STATUTORY RULES OF NORTHERN IRELAND

2001 No. 317

PRISONS AND YOUNG OFFENDERS CENTRES

The Life Sentence Review Commissioners' Rules 2001

Made - - - -	*11th September 2001*
To be laid before Parliament	*2001*
Coming into operation	*8th October 2001*

The Secretary of State, in pursuance of Article 4 of, and Schedule 2 to, the Life Sentences (Northern Ireland) Order 2001(**1**) hereby makes the following rules—

Part I

Introductory

Title and commencement

1. These rules may be cited as the Life Sentence Review Commissioners' Rules 2001 and shall come into operation on 8th October 2001.

Application and interpretation

2.—(1) Subject to rule 24, these rules apply where a prisoner's case is referred to the Commissioners by the Secretary of State under Article 6 or Article 9(4) of the Order.

(2) In these rules, unless a contrary intention appears—

"case papers" means those documents, materials and papers submitted by the parties under rule 14, 17 or 24(*b*);

"Chairman" means the chairman of the Commissioners appointed under paragraph 1 of Schedule 1 of the Order;

"chairman of the panel" means chairman of the panel appointed under rule 3;

"Commissioners" means the Life Sentence Review Commissioners, appointed under Article 3 of the Order;

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

"panel" means a panel of Commissioners constituted in accordance with rule 3;

(**1**) S.I.2001/2564 (N.I. 2)

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

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

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

"special advocate" means a person appointed under paragraph 6(2) of Schedule 2 to the Order to represent the interests of the prisoner.

Part II

General

Appointment and functions of panels of Commissioners

3.—(1) The Chairman shall appoint three Commissioners to form a panel for the purpose of conducting proceedings in relation to a prisoner's case and shall nominate one of the three Commissioners to act as chairman of the panel.

(2) The members of the panel appointed under paragraph (1) shall, so far as reasonably practicable, include a person who holds a legal qualification under Article 3(2) of the Order.

(3) The members of the panel shall, so far as reasonably practicable, include a registered medical practitioner who is a psychiatrist, or a chartered psychologist.

(4) If a member of the panel to which a case has been allocated is unavailable, the Chairman may nominate another Commissioner to take his place if he considers it necessary to ensure the fair and expeditious conduct of the prisoner's case.

Notice of referral and listing

4. 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 hearing date and timetable for the case.

Representation

5.—(1) Subject to paragraphs (2), (3) and (4) the prisoner may appoint a person to act as his representative.

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

(a) any person serving a sentence of imprisonment;

(b) any person who has been released from prison on licence for life;

(c) any person with a previous conviction for an imprisonable offence which remains unspent under the Rehabilitation of Offenders (Northern Ireland) Order 1978(**2**).

(3) Subject to rule 11, the Commissioners, in deciding whether to grant their consent in accordance with paragraph (2), may require the prisoner and his proposed representative to provide to them such evidence, whether oral or written, including prison licence documentation and criminal records, as they consider necessary to enable them to make a direction.

(4) Any person detained under the Mental Health (Northern Ireland) Order 1986(**3**) may not act as a representative of the prisoner.

(**2**) S.I. 1978/1908 (N.I. 27)
(**3**) S.I. 1986/595 (N.I. 4)

(5) Within 3 weeks of the case being listed, a party shall notify the Commissioners and the other party of the name, address and occupation of any person appointed in accordance with paragraph (1).

(6) Where the prisoner has not appointed a representative, the Commissioners may, with his consent, appoint an eligible person to act on his behalf.

(7) Where a party appoints a new representative or the name, address or occupation of his representative changes, he shall serve written notice giving details of the changes on the Commissioners and on the other party within 7 days of his appointing the new representative or becoming aware of the changes.

(8) A party may apply, in accordance with the procedure set out in rule 19(1) and (2), to be accompanied at the hearing by such other person or persons as he wishes, in addition to any representative he may have appointed; but before granting any such application the Commissioners shall obtain the agreement of:—

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

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

General powers of the Commissioners

6.—(1) Subject to the provisions of these rules, the Commissioners may regulate their own procedure in dealing with each case 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 cases in the order they consider appropriate save that it shall so far as is practicable to do so, give priority to the consideration of cases where the person concerned is a recalled prisoner.

(4) Where a prisoner's case has been referred to the Commissioners by the Secretary of State and the Commissioners think it necessary to interview the prisoner they may authorise one of their members to interview him, with his consent, and shall consider the report of the interview made by that member.

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

Part III

Hearings

Oral hearing

7.—(1) Except in so far as both parties and the chairman of the panel agree otherwise, there shall be an oral hearing of the prisoner's case.

(2) The prisoner shall, within 5 weeks of the case being listed, notify the Commissioners and the Secretary of State whether he wishes to attend the hearing.

