



JUSTICE BEHIND BARS



Parole Orders

Information for people in the community on parole orders.

This information kit provides some general information about your rights and obligations while on parole in Queensland. This information applies to people on **board ordered parole** and is current as at 23 January 2017.

Parole Conditions

All parole orders must have conditions setting out what you are required to do, as well as what you must not do while on parole. You would have been given a copy of your parole conditions in writing when you were released on parole.

Your compliance with parole conditions is monitored by probation and parole officers. Failure to comply with parole conditions can result in your parole being suspended or cancelled.

Mandatory Conditions:

The following conditions must be included on your parole order and cannot be removed or changed:

- To be under the supervision of probation and parole until the end of your period of imprisonment;
- To carry out a probation and parole officer's lawful instructions;
- To give a test sample (blood, breath, hair, saliva or urine) if required to do so by probation and parole
- To report, and receive visits, as directed by probation and parole; and
- To notify probation and parole within 48 hours of any change in your address or employment during the parole period.

(Section 200(1) *Corrective Services Act 2006*)

Extra Conditions:

The parole board can put extra conditions on your parole order apart from those listed above. A parole order may also contain conditions the board reasonably considers necessary:

- to ensure the prisoner's good conduct; **or**
- to stop the prisoner committing an offence.

(Section 200(2) *Corrective Services Act 2006*)

This means, any extra conditions placed on your parole order must be justified because they either ensure your good conduct or stop you from committing an offence.

Common examples of conditions the parole board impose to ensure a person's good conduct or stop them from committing an offence include:

- That the prisoner abstain from the consumption of alcohol
- That the prisoner reside at an approved address
- That the prisoner refrain from attending licenced premises or venues
- That the prisoner comply with a curfew
- The prisoner undergo drug and alcohol counselling as directed by a corrective services officer
- The prisoner not attend a place where children congregate or frequent
- The prisoner provide copies of their bank statements
- The prisoner not purchase prescription medicine without the permission of a corrective services officer

Whether or not these extra conditions are legally justified will depend on the circumstances of your offence/s and personal characteristics.

For Example:

A condition that you attend drug and alcohol counselling will probably be justified if drugs or alcohol were a factor in you committing your offence/s. The same condition may not be justified if drugs or alcohol have never been a problem for you and did not contribute to your offence/s.

A condition that you not go to places where children may congregate will probably be justified if you were convicted of offences against children. The same condition may not be justified if you were not convicted of offences against children.

A condition that you provide copies of your bank statements to probation and parole may be justified if you were convicted of financial offences, like fraud. The same condition may not be justified if you were not convicted of financial offences.

Further information about what to do if you have a parole condition that may not be justified is discussed below.

New Conditions:

The parole board can impose new parole conditions on you at any time during your parole period (s205 *Corrective Services Act 2006*). However there are certain procedures the board should follow before giving you a new condition.

If practicable, a parole board must, before amending a prisoner's parole order, give the prisoner an information notice and a reasonable opportunity to be heard on the proposed amendment (s205(3) *Corrective Services Act 2006*).

This means, generally the board should provide you with:

- Notice they are considering imposing a new condition on your parole order;
- Reasons for their decision to impose new conditions on your parole order explaining why the condition is necessary (s205(6));
- An opportunity to respond about why they should not impose the new condition before they impose it;

Unless they have good reason not to give you this prior notice. If probation and parole have discussed a new condition with you and it is not urgent, they should give you this prior notice.

Any new parole conditions must still be justified because they either ensure your good conduct or stop you from committing an offence. New parole conditions can also be imposed where the board reasonably believes you pose a risk of harm to yourself.

Directions

Apart from your parole conditions, probation and parole officers can also issue 'directions'. Directions are usually specific and must give effect to a particular condition.

Directions are different to conditions because:

- They can be issued by probation and parole officers not the parole board; and
- Generally, an officer is not required to give you prior notice, reasons or an opportunity to be heard before imposing a direction unless the direction effectively amounts to a new condition being imposed.

A direction must come under a condition of your parole order and should still be justified to ensure your good conduct or stop you from committing an offence. In other words, a direction needs to somehow be linked back to your offence and/or personal circumstances.

For Example:

If you have a condition stating you are not to go where children congregate, you could be issued a direction stating you not enter a local school.

If you have a condition stating you should attend drug counselling, you could be issued a direction stating you attend your local narcotics anonymous meetings in Brisbane every week at 4pm.

Understanding Your Parole Order

While some parole conditions are very straight forward, others are not always clear. Many prisoners contact us with concerns about what their parole conditions and directions actually mean. Sometimes, very broad conditions are imposed or the words used may not have a clear meaning.

