



Western Australia

Sentence Administration Amendment (Multiple Murderers) Act 2018

As at 12 Dec 2018

No. 42 of 2018

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Sentence Administration Amendment (Multiple Murderers) Act 2018

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Sentence Administration Amendment (Multiple Murderers) Act 2018

No. 42 of 2018

An Act to amend the *Sentence Administration Act 2003*.

[Assented to 12 December 2018]

The Parliament of Western Australia enacts as follows:

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1. Short title

This is the *Sentence Administration Amendment (Multiple Murderers) Act 2018*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

3. Act amended

This Act amends the *Sentence Administration Act 2003*.

4. Section 12A amended

- (1) In section 12A(2) delete “The Board” and insert:

Except as provided in subsection (2A), the Board

- (2) After section 12A(2) insert:

- (2A) The Board must not give a written report under subsection (2) about a prisoner at any time when a direction under section 14C is in effect in relation to the prisoner.
- (2B) If a direction under section 14C in relation to a prisoner ceases to have effect, and if no other direction under that section is in effect in relation to that prisoner, then except as provided in subsection (2C) the Board must resume giving reports about the prisoner under subsection (2) as if —

- (a) no direction under section 14C had been given in relation to the prisoner; and
 - (b) each report which would have been required but for a direction under section 14C had been given when due.
- (2C) If a report about a prisoner under subsection (2) is due to be given within 7 months after a direction under section 14C in relation to the prisoner ceases to have effect, the Board must give the report by or as soon as practicable after the day on which it is due but in any event not later than 7 months after the direction ceases to have effect.

5. Section 13 amended

- (1) In section 13(4) before “the Board may” insert:

then except as provided in subsection (5A)

- (2) In section 13(5) after “variations,” insert:

then except as provided in subsection (5A)

- (3) After section 13(5) insert:

- (5A) At any time when a direction under section 14C is in effect in relation to a prisoner —

- (a) the Board must not make a request under subsection (4) in relation to the prisoner; and
- (b) the CEO must not comply with a request under subsection (4) in relation to the prisoner; and

- (c) the Board must not, for the purposes of subsection (5), consider release considerations, endorse a re-socialisation programme or make a recommendation in relation to the prisoner.

6. **Part 2 Division 5 inserted**

After section 14A insert:

Division 5 — Directions to suspend reporting

14B. Terms used

In this Division —

designated prisoner means a Schedule 3 prisoner who is serving a sentence for a relevant offence (the *first relevant offence*) and who —

- (a) has been convicted of 2 or more other relevant offences which were committed at any time; or
- (b) has been convicted of another relevant offence which was committed on a different day than the first relevant offence;

relevant offence means —

- (a) murder; or
- (b) an offence under the law of the Commonwealth, of another State, of a Territory, or of any place outside Australia, which is constituted by conduct that is substantially the same as the conduct constituting murder;

relevant report means a report given by the Board to the Minister under —

- (a) section 12A(2); or

- (b) the *Offenders Community Corrections Act 1963* section 34(2)(c) or (d) as continued in operation by the *Sentencing (Consequential Provisions) Act 1995* Part 56 Division 2.

14C. Minister may direct suspension of reporting

- (1) At any time after the Minister has received a relevant report about a designated prisoner the Minister may direct that the operation of sections 12A(2) and 13(4) and (5) in relation to that designated prisoner be suspended.
- (2) A direction under subsection (1) must —
 - (a) be in writing; and
 - (b) specify a day on which the direction takes effect, which must not be earlier than the day the direction is made; and
 - (c) specify a day on which the direction ceases to have effect, which must not be later than 6 years after the day specified under paragraph (b).
- (3) The Minister must give copies of a direction under subsection (1) to the Board, the CEO and the designated prisoner.
- (4) The Minister may not make a direction under subsection (1) while a previous direction in relation to the same designated prisoner remains in effect, unless the previous direction is to cease to have effect within 3 months of the Minister's direction.
- (5) There is no limit to the number of directions the Minister may make under subsection (1) in relation to a designated prisoner.

- (6) A direction under subsection (1) does not prevent the Board from giving reports under section 12 in relation to the designated prisoner.

14D. No review of direction to suspend reporting

- (1) A direction under section 14C —
 - (a) must not be challenged, appealed against, reviewed, quashed or called into question in any court; and
 - (b) is not subject to review or remedy by way of prohibition, mandamus, injunction, declaration or certiorari, or a remedy having the same effect as a remedy that could be provided by means of such a writ, in any court on any account.
- (2) Subsection (1) does not exclude or limit judicial review for jurisdictional error.

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