

# Review of particular criminal defences

## Penalty for murder information sheet

Version November 2023

The penalty for murder is in section 305 of the Criminal Code. It provides for **mandatory life imprisonment or an indefinite sentence** when a person is convicted of murder.

Murder is defined in section 302. It includes killing:

- with intent to cause death or grievous bodily harm,
- by acts done or omissions made with reckless indifference to human life,
- by acts likely to endanger human life that are done in the course of an unlawful purpose, and
- in particular circumstances, for the purpose of facilitating the commission of certain crimes or the flight of a person who has committed such crimes.

Under section 303 an unlawful homicide that does not amount to murder is manslaughter. Unlike murder, the penalty for manslaughter in section 310 is a maximum of life imprisonment which gives the court discretion to impose a shorter or different sentence.

The Code includes partial defences which reduce murder to manslaughter. Partial defences include killing on provocation in section 304 and killing for preservation in an abusive domestic relationship in section 304B.<sup>1</sup>

The Code also includes other offences for acts causing death, such as killing an unborn child, unlawful striking causing death and dangerous operation of a vehicle causing death. Some of these offences may be available as alternative verdicts on a charge of murder or manslaughter.<sup>2</sup>

### 305 Punishment of murder

- (1) Any person who commits the crime of murder is liable to imprisonment for life, which can not be mitigated or varied under this Code or any other law or is liable to an indefinite sentence under part 10 of the Penalties and Sentences Act 1992.

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### 310 Punishment of manslaughter

- (1) Any person who commits the crime of manslaughter is liable to imprisonment for life.
- (2) The Penalties and Sentences Act 1992, section 161Q states a circumstance of aggravation for the crime of manslaughter.

A sentence of **life imprisonment** is a fixed prison sentence where the person must serve a minimum number of years in prison before they are eligible for release on parole. If the person is granted parole, it will apply to them for their whole life. They could be returned to prison in some circumstances, for example, if they breach the parole order.<sup>3</sup>

The **minimum non-parole period** for a person sentenced to life imprisonment **for murder** is:<sup>4</sup>

- at least 20 years, or
- at least 25 years, if the person is sentenced for the murder of a police officer in certain circumstances, or
- at least 30 years, if the person is sentenced for the murder of more than one person or has committed or previously been sentenced to another offence of murder.

The sentencing court may increase, but not decrease, the minimum non-parole period.<sup>5</sup>

A person sentenced to life imprisonment for manslaughter must serve at least 15 years before being eligible for parole. If the sentence is for a shorter term and the person is placed on parole, the time the person must usually serve in prison before being eligible for parole is:<sup>6</sup>

- 80% of the sentence or 15 years (whichever is shorter), if the person is sentenced to 10 years or more or the court declares that the person is convicted of a serious violent offence, or
- 50% of the sentence, if the person is sentenced to more than 3 years, unless the court fixes another time.

An **indefinite sentence** is a prison sentence with no fixed end date. It can be imposed in exceptional circumstances for murder, manslaughter, rape and some other serious offences. It can be imposed only if the court decides the person is a serious danger to the community because of: the person's history, character, age, health or mental condition; the severity of the offence; or other special circumstances.<sup>7</sup> The court must regularly review the sentence and decide if it should be changed to a fixed term of imprisonment (such as life imprisonment). A person under an indefinite sentence cannot be granted parole until the court discharges the indefinite sentence and replaces it with a fixed term of imprisonment.<sup>8</sup>

General sentencing principles are in the Penalties and Sentences Act 1992. It states that the only purposes of sentencing are to:<sup>9</sup>

- punish the person
- help rehabilitate the person
- deter the person and others from committing the same type of offence
- show that the community denounces the person's behaviour
- protect the community.

