



# Policy Directive 47

## Re-entry Release Orders

Legislation referred to: [Sentence Administration Act 2003](#) Part 4

**Note:** In this Directive, a reference to the Sentence Administration Act (or SAA), means the *Sentence Administration Act 2003* and a reference to the Regulations, (or Regs), means the Sentence Administration Regulations 2003.

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## 1. Context

Part 4 of the Sentence Administration Act provides for the making of a Re-entry Release Order for certain prisoners. A Re-entry Release Order may be made as a precursor to release on parole, or release to freedom.

The Re-entry release programme aims to facilitate the successful re-entry of prisoners into the community and promote a constructive self-supporting, law-abiding lifestyle in the community by:

- Re establishment of family and community ties
- The development of Re-entry skills
- The development of social skills
- Participation in education or other personal development
- Exposure to a period of normal employment
- Service to the community
- Participation in treatment programmes or counselling where relevant.

## 2. Purpose

To provide clearly defined procedures for the identification and assessment of prisoners who are eligible to apply for Re-entry release and to provide the Parole Board with accurate and timely advice.

## 3. Principles

- Prisoners receive written advice contained in their Individual Management Plan, of their eligibility to apply for Re-entry release
- Prisoners are informed of any programme requirements that are likely to assist their application for Re-entry release (ie Sex Offender Programme, Anger Management counselling etc)
- Prisoners are offered timely inclusion in treatment programmes so as to maximise the likelihood of gaining early release

## 4. Eligibility

4.1 A prisoner is eligible to apply for consideration for release on a Re-entry Release Order if all of the conditions under Section 50 of the Sentence Administration Act are satisfied.

**Note:** Prisoners sentenced to a parole term prior to 1 September 2003 and who are eligible for the Work Release scheme, may instead apply for release under the Re-entry Release scheme. (This option is not open to prisoners sentenced prior to 1.9.03 and eligible for work release but who are serving a finite (non-parole) term.)

4.2 Prisoners are not eligible for Re-entry release if they are subject to a life term, indefinite imprisonment or strict or safe custody order under s 282 *Criminal Code Act Compilation Act 1913*(see s 14(1) and s 50 of the *Sentence Administration Act*), or are subject to the jurisdiction of the Mentally Impaired Defendants Review Board.

- 4.3 Prisoners are eligible for release on a RRO when they are within 6 months of release, either to parole or freedom and they have been **in custody under sentence** for a **continuous** period of at least twelve months. In the event of a backdated sentence start date, the 12-month qualifying period will commence from the date that the prisoner has been continuously imprisoned under the backdated sentence.
- 4.4 Where a prisoner is released on parole, Re-entry release or conditionally and is subsequently returned to prison during that parole, Re-entry release or conditional release period, the twelve months imprisonment eligibility period commences from the date that the prisoner is returned to prison under sentence.
- 4.5 Where a prisoner has escaped during the current sentence the 12-month qualifying period for Re-entry release commences from the date the prisoner returns to custody.
- 4.6 A Federal offender who is a non-citizen is not eligible to participate in Re-entry release if participation would result in the offender being liable for detention and removal from Australia. (r 5 of the Crimes Regulations 1990 (Cth)).
- 4.7 A Federal offender who is subject to a deportation order is not eligible to participate in Re-entry release if participation would result in the offender being liable for detention and deportation from Australia. (r 5 of the Crimes Regulations 1990 (Cth)).
- 4.8 A State offender who is a non-citizen or who is subject to a deportation order is eligible to apply for Re-entry release but the prisoner should be made aware that it has been the general policy of the Board not to approve such applications. This is because the prisoner could not comply with the standard conditions of Re-entry release as required by the *Sentence Administration Act*. (Note: Any release from custody of a non-citizen is a breach of a bridging visa and the offender would be apprehended and removed from Australia).
- 4.9 Prisoners eligible for release on Commonwealth Recognisance may apply for Re-entry release subject to 4.1 above provided they have signed the recognisance order.

## 5. Application

- Eligible prisoners should apply on an 'Application for Review' form at least **3 months** prior to the expected date of commencement on Re-entry release. Written supporting reasons should be attached including details of the intended residential address and Re-entry release plan. (See below for information required).
  - A definite accommodation arrangement is essential.
- 5.1 Applications for release on Re-entry release **to seek or engage in gainful employment**: Confirmed employment is not essential. However, prisoners without confirmed employment must provide details of their work history and a strategy for seeking employment. Where practicable, the work history shall be verified by the officer preparing the assessment report.

