Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Parole Board (Scotland) Rules 2001. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2001 No. 315

PRISONS

The Parole Board (Scotland) Rules 2001

Made - - - -	*13th September 2001*
Laid before the Scottish Parliament - - - -	*14th September 2001*
Coming into force - -	*8th October 2001*

The Scottish Ministers, in exercise of the powers conferred by section 20(4) and (4A) of the Prisoners and Criminal Proceedings (Scotland) Act 1993[F1] and of all other powers enabling them in that behalf, hereby make the following Rules:

F1 1993 c.9; section 20(4) was amended by the Crime and Disorder Act 1998 (c.37), **Schedule 8**, paragraph 106 and by the Convention Rights (Compliance) (Scotland) Act 2001 (asp 7) ("the 2001 Act"), section 5(1)(c); section 20(4A) was inserted by the 2001 Act, section 5(1)(c); the functions conferred on the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of Scotland Act 1998 (c.46).

PART I

INTRODUCTION

Citation, commencement and application

1.—(1) These Rules may be cited as the Parole Board (Scotland) Rules 2001 and shall come into force on 8th October 2001.

(2) These Rules shall apply to every case referred by the Scottish Ministers to the Parole Board on or after 8th October 2001.

Interpretation

2.—(1) In these Rules, except where the context otherwise requires–

"the 1989 Act" means the Prisons (Scotland) Act 1989 [F2];

"the 1993 Act" means the Prisoners and Criminal Proceedings (Scotland) Act 1993;

"the 2001 Act" means the Convention Rights (Compliance) (Scotland) Act 2001 [F3];

"the 1993 Rules" means the Parole Board (Scotland) Rules 1993 [F4];

"the 1995 Rules" means the Parole Board (Scotland) Rules 1995 [F5];

"the Board" means the Parole Board for Scotland and includes, in relation to any case which is authorised by rule 14(2), 15(3) or 18(1) to be dealt with, in whole or in part, by a specified number of members of the Board, those members and any tribunal formed by those members under rule 18;

"case" means any case relating to a person which the Board is to consider or is considering and, in any Part of these Rules, means a case to which that Part applies;

"the chairman of the Board" means the chairman of the Board appointed under paragraph 1 of Schedule 2 to the 1993 Act but does not include the chairman of a tribunal;

"the chairman of a tribunal" means the chairman of a tribunal appointed under rule 18(4);

"damaging information" shall be construed in accordance with rule 6(1);

"Part IV case" means a case to which Part IV of these Rules applies by virtue of rule 17;

"parties", in relation to a Part IV case, means the Scottish Ministers and the prisoner;

"person concerned", in relation to a case, means the person to whom the case relates;

"prisoner" in relation to a Part IV case, means–

(a) a person sentenced by a court in Scotland to life imprisonment, or to detention without limit of time, or for life;

(b) a prisoner to whom section 10 or 10A of the 1993 Act, or Part 4 or 5 of the Schedule to the 2001 Act, applies;

(c) a prisoner subject to an extended sentence by virtue of section 210A of the Criminal Procedure (Scotland) Act 1995 [F6] who has been recalled to custody under section 17(1) of the 1993 Act; and

"tribunal" means a tribunal formed under rule 18.

(2) Any reference in these Rules to a numbered rule or to a numbered Schedule means, unless the context otherwise requires, a reference to the rule or the Schedule bearing that number in these Rules and any reference in a rule to a numbered paragraph means, unless the context otherwise requires, a reference to that paragraph bearing that number in that rule.

F2 1989 c.45.
F3 asp 7.
F4 S.I. 1993/2225, amended by S.I.s 1997/2317, 1998/1904 and 1999/1116.
F5 S.I. 1995/1273, amended by S.I. 1998/1904.
F6 1995 c.46.

PART II

GENERAL

Application

3.—(1) Subject to paragraph (2) and except where otherwise expressly provided, this Part of these Rules shall apply to every case referred by the Scottish Ministers to the Parole Board.

(2) In the application of this Part of the Rules to a case where the Board is to consider, or is considering, whether to recommend the revocation of a person's licence and his or her recall to prison under section 28(1) of the 1989 Act or section 17(1) of the 1993 Act–

(a) rules 4 and 7 shall not apply; and

(b) in rule 5(1), the Scottish Ministers shall not be required–

(i) to include in the dossier which they send to the Board all the information and documents specified in the Schedule to these Rules but only such as may be available to them at the time when they send the dossier to the Board; or

(ii) to send the dossier to the person concerned.

Reference

4. Where a case of a person is referred to the Board by the Scottish Ministers, the Scottish Ministers shall, at the same time as referring the case, give written notification of that reference to that person.

Scottish Ministers' dossier

5.—(1) Subject to paragraph (2) and rule 6, not later than 2 weeks after the date of the reference of the case to the Board, the Scottish Ministers shall send to the Board and to the person concerned a dossier containing any information in writing or documents which they consider to be relevant to the case, including, wherever practicable, the information and documents specified in the Schedule to these Rules.

(2) In relation to a Part IV case which is referred to the Board immediately following the making of an order under paragraph 12 or 59 of the Schedule to the 2001 Act, paragraph (1) shall apply as if there were substituted for the reference to 2 weeks a reference to 12 weeks.