A sentencing court must also look at other relevant matters. For example, when sentencing a person for an offence of violence or that results in physical harm, the court must consider factors such as:<sup>10</sup>

- the risk of physical harm to the community if a prison sentence is not imposed, and the need to protect the community from that risk
- the victim's personal circumstances
- the circumstances of the offence and the nature or extent of its violence
- any disregard by the person for public safety

- the person's past record, personal history, age and character
- the person's remorse or lack of remorse
- any medical, psychiatric, prison or other relevant report about the person.

### 305 Punishment of murder cont.

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- (2) If the person is being sentenced—
- (a) on more than 1 conviction of murder; or
  - (b) on 1 conviction of murder and another offence of murder is taken into account; or
  - (c) on a conviction of murder and the person has on a previous occasion been sentenced for another offence of murder;

the court sentencing the person must make an order that the person must not be released from imprisonment until the person has served a minimum of 30 or more specified years of imprisonment, unless released sooner under exceptional circumstances parole under the Corrective Services Act 2006.

- (3) Subsection 2(c) applies whether the crime for which the person is being sentenced was committed before or after the conviction for the other offence of murder mentioned in the paragraph.

- (4) If—
- (a) the person killed was a police officer at the time the act or omission that caused the person's death was done or made; and
  - (b) the person being sentenced did the act or made the omission that caused the police officer's death—
    - (i) when—
      - (A) the police officer was performing the officer's duty; and
      - (B) the person knew or ought reasonably to have known that he or she was a police officer; or
    - (ii) because the police officer was a police officer; or
    - (iii) because of, or in retaliation for, the actions of the police officer or another police officer in the performance of the officer's duty;

the court sentencing the person must make an order that the person must not be released from imprisonment until the person has served a minimum of 25 or more specified years of imprisonment, unless released sooner under exceptional circumstances parole under the Corrective Services Act 2006.

- (5) The Penalties and Sentences Act 1992, section 161Q also states a circumstance of aggravation for the crime of murder.

When the Criminal Code came into force in 1901, the punishment for murder was death.<sup>11</sup> The last execution in Queensland was in 1913. In 1916, the government introduced a policy that all sentences of death would be commuted to life imprisonment.<sup>12</sup> In 1922 the death penalty was abolished and the penalty for murder in the Code was changed to mandatory life imprisonment.<sup>13</sup>

Indefinite sentences were made available as a penalty for murder in 1992. Minimum non-parole periods for some murders were added in 1997 and later extended in 2012.<sup>14</sup> These changes reflected the view that 'murder is the most heinous of criminal offences'. They aimed to 'ensure that the punishment of murder fits the severity of the crime' and to 'promote community safety and protection'.<sup>15</sup>

Reasons given in support of mandatory life imprisonment for murder include arguments that it:<sup>16</sup>

- is necessary to reflect the uniquely serious nature of murder
- helps protect the public from the risk of reoffending
- promotes consistency in sentencing and public confidence in the administration of justice.

Criticisms of a mandatory penalty for murder include concerns that it:<sup>17</sup>

- limits the court's ability to consider the individual circumstances of the case, which can result in injustice
- can discourage pleas of guilty to murder as there can be no reduction in the sentence
- does not represent truth in sentencing because a mandatory life sentence does not necessarily mean life-long imprisonment.

In general, the penalty for murder in all other Australian jurisdictions is life imprisonment. In some places, including Tasmania and Victoria, the penalty for murder is a maximum of life imprisonment, where the court has discretion to impose a shorter or different sentence. This is consistent with the Model Criminal Code.<sup>18</sup> In contrast, New South Wales has a maximum penalty but imposes a mandatory penalty in certain cases; and Western Australia (like New Zealand) has a presumptive penalty that must be imposed except in particular circumstances. Like Queensland, life imprisonment for murder is mandatory in the Northern Territory and South Australia.