- 5.2 Applications for release on Re-entry release **for vocational training**: Prisoners are to provide details of the proposed vocational training including evidence of acceptance for enrolment by the nominated institution.
- 5.3 Applications for release on Re-entry release **to engage in gratuitous work** for an organisation approved by the Chief Executive Officer: Prisoners (generally pensioners who do not meet the employment requirements and who are not applying under any of the other categories), in conjunction with the Community Corrections Officer (CCO), are to arrange their own suitable gratuitous work for the entire Re-entry release period. Full details of hours, days and nature of the work etc should be provided. A medical clearance about the prisoner's capacity to undertake the proposed work may be warranted. In general, prisoners will be expected to arrange at least 20 hours work per week of gratuitous work. This gratuitous work is in addition to the 6-18 hours per week (as the case may be) of community corrections activities arranged by the CCO.
- 5.4 Applications for release on Re-entry release **to undertake activities that will facilitate the prisoner's re-entry into the community**. Such activities are defined in the *Sentence Administration Act* as including, but not limited to the following:
- a) educational, vocational or personal development programmes or courses
  - b) counselling in relation to behavioural matters.
- Prisoners are to provide full details of the proposed activity including evidence of acceptance for enrolment by the nominated institution.
- 5.5 Any Re-entry proposal should allow for the prisoner to undertake a minimum of 6 hours per week of community corrections activities. This will mean that some deckhand/truck driving or similar jobs will not be suitable for Re-entry release. The completion of the minimum of 6 hours per week activities will take precedence over other commitments.

## **6. Review by Unit Conference**

- 6.1 Generally, applications should be reviewed by unit conference 6 weeks prior to the eligibility date for Re-entry release. Applications from prisoners who require the Governor's approval for Re-entry release should be reviewed 8 weeks prior to the eligibility date.
- 6.2 The Parole Board will not consider prisoners suitable for Re-entry release in instances where a prisoner, through misconduct (including escape from legal custody), has incurred further imprisonment that results in eligibility for Re-entry release because of the increase in the length of their sentence.
- 6.3 Generally, the Board does not consider re-entry release applications:
- 6.3.1. for periods of less than 4 weeks
  - 6.3.2. where the prisoner is subject to confirmed extradition or removal from Australia
  - 6.3.3. where the prisoner is currently undertaking a prison based programme such as a sex offender treatment programme

6.3.4. where the prisoner has had parole denied by the Board during the current sentence.

In any of the above cases, Unit Conference is to accept the application and forward it to the Sentence Management branch with a decision slip clearly stating why the matter should not proceed. Re-entry release reports are not required. (Unit Conference may request such reports and give full consideration to an application if there are exceptional circumstances).

6.4 The superintendent/chairman unit conference should request a report from a Community Corrections Officer on C164 and a Re-entry release assessment report from a prison officer. (A copy of the C164 should be forwarded to the Offender Records Branch). These reports are to be requested concurrently.

6.5 In addition to the assessment report and Community Corrections Officer's report, any other reports that may be considered necessary should be requested concurrently from the relevant source (eg Psychologist, Psychiatrist, programs staff, Victim Mediation Unit).

6.6 The following information must accompany the C164 sent to the Community Corrections Centre:

- a copy of the sentence summary sheet
- a copy of the most recent assessment report
- a copy of the home leave report (if available)
- information concerning the applicant's intended address on Re-entry release including the full address, telephone number, names of persons residing at the address and the relationship to the prisoner
- information concerning the applicant's intended Re-entry plan including name, address and telephone number of any proposed employer or details of vocational training, personal development programme or counselling arrangements etc.

6.7 The prison officer responsible for preparing the assessment report shall interview the prisoner to ensure he/she understands the obligations and responsibilities of Re-entry release. The Community Corrections Officer should liaise closely with the assessment officer to ensure the needs and risks of the prisoner are taken into account.

## **7. Community Correction Officer's Report**

7.1 A Community Corrections Officer shall complete a report and submit it to Unit Conference. The report must contain details of accommodation, social supports and Re-entry plan. These details are to be confirmed by personal contact where practicable with the host and the training/program/counselling provider or employer. Sources such as prisoner programs, victim mediation unit, the assessment officer and sentence management reports should also be explored.

7.2 The Community Corrections Officer should also comment on:

7.2.1 The prisoner's previous response to community supervision including any retrospective cancellation of parole. (Records are to be updated if required).

- 7.2.2 The prisoner's community risk rating (see s 51(3) of the *Sentence Administration Act 2003*).
- 7.2.3 Make recommendations about additional requirements including the wearing or installation of devices for monitoring purposes (see s 57 of the *Sentence Administration Act 2003*).
- 7.2.4 Where appropriate, the question of release under the circumstances described in s 52(3) of the *Sentence Administration Act 2003*.
- 7.3 The Community Corrections Officer's report, together with the criminal record, pre-sentence report, Judge's comments and other available relevant details, shall be forwarded to the requesting superintendent/chairperson of the unit conference.