Non disclosure of information

6.—(1) This rule applies where–

(a) the Scottish Ministers consider that any written information or document contained in a dossier sent to the Board under rule 5 or otherwise given to the Board by them; or

(b) the Board considers that any other written information or document obtained by it,

should not be sent or disclosed to the person concerned because its disclosure would be likely to be damaging on one or more of the following grounds, namely:–

(i) that it would be likely adversely to affect the health, welfare or safety of that person or any other person;

(ii) that it would be likely to result in the commission of an offence;

(iii) that it would be likely to facilitate an escape from legal custody or the doing of any act prejudicial to the safe keeping of persons in legal custody;

(iv) that it would be likely to impede the prevention or detection of offences or the apprehension or prosecution of suspected offenders;

(v) that it would be likely otherwise to damage the public interest;

and any such information or document is referred to in these Rules as "damaging information".

(2) Where this rule applies–

(a) the Scottish Ministers or, as the case may be, the Board shall not be required to send a copy of the damaging information to the person concerned whether under rule 5 or otherwise;

(b) the Board may take such damaging information into account even although it has not been disclosed to the person concerned; and

(c) the Scottish Ministers or, as the case may be, the Board shall send to the person concerned a written notice–

(i) informing him or her that certain information which has been sent to or obtained by the Board has not been sent to him or her because the Scottish Ministers or, as the case may be, the Board considers that the disclosure of that information would be likely to be damaging on one or more of the grounds mentioned in paragraph (1) which is or are specified in the notice;

(ii) giving that person, but only so far as is practicable without prejudicing the purposes for which the information is not disclosed, the substance or gist of the damaging information,

and, where this rule applies by virtue of paragraph (1)(a) above, the Scottish Ministers shall send a copy of that written notice to the chairman of the Board.

(3) This rule does not apply in a Part IV case.

Representations

7.—(1) A person shall have the right to submit written representations with respect to his or her case together with any other information in writing or documents which he or she considers to be relevant to his or her case and wishes the Board to take into account, following receipt of the dossier under rule 5(1), any other information sent to him or her by the Scottish Ministers or the Board or any written notice under rule 6(2).

(2) Any such representations shall be sent to the Board and the Scottish Ministers within four weeks of the date on which the Scottish Ministers or, as the case may be, the Board sent to the person the dossier, information or written notice referred to above.

(3) In a case where the person has a right to submit written representations following receipt of a written notice, the representations may include any representations about the non disclosure of any damaging information.

Matters to be taken into account by the Board

8. In dealing with a case of a person, the Board may take into account any matter which it considers to be relevant, including, but without prejudice to the foregoing generality, any of the following matters:–

(a) the nature and circumstances of any offence of which that person has been convicted or found guilty by a court;

(b) that person's conduct since the date of his or her current sentence or sentences;

(c) the risk of that person committing any offence or causing harm to any other person if he or she were to be released on licence, remain on licence or be re released on licence as the case may be; and

(d) what that person intends to do if he or she were to be released on licence, remain on licence or be re released on licence, as the case may be, and the likelihood of that person fulfilling those intentions.

Confidentiality

9. Any information–

(a) in connection with the proceedings before the Board or, in a Part IV case, a tribunal in dealing with a case;

(b) about any application, document or written or oral information given to the Board or to the tribunal; or

(c) about the name of any person concerned in the proceedings,

shall not be disclosed, either directly or indirectly, to any person not involved in those proceedings or to the public, except–

(i) insofar as the chairman of the Board or, in a Part IV case, the chairman of the tribunal otherwise direct; or

(ii) in connection with any court proceedings.

Time

10.—(1) Where the time appointed by or under these Rules for doing any act expires on a Saturday, Sunday or public holiday, the act shall be done in time if done on the next day which is not a Saturday, Sunday or public holiday.

(2) Any time appointed by or under these Rules for the doing of any act may be varied–

(a) in relation to a Part IV case, by the chairman of the tribunal under rule 17(2) or 19(2); and

(b) in relation to any other case, by the Board on an application made to it for that purpose.

Sending of documents etc.

11. Any application, document, or other written material which is required or authorised by these Rules to be made, served, given, sent or otherwise transmitted to any person may be sent by facsimile transmission, pre-paid post or delivered–

(a) in the case where the intended recipient of the application, document or other written material is the Board, tribunal or chairman of a tribunal, to the office of the Board; and

(b) in any other case, to the last known address of the intended recipient.

Irregularities

12.—(1) Any irregularity resulting from failure to comply with any provision of these Rules or of any direction under these Rules shall not of itself render the proceedings void.

(2) Where any such irregularity comes to the attention of the Board or, in a Part IV case, the tribunal, the Board or, as the case may be, the tribunal may, and shall, if it considers that any person may have been prejudiced by that irregularity, give such directions as it thinks fit before reaching its decision to cure or waive the irregularity.

(3) Clerical mistakes in any document recording a decision of the Board or, in a Part IV case, the tribunal, or errors arising in such a document from an accidental slip or omission, may be corrected by the chairman of the Board, or, as the case may be, the chairman of the tribunal, by certificate under his hand.