Notice of hearing

8.—(1) When finalising the date for hearing the Commissioners shall consult the parties.

(2) The Commissioners shall give the parties at least 3 weeks notice of the date, time and place scheduled for hearing or such shorter notice to which the parties may consent.

Location and privacy of hearings

9.—(1) Subject to rule 11(9), hearings shall be held at the prison or other place of detention where the prisoner is detained.

(2) Hearings shall be held in private except in so far as the chairman of the panel otherwise directs.

(3) Information about the proceedings and the names of any persons concerned in the proceedings shall not be made public.

(4) The chairman of the panel may admit to the hearing such persons on such terms and conditions as he considers appropriate.

Hearing procedure

10.—(1) At the beginning of the hearing the chairman of the panel shall explain the order of proceedings which the panel proposes to adopt.

(2) Subject to this rule, the panel shall conduct the hearing in such manner as they consider most suitable to the clarification of the issues before them and generally to the just handling of the case and they shall, so far as appears to them appropriate, seek to avoid formality in the proceedings.

(3) Subject to paragraphs (5), (7) and (8) the parties shall be entitled to appear and be heard at the hearing and take such part in the proceedings as the panel considers appropriate and the parties may:—

(a) make submissions;

(b) hear each other's evidence and submissions;

(c) put questions to each other;

(d) call any witnesses who the Commissioners have authorised to give evidence in accordance with rule 19; and

(e) put questions to any witness appearing at the hearing.

(4) Subject to rule 18 the parties may not, without leave of the panel, make submissions or rely on or refer to documents, information or evidence which do not appear in substance in the case papers.

(5) The panel may require any person present at the hearing who is, in their opinion, behaving in a contemptuous or disruptive manner to leave and may permit him to return, if at all, only on such conditions as they may direct.

(6) The panel may receive in evidence any document or information notwithstanding that such document or information would be inadmissible in a court of law but no person shall be compelled to give evidence or produce any document which he could not be compelled to give or produce on the trial of an action in the High Court.

(7) The panel shall require the prisoner, any witness appearing for him and any other person they think appropriate, to leave the hearing where argument is being heard or evidence is being examined which includes or relates to information or reports withheld from the prisoner or others under rule 14(2).

(8) The panel shall require the prisoner, his representative, any witness appearing for him and any other person they think appropriate, to leave the hearing where argument is being heard or evidence is being examined which includes or relates to confidential information which has not been made available to the prisoner or any other person under rule 15.

(9) After all the evidence has been heard, the prisoner shall be given a further opportunity to address the panel.

Directions

11.—(1) Subject to paragraph (2), the chairman of the panel may give, vary or revoke directions for the conduct of the case allocated to his panel, including directions in respect of matters such as:—

(a) the timetable for the case;

(b) the varying of the time within which or by which an act, required or authorised by these rules, be done;

(c) the service of documents;

(d) the submission and production of evidence;

(e) the curing or waiving of irregularities;

(f) the listing, location and adjournment of hearings, including preliminary hearings;

(g) the calling of witnesses;

(h) the appointment of a special advocate and his conduct of a case under rule 16;

(i) the granting of consent in accordance with rule 5(2);

and following his appointment under rule 3, the chairman of the panel shall consider whether such directions need to be given at any time.

(2) Directions under paragraph (1) may be given, varied or revoked either:—

(a) of the chairman of the panel's own motion; or

(b) on the written application of a party to the Commissioners which has been served on the other party and which specifies the direction which is sought.

(3) Within 7 days of making a direction under paragraph (2) the chairman of the panel shall serve on the parties such direction which shall be recorded in writing with reasons and dated and signed by him.

(4) Within 14 days of being notified of a direction given under paragraph (3) either party may appeal to the panel by serving a written notice of appeal on both the panel and the other party stating the grounds of the appeal.

(5) Within 7 days of being served with a notice of appeal under paragraph (4) the other party may in reply make written representations on the appeal which shall be served on the panel and the party moving the appeal.

(6) The panel shall consider the written representations of the parties.

(7) After considering the written representations made under paragraph (6) the panel may make a direction:—

(a) upon the basis of the written representations; or

(b) where it thinks it necessary before making a direction after hearing oral submissions by the parties at a preliminary hearing conducted in accordance with paragraph (8); and it shall give the parties at least 14 days' notice of the time and place fixed for the preliminary hearing.

(8) Subject to paragraph (9), a preliminary hearing shall be conducted in accordance with rule 9.

(9) The panel may hold the preliminary hearing in the absence of the prisoner at a location other than the prison or other place of detention where the prisoner is detained.

(10) The direction of the panel made under paragraph (7) shall be final and shall be recorded in writing with reasons, dated and signed by the chairman of the panel, and served on the parties not more that 7 days after the date of the making of the direction.