## 8. Assessment

- 8.1 Applications will be considered by Unit Conference.
- 8.2 Approval for Re-entry release is not automatic and a sound case must be presented based on the aims of the program and risk to the community.
- 8.3 Re-entry release may only be granted to prisoners whose release would pose a low risk to the personal safety of people in the community or any individual in the community (s 52(2) of the *Sentence Administration Act 2003*).
- 8.4 Prior to making its recommendation unit conference shall consider the following:
- prisoner's representation
  - Prison assessment report
  - Community Correction Officer's report
  - Judge's sentencing remarks and pre-sentence report
  - if relevant, other reports requested and available.
- 8.5 Unit conference consideration of applications shall include:
- eligibility of applicant
  - community risk rating – Section 52(2) of the *Sentence Administration Act 2003* and item 8.6 below
  - recommendations regarding the wearing or installation of a device for monitoring purposes
  - behaviour whilst in prison
  - likelihood of completing Re-entry release
  - relationship between the application and the aims of the program.
  - Validity of Re-entry release plan especially with regard to compliance with subsection 56(1) of the *Sentence Administration Act 2003*.
- 8.6 **The community risk rating** is a rating of the risk to the personal safety of people or an individual in the community that will or may be imposed by the prisoner's release under a Re-entry release order. The risk is to be expressed as "high risk", "medium risk" or "low risk" and must be included in the unit conference recommendation with

reasons for the rating. In determining the risk rating, the unit conference may have regard to the following factors:

- criminal record
- nature of offence
- victim issues
- previous performance on community supervision, remand or bail
- prison management reports
- attitude towards, or participation in, programs aimed at addressing offending behaviour
- attitude to sentence
- possibility of and attitude towards deportation or extradition
- psychiatric history
- family ties and community support
- employment record
- personal characteristics and lifestyle
- outstanding charges.

8.7 The Parole Board, in making its assessment, takes into account the same factors that relate to parole. In the case of Re-entry release applications, those matters that relate to the safety of members of the public will have a greater emphasis, especially in the case of prisoners convicted of offences involving violence or sexual assault. Prisoners with a history of violent offending behaviour will need to show "exceptional" circumstances before Re-entry release will be granted.

## **9. Unit Conference Recommendation**

The unit conference recommendation shall be forwarded to the Sentence Management Branch at Head Office on a unit conference decision slip together with the prisoner's application, all reports, criminal and traffic record, Judge's sentencing remarks and the pre-sentence report.

## **10. Sentence Management Branch Assessment**

The Sentence Management Branch:

- 10.1 Shall consider the application and the unit conference recommendation and may recommend or not recommend Re-entry release.
- 10.2 Must report to the Parole Board about the risk that the release of the prisoner under a Re-entry Release Order will or may pose to the community (s 51(3) of the *Sentence Administration Act 2003*).
- 10.3 Will forward all applications to the Parole Board together with the C421, prisoner's application, all reports, the Judge's sentencing remarks pre-sentence report, unit conference decision slip and sentence summary sheet.

## **11. Parole Board Consideration**

Following referral to the Parole Board, the Board may:

- 11.1 Deny or defer: The prisoner and the Director General (or his delegate) shall be advised in writing by the Parole Board of the Board's decision. The prisoner may make a written submission to the Parole Board (s 53(3) of the *Sentence Administration Act 2003*).
- 11.2 Approve: The Parole Board will issue a Re-entry release order and forward the order to the prison.
- 11.3 Recommend approval to the Governor in respect of a prisoner who is serving a term of imprisonment, or an aggregate of terms of **imprisonment** (without regard to remission) **of more than 15 years**.

## **12. Recommendation to the Governor (see 11.3 above)**

- 12.1 If approved by the Governor, the Parole Board will issue a Re-entry release order and forward it to the prison.
- 12.2 If the Governor's approval is not obtained, the Parole Board will advise the prisoner and the Director General in writing.

## **13. Approval Notification**

- 13.1 The prison will receive a Re-entry release order from the Parole Board.
- 13.2 The Parole Board will notify the relevant Community Corrections Centre.

## **14. Re-Entry Release Order to be Signed**

- 14.1 The prisoner must sign the Re-entry release order on or before the release date specified in the order to indicate that he/she understands and agrees to comply with the conditions of the order and the obligations imposed. Once the prisoner has signed the Re-entry release order he/she is entitled to be released from prison on the date specified in the Re-entry release order.
- 14.2 The prisoner should be given one copy of the signed Re-entry release order.
- 14.3 A copy of the signed Re-entry release order shall be forwarded to the Offender Records Branch to be placed on the prisoner's file.
- 14.4 Prison completes exit requirements.

