STATUTORY RULES OF NORTHERN IRELAND

2009 No. 82

PRISONS

The Parole Commissioners' Rules (Northern Ireland) 2009

Made - - - -	*5th March 2009*
To be laid before Parliament	
Coming into operation	*1st April 2009*

The Secretary of State makes the following rules in exercise of the powers conferred by Article 100(4) of, and paragraph 4 of Schedule 4 to, the Criminal Justice (Northern Ireland) Order 2008(**1**) —

PART 1

INTRODUCTORY

Title and Commencement

1. These rules may be cited as the Parole Commissioners' Rules 2009 and shall come into operation on 1 April 2009.

Application and Interpretation

2.—(1) Subject to rules 25, 26 and 31(1) these rules apply where a prisoner's case is referred to the Commissioners by the Secretary of State under Articles 6 or 9(4) of the 2001 Order or Articles 18 or 28(4) of the 2008 Order.

(2) In these rules—

"the 2001 Order" means the Life Sentences (Northern Ireland) Order 2001(**2**);

"the 2008 Order" means the Criminal Justice (Northern Ireland) Order 2008;

"the 2001 Rules" means the Life Sentence Review Commissioners' Rules 2001(**3**)

"case papers" means those documents, materials and papers submitted by the parties under rules 8, 10 and 25(b);

"chairman of the panel" means chairman of the panel nominated under rule 12(2);

(**1**) S.I. 2008/1216 (N.I. 1)
(**2**) S.I. 2001/2564 (N.I.2)
(**3**) S.R. 2001 No. 317

"Chief Commissioner" means the Chief Commissioner appointed under paragraph 1(4) of Schedule 4 to the 2008 Order;

"Commissioners" means the Parole Commissioners, appointed under paragraph 1(1) of Schedule 4 to the 2008 Order ;

"deputy Chief Commissioner" means the deputy Chief Commissioner appointed under paragraph 1(5) of Schedule 4 to the 2008 Order;

"extended custodial prisoner" means a person serving one or more sentences as defined under Article 14 of the 2008 Order;

"hearing" includes consideration of a prisoner's case by a single Commissioner;

"indeterminate custodial prisoner" means a person serving one or more sentences as defined under Article 13(4) of the 2008 Order;

"life prisoner" means a life prisoner as defined under Article 2 of the 2001 Order;

"panel" means a panel of Commissioners constituted in accordance with rule 12(2);

"parties" means the prisoner and the Secretary of State;

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

"prison" includes any place where the prisoner is detained, and in the case of rule 7(2) means any place where the person was detained;

"prisoner" includes an "extended custodial prisoner", an "indeterminate custodial prisoner", and a "life prisoner";

"single Commissioner" shall be construed in accordance with rule 12(1);

"special advocate" means a person appointed under paragraph 4(3) of Schedule 4 to the 2008 Order to represent the interests of the prisoner.

PART 2

POWERS

General powers of the Commissioners

3.—(1) Subject to the provisions of these rules, the Commissioners may regulate their own procedure in dealing with any matter as they consider appropriate.

(2) The Commissioners shall make available to the prisoner, to the Secretary of State, and to their representatives information regarding any procedures they adopt pursuant to paragraph (1).

(3) The Commissioners may deal with matters and cases in the order they consider appropriate save that they shall, so far as is practicable to do so, give priority to the consideration of cases under Parts 4 and 5.

(4) Where a prisoner's case has been referred to the Commissioners by the Secretary of State and the Chief Commissioner thinks it necessary to interview the prisoner the Chief Commissioner may authorise a Commissioner to interview the prisoner with the prisoner's consent and a report of that interview shall be considered by the single Commissioner and panel (if any) dealing with the prisoner's case.

(5) A copy of the report of the interview prepared under paragraph (4) shall be made available to the prisoner and the Secretary of State.

The deputy Chief Commissioner

4. The deputy Chief Commissioner shall exercise such powers and functions as may be delegated by the Chief Commissioner and in the event of the Chief Commissioner being unavailable shall exercise all or any of the powers and functions conferred on the Chief Commissioner by these rules.

Deemed delegation to deputy Chief Commissioner

5. When the Chief Commissioner is a member of a panel dealing with a case, the Chief Commissioner shall, after appointment of the panel under rule 12(2) be deemed to have delegated all of the powers and functions of the Chief Commissioner relating to that case to the deputy Chief Commissioner.

PART 3

PRISONERS' CASES

Listing and provisional timetable

6.—(1) Where a case is referred to the Commissioners by the Secretary of State the Commissioners shall, within 7 days, list the case and serve written notice of referral on the parties indicating a provisional timetable for consideration of the case by a single Commissioner.

(2) Within 5 weeks of the case being listed, the prisoner shall notify the Commissioners and the Secretary of State whether the prisoner wishes to attend any oral hearing that may be held.

(3) Subject to rules 16(2) and 17(2) any oral hearing of a case shall be fixed for a date that:

(a) where the single Commissioner has provisionally directed that the prisoner be released or has directed that the case should be considered by a panel, is no later than 8 weeks from the date of the provisional direction or direction as the case may be; or

(b) where the single Commissioner has directed that the prisoner not be released and the prisoner has served a notice in accordance with rule 13(5), is no later than 8 weeks from the date of service of the notice.

Representation

7.—(1) Subject to paragraphs (2) and (3) the prisoner may appoint a person to act as the prisoner's representative.

