



Introduction to Supervision Orders (Serious Offenders Act)

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Disclosure: This guide is for informational and educational purposes only and should not be considered legal advice. The content is designed to provide general insights and strategies but does not replace professional legal consultation.





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Overview of the session – a practical approach

- Introduction to Supervision Orders Paper – 27 March 2025
- PowerPoint slides with Practical Tips

Advice to clients on Sentence for Index Offending?

- If very serious – eligible offender ‘serious sex offence / serious violence offence’ – usually multiple complainants / multiple similar offences.

Advice to client:

- Supervision Order / Detention Order possible
- Important that undertake programs in prison
- Will receive paperwork during period of Sentence (can include while on parole)
- Contact your lawyer as soon as possible



Overview of Legislation

Relevant tests:

- Test for Interim Supervision Order: Section 47
- Test in determining an Application for a supervision order is set out in section 14. Two step test section 14 of the Act:
 - the Court must be satisfied that the offender poses, or after release from custody will pose, an “unacceptable risk” of committing a serious sex offence, a serious violence offence or both, if a Supervision Order is not made and the offender is in the community. s14(1) of the Act.
 - Second, if the Court is so satisfied, it may exercise its discretion to make a Supervision Order. 14(6) of the Act.
- Test for imposition of conditions: Section 27
- Non-publication Orders: Section 280

Review Key Documents

- Detention and Supervision Order Assessment Report
- Application for Supervision Order and Interim Supervision Order
- Draft Order
- Index offending documents (e.g. sentencing remarks, openings, previous reports)

Do we need our own report?

- Expert forensic psychologist or psychiatrist – experienced in using risk assessment tools (e.g. RSVP2, HCR20)
- Timeframes for reports
- Funding

Instructions

- Do you oppose or consent to the making of the supervision order?
- If the order is made, what conditions do you want to challenge?

What are their plans for release?

- Accommodation
- Supports
- Issues they need assistance with
- Attitude to engaging in treatment/support
- What is their attitude to the conditions sought?

Daniel (a pseudonym) v Secretary to the Department of Justice [2015] VSCA 10

- Index offending committed against children, linked with work as a magician/practising magic
- Condition prohibited practising magic tricks on his own or in company.
- Court concluded that prohibiting the appellant from practising magic tricks in private was an unwarranted interference with the appellant's liberty and was not reasonably related to the gravity of the risk of re-offending

Re MTE [2020] VSC 243

- Alcohol monitoring ankle SCRAM bracelet sought on basis that it would provide safeguard to ensure compliance with alcohol prohibition condition.
- Alcohol not a factor at time of the index offending
- Court concluded that nexus between re-offending and alcohol was not close enough to warrant imposition of the condition.

Re MTE (No 4) [2021] VSC 622

- Offender sought removal of electronic monitoring condition (GPS ankle bracelet).
- Offender had good compliance on order, and evidence from treating psychiatrist and psychologist that the GPS tracking bracelet itself was causing anxiety and was a barrier to rehabilitation and reintegration.
- Court found that condition was imposed due to history of itineracy and homelessness, device had not been necessary to ensure compliance with order in previous 19 months and therefore was no long appropriate nor proportionate to MTE's risk of re-offending.

*YBFZ v Minister for Immigration, Citizenship and
Multicultural Affairs [2024] HCA 40*

- The Court observed that a curfew operates to restrict a person’s liberty, and the essential character of a curfew is to limit a person’s movement to one location
- In relation to electronic monitoring, the Court noted that the ankle bracelets were neither small nor discreet and the device interfered with bodily integrity by its physical presence which is “both a real physical and a real psychological and emotional burden”

- Directions Hearing
- Final Hearing
- Case example: *Re CS [2025] VSC 53*
- Court accepted both expert evidence that CS moderate high-risk of committing a serious violence offense and a high risk of committing a serious sexual offence without a Supervision order.
- Court found not an unacceptable risk given the experts agreed that (1) CS did not pose an imminent risk of serious sexual violence. (2) He did not present as a predatory sexual offender. (3) he has not sexually offended in over a decade. (4) significant progress made. (5) CS behaviour some ways a product of his personality impairment.
- Court noted that even if had been satisfied CS posed an unacceptable risk, she would have exercised residual discretion under s14(6)(b) of the Act.


- Section 169
- Can be commenced by Vic Pol or Secretary
- PSA can investigate (section 170)
- Can be heard and dealt with summarily (although still in the superior court)




Questions?



Thank you

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