### Crimes Act 1958 (Vic)

#### 3 Punishment for murder

- (1) Notwithstanding any rule of law to the contrary, a person convicted of murder is liable to—
  - (a) level 1 imprisonment (life); or
  - (b) imprisonment for such other term as is fixed by the court—  
as the court determines.
- (2) The standard sentence for murder is—
  - (a) 30 years if the court, in determining sentence, is satisfied that the prosecution has proved beyond reasonable doubt that—
    - (i) the person murdered was a custodial officer on duty or an emergency worker on duty;  
and
    - (ii) at the time of carrying out the conduct the accused knew or was reckless as to whether that person was a custodial officer or an emergency worker; and
  - (b) in any other case, 25 years.

#### Notes

- 1 See sections 5A and 5B of the Sentencing Act 1991 as to standard sentences.
- 2 Murder is a category 1 offence under the Sentencing Act 1991. See section 5(2G) of that Act for the requirement to impose a custodial order for this offence.
- (3) In subsection (2)(a) custodial officer on duty, custodial officer, emergency worker on duty and emergency worker have the same meanings as in section 10AA of the Sentencing Act 1991.

#### 5 Punishment of manslaughter

Whosoever is convicted of manslaughter shall be liable to level 2 imprisonment (25 years maximum).

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In Victoria, murder has a maximum penalty of life imprisonment and a 'standard sentence' of imprisonment for 25 years, or 30 years in some cases. Standard sentences are a feature of the sentencing framework for some serious offences in Victoria (but not in Queensland). Standard sentences generally represent the middle of the range of seriousness and are one of the factors the court must look at as a guidepost to decide the sentence.<sup>19</sup>

## Crimes Act 1900 (NSW)

### 19A Punishment for murder

- (1) A person who commits the crime of murder is liable to imprisonment for life.
- (2) A person sentenced to imprisonment for life for the crime of murder is to serve that sentence for the term of the person's natural life.
- (3) Nothing in this section affects the operation of section 21(1) of the Crimes (Sentencing Procedure) Act 1999 (which authorises the passing of a lesser sentence than imprisonment for life).
- (4) This section applies to murder committed before or after the commencement of this section.
- (5) However, this section does not apply where committal proceedings (or proceedings by way of ex officio indictment) for the murder were instituted against the convicted person before the commencement of this section. In such a case, section 19 as in force before that commencement continues to apply.
- (6) Nothing in this section affects the prerogative of mercy.

### 19B Mandatory life sentences for murder of police officers

- (1) A court is to impose a sentence of imprisonment for life for the murder of a police officer if the murder was committed—
  - (a) while the police officer was executing his or her duty, or
  - (b) as a consequence of, or in retaliation for, actions undertaken by that or any other police officer in the execution of his or her duty,and if the person convicted of the murder—
  - (c) knew or ought reasonably to have known that the person killed was a police officer, and
  - (d) intended to kill the police officer or was engaged in criminal activity that risked serious harm to police officers.
- (2) A person sentenced to imprisonment for life under this section is to serve the sentence for the term of the person's natural life.
- (3) This section does not apply to a person convicted of murder—
  - (a) if the person was under the age of 18 years at the time the murder was committed, or
  - (b) if the person had a significant cognitive impairment at that time (not being a temporary self-induced impairment).
- (4) If this section requires a person to be sentenced to imprisonment for life, nothing in section 21 (or any other provision) of the Crimes (Sentencing Procedure) Act 1999 or in any other Act or law authorises a court to impose a lesser or alternative sentence.
- (5) Nothing in this section affects the obligation of a court to impose a sentence of imprisonment for life on a person convicted of murder in accordance with section 61 of the Crimes (Sentencing Procedure) Act 1999.
- (6) Nothing in this section affects the prerogative of mercy.
- (7) This section applies to offences committed after the commencement of this section.

### 24 Manslaughter—punishment

Whosoever commits the crime of manslaughter shall be liable to imprisonment for 25 years ...

### Crimes (Sentencing Procedure) Act 1999 (NSW)

61 Mandatory life sentences for certain offences

- (1) A court is to impose a sentence of imprisonment for life on a person who is convicted of murder if the court is satisfied that the level of culpability in the commission of the offence is so extreme that the community interest in retribution, punishment, community protection and deterrence can only be met through the imposition of that sentence.

