STATUTORY INSTRUMENTS

2016 No. 1041

PRISONS, ENGLAND AND WALES

The Parole Board Rules 2016

Made - - - -	*31st October 2016*
Laid before Parliament	*1st November 2016*
Coming into force - -	*22nd November 2016*

The Secretary of State, in exercise of the powers conferred by sections 239(5), 330(3) and 330(4) of the Criminal Justice Act 2003(**1**), makes the following Rules.

PART 1

Introduction

Citation, commencement and revocation

1.—(1) These Rules may be cited as the Parole Board Rules 2016 and come into force on 22nd November 2016.

(2) The Parole Board Rules 2011(**2**) and the Parole Board (Amendment) Rules 2014(**3**) are revoked.

Interpretation

2. In these Rules—

"barrister" means an individual who has been called to the Bar by an Inn of Court, and is not disbarred by order of an Inn of Court;

"Board" means the Parole Board(**4**);

"Board chair" means the chairman of the Board appointed under paragraph 2 of Schedule 19 to the Criminal Justice Act 2003;

(**1**) 2003 c. 44.
(**2**) S.I. 2011/2947, as amended by S.I. 2014/240.
(**3**) S.I. 2014/240.
(**4**) The Parole Board is continued in existence by section 239(1) of the Criminal Justice Act 2003 (c. 44).

"case" means a matter which relates to the release of a prisoner, or a request for advice from the Secretary of State;

"determinate sentence" means a sentence of imprisonment or detention other than an indeterminate sentence;

"duty member" means a member of the Board appointed under rule 5(5);

"indeterminate sentence" means a sentence listed under section 34(2) of the Crime (Sentences) Act 1997(**5**);

"IPP sentence" means a sentence of imprisonment or detention for public protection listed under section 34(2)(d) or (e) of the Crime (Sentences) Act 1997;

"oral panel" means a panel which is appointed under rule 5(2) to determine a case at a hearing;

"panel" means a panel appointed under rule 5(1) or (2);

"panel chair" means the member who chairs an oral panel under rule 5(3);

"party" means a prisoner or the Secretary of State;

"prison" includes a young offender institution or any other institution where a prisoner is or has been detained;

"prison director" means a person appointed under section 85(1)(a) of the Criminal Justice Act 1991(**6**);

"prisoner" means a person detained in a young offender institution or detained or imprisoned in any other institution, excluding a person on remand;

"public holiday" means Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**7**) in any part of the United Kingdom;

"single member" means a member of the Board who has been appointed to constitute a panel under rule 5(1);

"solicitor" means a solicitor of the Senior Courts;

"working day" means any day which is not a Saturday, Sunday or a public holiday.

Application

3.—(1) These Rules apply to all cases referred to the Board (including cases referred before the date on which these Rules come into force).

(2) Cases referred to the Board before the date on which these Rules come into force continue under these Rules.

(3) Any steps taken in cases referred to the Board before the date on which these Rules come into force are deemed to have been taken under these Rules.

(**5**) 1997 c. 43; section 34(2) was amended by section 165(1) of and paragraph 183 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c.6), section 230 of, and paragraph 3 of Schedule 18 to, the Criminal Justice Act 2003 (c. 44), section 378 of, and Schedules 16 and 17 to, the Armed Forces Act 2006 (c. 52), and by section 117(1)(b) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
(**6**) 1991 c. 53.
(**7**) 1971 c. 80.

PART 2

General

Referral of cases

4. A case is deemed to be referred to the Board on the date that the Board receives a referral letter from the Secretary of State.

Appointment of panels

5.—(1) For all cases which have been referred to the Board, the Board chair must appoint one member of the Board to constitute a panel to consider the release of a prisoner or advise the Secretary of State in accordance with Part 3 (proceedings on the papers).

(2) If following consideration on the papers under Part 3, a case must be considered by an oral panel under rule 16, the Board chair must appoint one or more members of the Board to constitute a panel to hear that case in accordance with Part 4 (proceedings before an oral panel).

(3) A panel appointed under paragraph (2) is to be chaired by—

(a) where a panel is constituted of more than one member, the member of the panel appointed by the Board Chair for this purpose;

(b) where a panel is constituted of only one member, that member.

(4) A person appointed under paragraph (1) may, in the same case, sit on an oral panel appointed under paragraph (2).

(5) The Board chair may appoint a member of the Board to carry out any function under rule 8, 9, 10, 12, 13, 15, 16, 20, 21, 22 or 26, or any other function as required, and such a member is referred to in these Rules as a "duty member".

Representation

6.—(1) Subject to paragraph (2), a party may be represented by any person appointed by, or on behalf of, the party.

(2) The following may not act as a representative—

(a) any person who is detained or is liable to be detained under the Mental Health Act 1983(**8**);

(b) any person serving a sentence of imprisonment;

(c) any person who is on licence having been released from a sentence of imprisonment, or

(d) any person with a conviction for an offence which remains unspent under the Rehabilitation of Offenders Act 1974(**9**).