If you are confused about what your obligations are, you should first try speaking to your probation and parole officer.

There will not always be a black and white answer about what your parole conditions require of you in every situation you face. If you are uncertain about whether taking a particular action would amount to a breach of your parole, don't do it! Speak to your parole officer first. Plan your actions so that you don't end up in a situation that may be in breach of your parole order.

If you have spoken to your parole officer about a parole condition but you:

- are still unsure what your condition requires because it is unclear from the words used; or
- think the condition is so broad that it is practically impossible for you to comply with it; or
- believe the condition is preventing you from doing things that would be beneficial to your relapse prevention plan or reintegration into the community;
- believe the condition is no longer justified because you have proved yourself while on parole;

You should consider writing to the board and asking them to amend or remove the condition.

Amending or removing parole conditions

The parole board can amend or remove a parole condition imposed on you if the board reasonably believes—

- (a) the amended condition is necessary to ensure your good conduct or stop you from committing an offence; or
- (b) the condition is no longer necessary to ensure your good conduct or stop you from committing an offence

(Section 205(1)(a) *Corrective Services Act 2006*)

This means, you can write to the parole board and ask them to either amend or remove a condition of your parole order at any time.

The board are unlikely to amend or remove a condition of your parole if that condition is justified. This means, when you write to the board you need to explain why the condition is not justified and in particular, how it does not help to ensure your good conduct or stop you from committing an offence.

Before writing to the board, it is important to think about why exactly the condition is a problem for you. Does it stop you from doing things that are beneficial to your reintegration into the community? If so, explain to the board how it negatively impacts on your reintegration.

You may only need to ask for an amendment to the condition rather than removal. Is the problem simply that the words are so broad you don't know what your obligations are? If so, you can write to the board and ask them to change the wording because you are unsure what your obligations are.

Think about whether the wording of your condition be changed so that it still meets the board's purpose (ensuring your good conduct and/or stopping you from committing an offence), but will allow you to do the things you need to do to reintegrate into society. Some examples of how to do this are below. Generally, the board are more likely to amend a condition of your parole than remove it completely.

Common problems and sample submissions

The following section sets out some common problems people on parole experience with their parole conditions and sample submissions that can be written to the board to have these conditions changed.

Please keep in mind, the question of whether your parole conditions are justified depends on your individual circumstances. The submissions below are specific and may not be relevant to your particular circumstances. However they provide an example of how detailed submissions best explain why a particular condition may not be justified for a particular person.

Scenario One:

Tom has a parole condition (s) that states he must not enter upon or remain upon licence premises. Alcohol was not a factor in his offending behavior and he has no reported problems with alcohol abuse. He is unable to attend family functions such as weddings and birthdays.

Sample Submission:

I am writing to request the board consider removing condition (s) of my parole order that I not enter upon any licensed hotels or clubs for the duration of my order. The reason I am making this request is because this condition stops me from going to family events such as weddings, birthdays and other social gatherings which take place in such venues.

I believe going to these events would help with my reintegration into the community as I would be spending time with family and friends as a member of the community. In making this request I ask you to consider that I have never had a problem with alcohol, it was not a feature of my offence and I was not required to complete any drug or alcohol related treatment program while in custody. I do not believe this condition is necessary to ensure my good conduct or stop me from committing an offence.

Scenario Two:

Jess has a parole condition (y) that states she must not engage in employment or accept any position in any organisation paid or voluntary, which enables her to have access or control of, directly or indirectly, any other person's or organisation's money or assets. She was in prison for a fraud offence that was committed while handling money working as a volunteer at a charity.

Sample Submission:

I am writing to request the board consider amending condition (y) of my parole order that I not engage in employment or accept any position in any organisation paid or voluntary, which enables me to have control of, directly or indirectly, any other person's or organisation's money or assets. The reason I am making this request is because this condition is very broad and it stops me from doing almost any type of work.

I understand the board's need to place some restriction on my ability to work given that I committed my fraud offence handling money during employment. However this condition stops me from taking jobs which don't involve handling money because most jobs involve being in control over some type of asset. I would like to start work in the construction industry, but this condition stops me from applying because working in construction would involve me controlling assets that are not my own. I ask the board to consider amending this condition so it stops me only from working in jobs where I am handling money.

In making this request I stress the important role employment will play in my reintegration into the community. My parole application and relapse prevention plan outlined my goal to find employment in the construction industry as a protective factor to reduce the chance of me reoffending.