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- (6) This section does not apply to a person who was less than 18 years of age at the date of commission of the offence.

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### Criminal Code (WA)

279 Murder

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- (4) A person, other than a child, who is guilty of murder must be sentenced to life imprisonment unless—
- (a) that sentence would be clearly unjust given the circumstances of the offence and the person; and
  - (b) the person is unlikely to be a threat to the safety of the community when released from imprisonment,
- in which case, subject to subsection (5A), the person is liable to imprisonment for 20 years.

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- (5A) If the offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender, if it does not impose a term of life imprisonment must, notwithstanding any other written law, impose a term of imprisonment of at least 15 years.

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- (6) A court that does not sentence a person guilty of murder to life imprisonment must give written reasons why life imprisonment was not imposed.

280 Manslaughter

- (1) If a person unlawfully kills another person under such circumstances as not to constitute murder, the person is guilty of manslaughter and is liable to imprisonment for life.

Alternative offence: s 281, 284, 290, 291 or 294 or Road Traffic Act 1974 s 59.

- (2) If the offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender, if it does not impose a term of imprisonment for life must, notwithstanding any other written law, impose a term of imprisonment of at least 15 years.

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### Criminal Code (NT)

157 Punishment for murder and conspiracy to murder

(1) A person who is guilty of the offence of murder is liable to imprisonment for life.

(2) The penalty mentioned in subsection (1) is mandatory.

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Notes for section 157

1. Under sections 53 and 53A of the Sentencing Act 1995, a sentencing court must fix a non-parole period when sentencing an offender found guilty of murder.

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161 Punishment for manslaughter

A person who is guilty of the offence of manslaughter is liable to imprisonment for life.

In most jurisdictions a person convicted of murder and sentenced to life imprisonment can become eligible for parole or be released on licence.<sup>20</sup> Unlike Queensland, courts in most other jurisdictions may order that an offender is not eligible for parole or refuse to set a non-parole period (which means the offender cannot be released on parole for the duration of their life sentence).<sup>21</sup>

Many jurisdictions also have partial defences that reduce murder to manslaughter.

Table 1: penalty for murder and manslaughter in Queensland and other jurisdictions

Act name and jurisdiction	Penalty for murder	Minimum terms or non-parole periods	Penalty for manslaughter	Available partial defences
<a href="#">Criminal Code (Qld)</a> <a href="#">Corrective Services Act 2006 (Qld)</a>	Mandatory life imprisonment: s 305 Criminal Code	Minimum non-parole period between 20–30 years: s 305 Criminal Code; s 181 Corrective Services Act	Maximum life imprisonment: s 310(1) Criminal Code	✓ (including provocation and killing in preservation in a domestic relationship)
<a href="#">Crimes Act 1900 (ACT)</a> <a href="#">Crimes (Sentencing) Act 2005 (ACT)</a> <a href="#">Crimes (Sentence Administration) Act 2005 (ACT)</a>	Maximum life imprisonment: s 12(2) Crimes Act	No parole on life sentence but release on licence available after 10 years: s 65(5) Crimes (Sentencing) Act; ss 288, 290 Crimes (Sentence Administration) Act  For sentences less than life imprisonment but more than one year, court must set non-parole period (unless not appropriate): s 65 Crimes (Sentencing) Act	Maximum 20 years imprisonment (or 28 years if aggravated): s 15(2)–(3) Crimes Act	✓ (including provocation)