## **15. Refusal to Sign Re-Entry Release Order**

If a prisoner does not sign the Re-entry Release Order on or before the release date specified in the order then it is taken as having been cancelled (s 58(1) of the *Sentence Administration Act 2003*) and the Parole Board is to be advised.

## **16. Prisoner to Report Following Release**

- 16.1 The prisoner must report to a Community Corrections Centre nominated in the Re-entry Release Order within 72 hours after being released from prison.
- 16.2 When the prisoner reports, the Community Corrections Officer should explain the conditions, hours and obligations to the prisoner and issue them in writing. The prisoner is obliged to devote at least 6 and up to 18 hours (as the case may be) per week to community corrections activity as from the date of initial reporting to the centre.

## **17. Parole Reviews**

### **17.1 State Automatic release**

If the Parole Board lists the prisoner for review the Community Corrections Officer must prepare a parole report for the Board. If requested by the Sentence Management Branch the Community Corrections Officer shall prepare a report and forward it to the requesting officer. The report shall contain comment about the prisoner's performance on Re-entry release and their future parole plans.

### **17.2 State non-automatic release**

The CCO must prepare a report for the Parole Board's information and decision regarding parole. The report shall contain comment about the prisoner's performance on Re-entry release and their future parole plans.

### **17.3 Federal prisoners**

If the prisoner is subject to a Federal sentence then the Community Corrections Officer shall follow the usual procedure for Federal prisoners (ie the report is forwarded to the Coordinator, Court Breaches).

## **18. Parole Decisions: State or Federal**

- 18.1 If the prisoner is released on parole the Parole Board secretary or co-ordinator, court breaches shall notify the Offender Records Branch and Community Corrections Officer. The parole order shall be forwarded to the Community Corrections Officer supervising the prisoner and be signed by the prisoner on or before the release date specified in the parole order. The original signed parole order shall be forwarded to the Offender Records Branch and the duplicate handed to the prisoner.
- 18.2 If parole is deferred the Parole Board must direct whether or not the prisoner is to be returned to prison.
- 18.3 If the Re-entry release order is suspended or cancelled, the Community Corrections Officer shall notify the Offender Records Branch.
- 18.4 If the decision is to defer but the prisoner is to remain on Re-entry release, the Community Corrections Officer shall note the review date and submit the reports required by the Board prior to that date.

## **19. Release at Expiry of Sentence**

The Community Corrections Officer shall forward to the Offender Records Branch advice indicating that the prisoner has discharged his/her obligations.

## **20. Release of a Person Subject to a Suspended RRO**

20.1 Notwithstanding the period of suspension indicated on an order for suspension of Re-entry release, the superintendent shall release the prisoner at the prisoner's EDR/MAX (as the case may be), or the date indicated on a parole order.

20.2 Subject to 20.1 above, if the period of suspension expires, and no further order for suspension of Re-entry release is made, or a cancellation of Re-entry release is not issued, the superintendent shall, if the Re-entry release order is still in force, release the prisoner from prison.

## **21. Extension of Community Corrections Activity Hours –**

**for Persons Subject to Re-Entry Release Order who Fail to Engage in Work, Training or Other Re-Entry Activity on a Full-Time Basis (Part 3 Section 6 Regulations Refer)**

21.1 A prisoner who is subject to a Re-entry release order for the purposes specified in Part 4 of the *Sentence Administration Act 2003* shall be required by the Centre Manager to undertake and perform an aggregate number of community corrections activities as follows:

21.2 In the case of an offender engaged full-time in gainful employment, vocational training, gratuitous work or other re-entry activity ordered by a CCO under subsection 56(1)(b) of the *Sentence Administration Act 2003* – 6 hours.

21.3 in the case of an offender not so engaged –

21.3.1 for each of the first 2 periods of 7 days when the offender is subject to the order – 6 hours

21.3.2 for each subsequent period of 7 days when the offender is subject to the order – the number of hours, being at least 12 and not more than 18, determined by the CEO having regard to the extent to which the offender is engaged in part-time gainful employment, vocational training, gratuitous work or other re-entry activity.

21.4 For the purposes of this order "full-time" shall be 20 or more hours per week.

21.5 The determination of whether the employment is gainful or otherwise shall be at the discretion of the Centre Manager.

21.6 The CEO may determine any question in relation to the extent to which an offender is engaged full-time or otherwise. (Regulation 6).