

PRISONERS' LEGAL SERVICE INC CHAINMAIL

INFORMATION BROADSHEET FOR PRISONERS OF QUEENSLAND
110th Edition April 2018

Visa Cancellation

This flowchart explains the different types of visa cancellation laws in the Migration Act 1958 (Cth) that apply most commonly to prisoners. You can use this to work out if your visa may be cancelled.

I don't have Australian citizenship and I'm in prison. Can my visa be cancelled? I've been convicted and sentenced. I've been charged with an offence. Have you received a sentence of 12 months or more imprisonment at any time OR a conviction for a sexual offence involving a child? Your visa can be cancelled under s116(1)(e) if the Department of Immigration thinks you YES NO are or may be a risk to the health, safety or good order of the Australian community. This law can be applied to any person who Your visa will be automatically cancelled does not have permanent residency or a under s501(3A). Your visa can be cancelled at permanent visa. any time while you are in prison. If your visa is cancelled under this law and If your visa is cancelled under this law and you do not successfully challenge the you do not successfully challenge the decision, you will be removed from Australia decision, you will be removed from Australia and banned from applying for a visa to return and you will never be allowed to return. for three years. Request our mandatory visa cancellation self-Request our factsheet on s116(1)(e) for help kit for further information. further information.

Prisoners' Legal Service Inc. Postal Address: GPO Box 257, Brisbane QLD 4001 Justice Behind Bars Free Advice Line: Tues, Wed, Thurs from 9am to 1pm



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PAROLE AND VISA CANCELLATION

Decisions about your parole are made by the Parole Board and are separate to decisions made by the Department of Immigration. This means you can be granted parole or be given a court-ordered parole release date, even if your visa has been cancelled or will be automatically cancelled.

However, if you are paroled and your visa has been cancelled, you will not be released into the community as you do not have a visa. Instead, you will be taken into immigration detention.

If you are challenging a visa cancellation decision and want to stay in Australia:

If you have a court-ordered parole release date, you will be released on this date and picked up by Australian Border Force. You will be taken into immigration detention and remain there until a decision is made on your challenge. If you are successful, you will be released into the community onto your parole order.

If you are applying for board-ordered parole, you will need to provide an Australian address for an accommodation risk assessment with your parole application. This is because if you are granted parole and you get your visa back, you will be released into the community and you must live at the address that has been approved by the Parole Board. If a decision has not been made on your challenge by the time of your parole release date, you will be taken into immigration detention and remain there until a decision is made on your challenge.

If you are accepting a visa cancellation decision and want to return to your country:

If you have a court-ordered parole release date, you will be released on this date and picked up by Australian Border Force. You will be taken into immigration detention until arrangements can be made for your removal.

If you are applying for board-ordered parole and your visa has been cancelled, you can apply for parole subject to removal from Australia. You do not need to provide an Australian address for a home assessment. You can request the Parole Board confirm your removal with the Department of Immigration directly.

It is important to understand that any prisoner applying for parole subject to removal from Australia will still need to satisfy the Parole Board that they are a suitable candidate for parole. This means the Parole Board may consider your release plans in your country in deciding whether you pose an unacceptable risk to the community, including where you intend to live and who you will be living with. Because the Parole Board will not be able to enforce your compliance with your Queensland parole order in another country, they may also consider whether you will be appropriately supervised in your country.

Any prisoners seeking advice about this process can contact PLS.

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