I do not believe this condition helps to ensure my good conduct or stop me from committing an offence. Instead as it currently stands, this condition only makes my reintegration into the community more difficult as I cannot work and contribute to society.

Scenario Three:

Peter has a parole condition (z) that says he must undergo Drug and Alcohol counselling as directed by a corrective services officer. He is a life sentenced prisoner therefore he must comply with this condition for the rest of his life. Peter experimented with drugs when he was a teenager however drug taking was not a factor in his offence and he was not recommended to complete any drug courses in prison. He has been on parole for 5 years and has been attending Narcotics Anonymous as directed by his parole officer. He has asked his parole officer if they can stop directing him to attend the meetings but his parole officer has refused.

Sample Submission:

I am writing to request the board consider removing condition (z) of my parole order that I undergo Drug and Alcohol counselling as directed by a corrective services officer. The reason I am making this request is because this condition is no longer necessary to ensure my good conduct or stop me from committing an offence.

I believe this condition was imposed because I reported to the board that I experimented with drugs as a teenager. However drugs were not related my offence, I was not recommended for any courses while in custody and drugs were not identified as a potential trigger for reoffending in my parole application. I highlight the significant passage of time that has lapsed since I have taken drugs. I am now 60 years old and haven't had any problems with drugs for over 40 years.

I have now been on parole for 5 years and regularly attended Narcotics Anonymous meetings as directed by my parole officer. I am regularly substance tested and have never provided a positive substance test result. This demonstrates a period of compliance with this condition and shows there is no current risk of my taking drugs. In light of the above, I respectfully submit this condition is no longer necessary.

Scenario Four:

John has a parole condition (w) that says he must not enter places that children frequent. He was convicted of offences against children. John doesn't understand what this condition means because children frequent many places outside of prison walls. John feels uncomfortable with this parole condition because he cannot avoid certain places that children might be, for example supermarkets. John understands why the parole board don't want him to go to places where there are children but feels very restricted and unsure about where he can and cannot go.

Sample Submission:

I am writing to request the board consider amending condition (w) of my parole order that I not enter places that children frequent. The reason I am making this request is because this condition is so broad I am unsure what would breach it. I also feel that it almost impossible to comply with this condition when living in the community because children go to many places.

I understand the need for the board to place a condition like this on me. However as it currently stands this condition stops me from going to such as supermarkets and bus stops. As a member of the community, I need to be able to go to these types of places.

I request the board consider amending condition (w) of my order so that it is more specific and capable of being complied with. I request the board consider amending condition (w) so that it reads:

The prisoner is not to directly approach, stand or remain in any place that is within 50 metres of the boundary of a school, childcare facility, public playground, swimming pool, water play area or other area designated for use by children.

Challenging parole condition decisions

Decisions about removing or amending parole conditions are subject to a process called judicial review. A judicial review means you make an application to the Supreme Court asking the court to set the decision aside if the decision is unlawful. If the court considers a decision is unlawful, it will send it back to the decision maker to remake the decision.

Judicial reviews are complex and you should seek legal advice before considering judicial review of a decision about your parole conditions. Going to court is expensive and there can be costs implications if you are not successful. The current filing fee for commencing an action in the Supreme Court is \$775.00. A reduced filing fee of \$108.50 can be obtained if you provide evidence that you are not in a financial position to pay the fee.

If you request the board amend or remove a parole condition and they refuse, you can request a statement of reasons for their decision. This will mean the board must explain why they did not decide to adhere to your request. Making a request for a statement of reasons is also an important first step if you are considering getting advice on judicial review. It is helpful and often necessary to provide a solicitor with a copy of a statement of reasons to receive legal advice on a decision of the parole board.

You must make a request for a statement of reasons within 28 days of receiving their decision.

Due to our restricted resources, Prisoners' Legal Service can only give limited advice on challenging parole conditions. If you would like our advice about your parole conditions you can contact our community advice line on Wednesdays between 9am and 11am and ask if a solicitor is available. If a solicitor is not available to take your call, we encourage you to contact your local community legal centre.

You can locate your closest community legal centre online at: <http://communitylegalqld.org.au>



JUSTICE BEHIND BARS

Contact Prisoners' Legal Service:

Prisoner Advice Line: Tuesday, Wednesday and Thursday, 9am to 1pm
on the ARUNTA system

Postal Address: GPO Box 257, Brisbane QLD 4001

Administration Line: (07) 3846 5074

This broadsheet is intended to provide legal information only and is no substitute for legal advice. If you wish to take any action arising from matters raised in this publication you should consult a lawyer immediately.

*The information was current as at **23 January 2017.***