Act name and jurisdiction	Penalty for murder	Minimum terms or non-parole periods	Penalty for manslaughter	Available partial defences
<a href="#">Crimes Act 1900 (NSW)</a> <a href="#">Crimes (Sentencing Procedure) Act 1999 (NSW)</a>	Maximum life imprisonment: s 19A Crimes Act Mandatory life if murder of a police officer in particular circumstances: s 19B Crimes Act Mandatory life if court is satisfied this is needed to meet the community interest because of the extreme level of culpability in the commission of the offence: s 61 Crimes (Sentencing Procedure) Act	Where life is imposed, must serve life with no parole: s 19A(2) Crimes Act Otherwise standard non-parole period of 20–25 years: s 54A table Crimes (Sentencing Procedure) Act	Maximum 25 years imprisonment: s 24 Crimes Act	✓ (including extreme provocation and excessive self-defence)
<a href="#">Criminal Code (NT)</a> <a href="#">Sentencing Act 1995 (NT)</a>	Mandatory life imprisonment: s 157(1)–(2) Criminal Code	Standard non-parole period of 20 years Minimum non-parole period of 25 years in certain circumstances: s 53A Sentencing Act	Maximum life imprisonment: s 161 Criminal Code	✓ (including provocation)
<a href="#">Criminal Law Consolidation Act 1935 (SA)</a> <a href="#">Sentencing Act 2017 (SA)</a>	Mandatory life imprisonment: s 11 Criminal Law Consolidation Act	Presumptive non-parole period of 20 years: s 47(5) Sentencing Act	Maximum life imprisonment: s 13 Criminal Law Consolidation Act	✓ (including excessive self-defence)
<a href="#">Criminal Code (Tas)</a> <a href="#">Sentencing Act 1997 (Tas)</a>	Maximum life imprisonment: s 158 Criminal Code	For a term less than life, non-parole period must be not less than half the sentence: ss 17–18 Sentencing Act	Maximum 21 years imprisonment: s 389 Criminal Code	✓
<a href="#">Crimes Act 1958 (Vic)</a> <a href="#">Sentencing Act 1991 (Vic)</a>	Maximum life imprisonment: s 3 Crimes Act Must impose custodial sentence Standard sentence (middle of the range) of 25–30 years: s 3 Crimes Act	Presumptive non-parole period of 30 years if life sentence imposed, 70% of the term if sentenced to 20 years or more, or 60% of the term if sentenced to less than 20 years: ss 11, 11A Sentencing Act	Maximum 25 years imprisonment: s 5 Crimes Act	✓

Act name and jurisdiction	Penalty for murder	Minimum terms or non-parole periods	Penalty for manslaughter	Available partial defences
<a href="#">Criminal Code (WA)</a> <a href="#">Sentencing Act 1995 (WA)</a>	Presumptive life imprisonment (unless it would be clearly unjust and the person is unlikely to be a threat to community safety when released): s 279(4) Criminal Code	Where a life sentence is imposed, minimum non-parole period between 10–15 years applies: s 90(1)(a)(i)–(ii) Sentencing Act	Maximum life imprisonment: s 280 Criminal Code	✓ (including excessive self-defence)
<a href="#">Criminal Code (Cth)</a> <a href="#">Crimes Act 1914 (Cth)</a>	Maximum life imprisonment: e.g. ss 71.2, 115.1 Criminal Code	Court may fix a non-parole period: s 19AB Crimes Act	Maximum 25 years imprisonment: e.g. ss 71.3, 115.2 Criminal Code	✗
<a href="#">Crimes Act 1961 (NZ)</a> <a href="#">Sentencing Act 2002 (NZ)</a>	Presumptive life imprisonment (unless it would be manifestly unjust): s 172 Crimes Act; s 102 Sentencing Act	Where a life sentence is imposed, minimum non-parole period of 10 years (or 17 years in some circumstances) applies: ss 103–104 Sentencing Act	Maximum life imprisonment: s 177 Crimes Act	✓
<a href="#">Murder (Abolition of Death Penalty) Act 1965 (UK)</a> <a href="#">Offences Against the Person Act 1861, 24 &amp; 25 Vict, c 100</a> <a href="#">Sentencing Act 2020 (UK)</a> (England and Wales)	Mandatory life imprisonment: s 1(1) Murder (Abolition of the Death Penalty) Act	Minimum terms between 15 years and whole of life: ss 321–322, sch 21 Sentencing Act	Maximum life imprisonment: s 5 Offences Against the Person Act	✓ (including loss of control)
<a href="#">Criminal Procedure (Scotland) Act 1995 (UK)</a> <a href="#">Custodial Sentences and Weapons (Scotland) Act 2007 (Scot)</a> (Scotland)	Mandatory life imprisonment for a person 21 years or older, and maximum life detention for a person at least 18 but under 21 years old: s 205(1), (3) Criminal Procedure (Scotland) Act	Where a life sentence is imposed, court must order minimum term to be served in custody as ‘punishment part’: s 20 Custodial Sentences and Weapons (Scotland) Act	Maximum life imprisonment for culpable homicide	✓ (including provocation)