(2)) The following persons may act as a representative of the prisoner only with the consent of the Chief Commissioner:

(a) any person serving a sentence of imprisonment;

(b) any person who has been released from prison on licence for life, or any person sentenced to an indeterminate or extended custodial sentence who is on licence having been released from prison under Articles 18 or 20 of the 2008 Order;

(c) any person who is on licence having been released from prison under Article 26 of the Criminal Justice (Northern Ireland) Order 1996(**4**);

(d) any person who is on licence having been released from prison under Article 46 of the Criminal Justice (Children) (Northern Ireland) Order 1998(**5**).

(**4**) SI 1996/3160 (N.I. 24) as modified by S.R. 2008 No. 217
(**5**) SI 1998/1504 (N.I. 9) as amended by S.I. 2001/2564 (N.I. 2)

(3) Subject to rules 14 and 18, the Chief Commissioner, in deciding whether to grant consent in accordance with paragraph (2), may require the prisoner and the prisoner's proposed representative to provide such evidence, whether oral or written, including prison licence documentation and criminal records, as the Chief Commissioner considers necessary to enable the Chief Commissioner to make a decision.

(4) Within 3 weeks of the case being listed, the prisoner shall notify the Commissioners and the Secretary of State of the name, address and occupation of any person appointed in accordance with paragraph (1).

(5) Where the prisoner has not appointed a representative, the single Commissioner appointed under rule 12(1) or the chairman of the panel appointed under rule 12(2) may, with the prisoner's consent, appoint an eligible person to act on the prisoner's behalf and shall notify the Secretary of State accordingly.

(6) In paragraph (5) "eligible person" means someone not falling within the category of person at paragraph (2).

(7) Where the prisoner appoints a new representative or the name, address or occupation of the prisoner's representative changes, the prisoner shall serve written notice giving details of the changes on the Commissioners and on the Secretary of State within 7 days of the appointment of the new representative or becoming aware of the changes.

(8) Where a party wishes another person other than a representative or a witness to be admitted to an oral hearing, the party shall make a written application to the Commissioners for the admission of such person.

(9) An application under paragraph (8) shall state the reason for the application, include the name, address and occupation of the person to whom it relates and be made no later than 3 weeks prior to the date of such hearing.

(10) The chairman of the panel may grant or refuse an application under paragraph (8) and shall communicate within 7 days the decision to both parties giving reasons in writing, in the case of a refusal, for the decision.

(11) Before granting any application under paragraph (8) the chairman of the panel shall obtain the agreement of:

(a) in the case where such hearing is to be held at a prison or other place of detention, a governor; and

(b) in any other case, the person in whom is vested the authority to agree.

(12) In paragraph (11)(a) "governor" means any governor and includes a prison officer to whom a governor's functions has been delegated.

Information and reports by the Secretary of State

8.—(1) Within 8 weeks of the case being listed for hearing, and subject to paragraph (2) and rule 9, the Secretary of State shall serve on the Commissioners and the prisoner or the prisoner's representative:

(a) the information specified in Part A of Schedule 1;

(b) the reports specified in Part B of that Schedule; and

(c) such further information as the Secretary of State considers to be relevant to the case.

(2) Any part of the information or reports referred to in paragraph (1) which, in the opinion of the Secretary of State, should be withheld from the prisoner on the ground that its disclosure would adversely affect the health or welfare of the prisoner or any other person, shall be recorded in a separate document and served only on the Commissioners together with the reasons for believing that its disclosure would have that effect.

(3) Where a document is withheld from the prisoner in accordance with paragraph (2), it shall nevertheless be served as soon as practicable on the prisoner's representative if that representative is:

(a) a barrister or solicitor;

(b) a registered medical practitioner; or

(c) a person whom the single Commissioner, or the chairman of the panel, directs is suitable by virtue of experience or professional qualification;

provided that no information disclosed in accordance with this paragraph shall be disclosed either directly or indirectly to the prisoner or to any other person without the authority of the single Commissioner, or the chairman of the panel.

Non-disclosure of confidential information

9.—(1) This rule applies where the Secretary of State certifies as confidential information any information, document or evidence which, in the Secretary of State's opinion, would, if disclosed to the prisoner or any other person be likely to:

(a) adversely affect the safety of any individual;

(b) result in the commission of an offence;

(c) facilitate an escape from lawful custody or the doing of any act prejudicial to the safe keeping of persons in custody;

(d) impede the prevention or detection of offences or the apprehension or prosecution of suspected offenders;

(e) be contrary to the interests of national security; or

(f) otherwise cause substantial harm to the public interest;

and any such information, document or evidence is referred to in these rules as confidential information.

(2) Neither the Commissioners nor a special advocate shall in any circumstances disclose to or serve on the prisoner, the prisoner's representative, any witness appearing for the prisoner or any other person, any confidential information and shall not allow the prisoner, the prisoner's representative, any witness appearing for the prisoner or any other person to hear argument or the examination of evidence which relates to any confidential information.

(3) Where the Secretary of State has certified information as confidential, the Secretary of State shall, within 7 days of doing so, serve on the prisoner and on the Commissioners, whether by way of inclusion with the case papers or otherwise, written notice of this stating, so far as the Secretary of State considers it possible to do so without causing harm of the kind referred to in paragraph (1), the gist of the information withheld and the reasons for withholding it.

Evidence of the prisoner

10. Where the prisoner wishes to make representations about the case or to adduce documentary evidence, the prisoner shall serve such representations and documentary evidence on the Commissioners and the Secretary of State within 14 weeks of the case being listed.

Further evidence and information

11.—(1) Following receipt of the papers from the parties, the single Commissioner or the chairman of the panel may require either party to produce further evidence or information on any topic relevant to the conduct or determination of the case and may stay the progress of the case until a response to their requirement has been received.