(3) Within 5 weeks of a case being referred to the Board, a party who has appointed a representative (or who has a representative who has been appointed on his behalf) must notify the Board and the other party of the name, address and occupation of the representative.

(4) If a prisoner does not have a representative, the Board may, with the prisoner's agreement, appoint a representative on the prisoner's behalf.

(**8**) 1983 c.20.
(**9**) 1974 c.53.

Service of information and reports

7.—(1) Subject to rule 8, within 8 weeks of a case being referred to the Board the Secretary of State must serve on the Board and the prisoner's representative (or the prisoner if there is no representative)—

(a) where a case relates to the initial release of a prisoner, the information specified in Part A of Schedule 1 to these Rules and the reports specified in Part B of that Schedule;

(b) where a case relates to the recall following release of a prisoner, the information specified in Part A of Schedule 2 to these Rules and the reports specified in Part B of that Schedule;

(c) where sub-paragraph (a) or (b) applies, any further information or reports which the Secretary of State considers relevant to the case, and

(d) where a case relates to a request for advice, any information which the Secretary of State considers relevant to the case.

(2) Subject to rule 8, the prisoner's representative may disclose information and reports served under paragraph (1) to the prisoner.

Withholding information or reports

8.—(1) The Secretary of State may apply to the Board for information to be withheld from the prisoner, or from both the prisoner and their representative, where the Secretary of State considers—

(a) that its disclosure would adversely affect—

(i) national security;

(ii) the prevention of disorder or crime, or

(iii) the health or welfare of the prisoner or any other person, and

(b) that withholding the information or report is a necessary and proportionate measure in the circumstances of the case.

(2) Where the Secretary of State makes an application for information or any report ("the material") to be withheld under paragraph (1), the Secretary of State must serve on the Board—

(a) the material, or a separate document containing the material, and

(b) a written application for non-disclosure, explaining why it is proposed to be withheld.

(3) On receipt of an application under paragraph (2)(b), the member appointed by the Board chair for this purpose (being either a panel chair, single member or duty member) must consider the application and may make directions as necessary to enable determination of the application.

(4) When the member appointed under paragraph (3) is satisfied that all relevant information has been served on the Board, that member must consider the application and direct that the material should be—

(a) served on the prisoner and their representative (if applicable) in full;

(b) withheld from the prisoner or from both the prisoner and their representative, or

(c) disclosed to the prisoner, or to both the prisoner and their representative, in the form of a summary or redacted version.

(5) If—

(a) a direction is given under paragraph (4)(a) and the Secretary of State intends to appeal against it in accordance with paragraph (8), or

(b) a direction is given under paragraph (4)(b) or (c),

the Secretary of State must, as soon as practicable notify the prisoner and the prisoner's representative (if applicable) that an application has been made under paragraph (2)(b) and the substance of that direction.

(6) If the member appointed under paragraph (3) gives a direction under paragraph (4)(b) or (c) that relates only to the prisoner, and that prisoner has a representative the Secretary of State must, subject to paragraphs (7) and (8), serve the material as soon as practicable (unless the member directs otherwise) on the prisoner's representative, if the representative is—

(a) a barrister or solicitor;

(b) a registered medical practitioner;

(c) a person whom the member appointed under paragraph (3) directs is suitable by virtue of their experience or professional qualification, or

(d) a special advocate who has been appointed by the Attorney General to represent the prisoner's interests.

(7) The material must not be disclosed to the prisoner's representative under paragraph (6) unless they first give an undertaking to the Board that they will not, without the consent of the member appointed under paragraph (3), disclose it to the prisoner or to any other person.

(8) Within 7 days of notification by the Secretary of State in accordance with paragraph (5), either party may appeal against that direction to the Board chair, who must notify the other party of the appeal; and if the Secretary of State appeals against the direction, the Secretary of State need not serve the material under paragraph (4) or (6) until the appeal is determined.

(9) Within 7 days of being notified that a party has appealed under paragraph (8), the other party may make representations on the appeal to the Board chair.

(10) If—

(a) the member appointed under paragraph (3) to determine an application under paragraph (1), or

(b) the Board chair determining an appeal under paragraph (8),

decides that any material which is subject to the application by the Secretary of State under paragraph (1) should be disclosed to the prisoner (in full or in the form of a summary or redacted version), the Secretary of State may withdraw the material within 7 days of that decision.

(11) If the Secretary of State withdraws any material in accordance with paragraph (10), no one who has seen that material may sit on a panel which determines the case.

Representations by and evidence of the parties

9.—(1) A party who wishes to make representations to the Board must serve them on the Board and the other party within 12 weeks of the case being referred to the Board.

(2) Any documentary evidence that a party wishes to present at their hearing must be served on the Board and the other party at least 14 days before the date of the hearing.

(3) Any party that wishes to present at their hearing documentary evidence which has not been served at least 14 days before the date of the hearing, must serve the material together with an application to the panel chair or duty member (as applicable) for permission to do so and must, as part of that application, give reasons for late service.

Directions

10.—(1) Directions may be given, varied or revoked at any time by the member of the Board appointed for this purpose, being either the panel chair, single member or duty member.

(2) Such directions may in particular relate to—