Act name and jurisdiction	Penalty for murder	Minimum terms or non-parole periods	Penalty for manslaughter	Available partial defences
<a href="#">Northern Ireland (Emergency Provisions) Act 1973 (UK)</a> <a href="#">Life Sentences (Northern Ireland) Order 2001 (NI)</a> <a href="#">The Criminal Justice (Northern Ireland) Order 2008 (NI)</a> (Northern Ireland)	Mandatory life imprisonment: s 1(1) Northern Ireland (Emergency Provisions) Act	Where a life sentence is imposed, court may order minimum term to be served in custody as 'tariff': art 5(1) Life Sentences (Northern Ireland) Order	Maximum life imprisonment: art 13 The Criminal Justice (Northern Ireland) Order	✓ (including loss of control)
<a href="#">Canada Criminal Code RSC 1985 c C-46</a>	Mandatory life imprisonment: s 235 Criminal Code	Minimum non-parole period of 25 years applies to 1st and 2nd degree murder in certain circumstances  Otherwise 2nd degree murder eligible for parole between 10 and 25 years: s 745 Criminal Code	Maximum life imprisonment: s 236 Criminal Code	✓ (including provocation)

# References

- 1 See the 'Killing on provocation information sheet' and 'Provocation to assault information sheet' on our website <https://www qlrc.qld.gov.au/reviews/review-of-particular-criminal-defences>.
- 2 See e.g. Criminal Code (Qld) ss 313, 314A, 328A(4), 328B, 577.
- 3 See generally Corrective Services Act 2006 (Qld) ch 5 pt 1 (parole orders), including ss 200(1)(a)(i), 205–206, 209–210.
- 4 See Corrective Services Act 2006 (Qld) s 181(1)–(2)(a)–(c); Criminal Code (Qld) s 305(2)–(4).
- 5 See *R v Appleton* [2017] QCA 290; *R v Bafico* [1996] 2 Qd R 274.
- 6 See Corrective Services Act 2006 (Qld) ss 182(1)–(2), 184.
- 7 See Penalties and Sentences Act 1992 (Qld) s 163; *R v Fraser* [2001] QCA 187 at [66] (and at [47]–[69]).
- 8 See Penalties and Sentences Act 1992 (Qld) pt 10 ss 162, 163, 171–174. See generally Queensland Sentencing Advisory Council, Queensland Sentencing Guide, March 2023, p 61.
- 9 Penalties and Sentences Act 1992 (Qld) s 9(1). See generally Queensland Sentencing Advisory Council, 'Purposes, principles and factors of sentencing', viewed 22 September 2023 <https://www.sentencingcouncil.qld.gov.au/about-sentencing/purposes-principles-and-factors-of-sentencing>.
- 10 Penalties and Sentences Act 1992 (Qld) s 9(2A)–(3).
- 11 See Criminal Code Act 1899 (Qld) sch 1 ss 19, 305, 651–652, 664–665, sch 3 (as passed). Previously see Offences Against the Person Act 1865, 29 Vic No 11, ss 1–2, repealed by Criminal Code Act 1899 (Qld) sch 3.
- 12 Queensland State Archives, 'Ernest Austin: the last man hanged in Queensland', Stories from the Archives, 20 September 2021 <https://blogs.archives.qld.gov.au/2021/09/20/ernest-austin-the-last-man-hanged-in-queensland/>.
- 13 See also the 'Timeline of legislative reforms and proposals in Queensland' on our website <https://www qlrc.qld.gov.au/reviews/review-of-particular-criminal-defences>.
