SIGN HERE]**

**[PRINT YOUR NAME HERE]**

**[PRISON YOU ARE AT]**

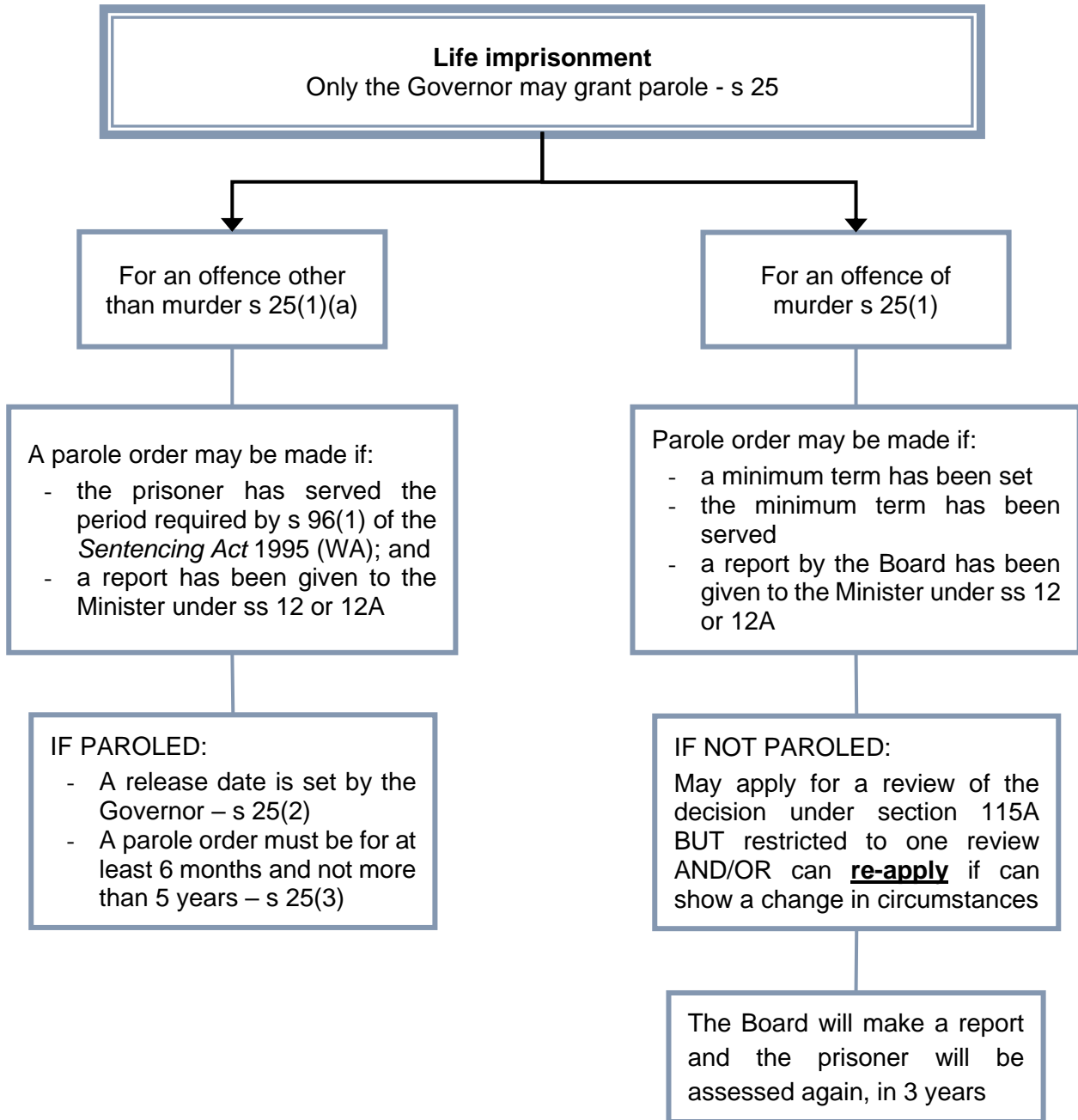
The *Sentence Administration Act 2003* (WA) applies to the following charts unless otherwise stated.

**CHART – Prisoners serving 6 months or more with parole eligibility order**



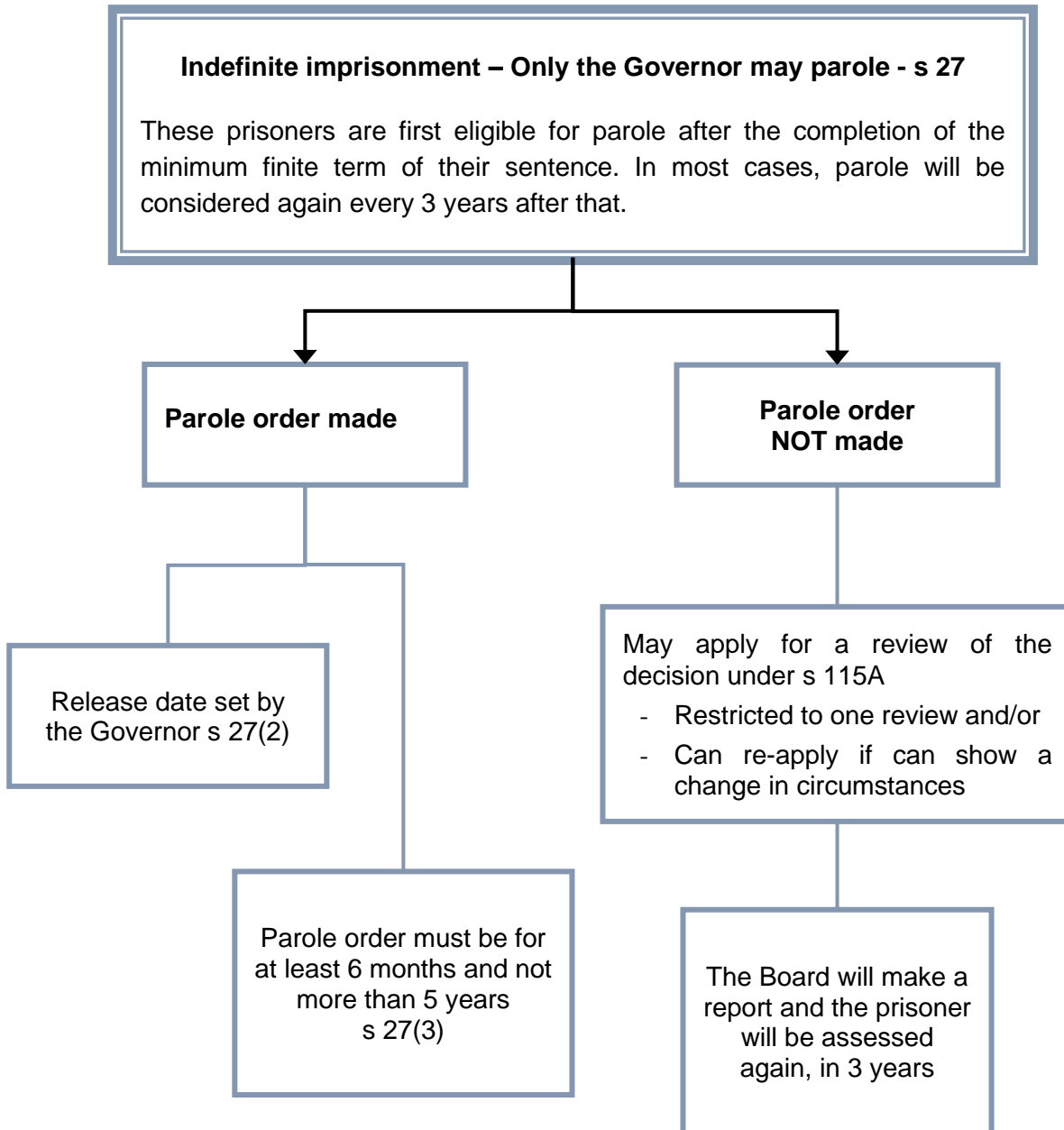


## CHART - Parole if sentenced to life imprisonment



Type of sentence	When first report due	When subsequent reports are due
Life imprisonment for an offence other than murder.	7 years after the day on which the term began or is taken to have begun.	Every 3 years after that.
Life imprisonment for murder where a minimum period has been set under s 90(1)(a) of the <i>Sentencing Act 1995</i> .	At the end of the minimum period.	Every 3 years after that.

## CHART - Parole if sentenced to indefinite imprisonment



## References

### Acts

*Criminal Code (WA)*

*Sentencing Act 1995 (WA)*

*Sentence Administration Act 2003 (WA)*

*Prisons Act 1981 (WA)*

To access these Acts see the heading below: How to find legislation.

### Policy Directive

Department of Corrective Services, [Policy Directive 78 – Parole – Procedures](#).

To access this Policy Directive click on the link above or go to the Department of Corrective Services website: [www.correctiveservices.wa.gov.au](http://www.correctiveservices.wa.gov.au) under Prisons/ Adult Custodial Rules/ Prisons Procedures and Policy Directives and scroll down to PD 78 and click on the link to Procedures.

## How to find legislation

Legislation includes Acts, such as the *Criminal Code* or *Prisons Act 1981 (WA)* as well as subsidiary legislation which are regulations or rules associated with an Act, such as the *Prisons Regulations 1982 (WA)*.

The State Law Publisher (SLP) is the official publisher of Western Australian legislation and statutory information. The Parliamentary Counsel's Office hosts a website that stores current copies of all legislation that may be accessed at no cost: [www.legislation.wa.gov.au](http://www.legislation.wa.gov.au). Alternatively, you may order legislation in hard copy from the SLP but you are likely to be charged a fee. Orders may be lodged by phone on (08) 6552 6000 or email to [sales@dcp.wa.gov.au](mailto:sales@dcp.wa.gov.au).

If you access legislation via the website, you need to select **Acts** or **Subsidiary legislation** and then **in force**. Then select the starting alpha letter of the name of the Act or Subsidiary legislation, for example **P** for **Prisons Act**, and navigate to that legislation in the alphabetical list. If you click on the link to the legislation you want you can then select to view the Act in PDF, Word or HTML.

## Further information

Further information relevant to parole is available at:

- **Prisoners Review Board of WA website:** [www.prisonersreviewboard.wa.gov.au](http://www.prisonersreviewboard.wa.gov.au)
- **Outcare website:** [www.outcare.com.au](http://www.outcare.com.au)

## Contacts – Legal Aid WA

[www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au)

**Telephone Infoline: 1300 650 579 (General Enquiries)** Open Monday to Friday 9.00 am to 4.00 pm (Australian Western Standard Time) except public holidays.

Translating and Interpreting Service: 131 450

National Relay Service (for hearing and speech impaired): 133 677

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