- 14 See Penalties and Sentences Act 1992 (Qld) pt 10, s 207 sch (as passed); Penalties and Sentences (Serious Violent Offences) Amendment Act 1997 (Qld) s 19; Criminal Law Amendment Act 2012 (Qld) s 3.
- 15 Explanatory Notes, Criminal Law Amendment Bill 2012 (Qld) p 2.
- 16 See e.g. *R v Appleton* [2017] QCA 290 at [42]; B Mitchell and JV Roberts, Exploring the Mandatory Life Sentence for Murder, Hart Publishing, 2012, pp 55–7; Law Reform Commission of Western Australia, Review of the Law of Homicide, Final report 97, September 2007, pp 299, 305–308; Victorian Law Reform Commission, Law of Homicide in Victoria: Sentence for murder, 1985, p 6.
- 17 See e.g. B Mitchell and JV Roberts, Exploring the Mandatory Life Sentence for Murder, Hart Publishing, 2012, pp 56–8; Law Reform Commission of Western Australia, Review of the Law of Homicide, Final report 97, September 2007, pp 299, 307–308; Victorian Law Reform Commission, Law of Homicide in Victoria: Sentence for murder, 1985, pp 6–7; K Fitz-Gibbon, 'The mandatory life sentence for murder: an argument for judicial discretion in England', Criminology and Criminal Justice, 2013, vol 13(5), pp 512–14. See generally Queensland Sentencing Advisory Council, Community-Based Sentencing Orders, Imprisonment and Parole Options, Final report, July 2019, pp 87–9.
- 18 See e.g. Criminal Code (Tas) s 158; Crimes Act 1958 (Vic) s 3.
- See Model Criminal Law Officers Committee of the Standing Committee of Attorneys-General, Model Criminal Code: Chapter 5 fatal offences against the person, Discussion paper, June 1998, ch 5 cl 5.1.9, p 65, viewed 14 June 2023 <https://www.ag.gov.au/crime/publications/model-criminal-law-officers-committee-reports>. The Model Criminal Code is not in force as legislation, but is a draft of suggested provisions developed in the 1990s with the aim of providing for uniform or consistent criminal laws around Australia.
- 19 See Crimes Act 1958 (Vic) s 3; Sentencing Act 1991 (Vic) ss 5A, 5B; *Brown v The Queen* (2019) 59 VR 462. See generally Sentencing Advisory Council (Victoria), 'Sentencing schemes', viewed 27 September 2023 <https://www.sentencingcouncil.vic.gov.au/about-sentencing/sentencing-schemes>.
- 20 Criminal Code (Qld) s 305; Corrective Services Act 2006 (Qld) s 181; Crimes (Sentencing) Act 2005 (ACT) s 65(5), Crimes (Sentence Administration) Act 2005 (ACT) ss 288, 290; Sentencing Act 1995 (NT) s 53A; Sentencing Act 2017 (SA) ss 47–8; Sentencing Act 1997 (Tas) s 18; Sentencing Act 1991 (Vic) ss 11, 11A; Sentencing Act 1995 (WA) ss 90(1)(a)(i)–(ii); Crimes Act 1914 (Cth) s 19AB. Cf Crimes Act 1900 (NSW) s 19A(2).
- 21 Sentencing Act 1995 (NT) s 53A(5); Sentencing Act 2017 (SA) s 47(5)(e); Sentencing Act 1997 (Tas) s 18; Sentencing Act 1991 (Vic) s 11; Sentencing Act 1995 (WA) s 90(1)(b); Crimes Act 1914 (Cth) s 19AB(3).