

CUSTODIAL SENTENCES AND WEAPONS (SCOTLAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON PARTS

Schedule 1 (introduced by [section 1\(5\)](#))

The Parole Board for Scotland

Membership

8. [Paragraph 1](#) provides that the Parole Board must consist of a minimum of 5 members, one of whom will be the convenor. The members will be appointed by the Scottish Ministers. [Paragraph 2](#) specifies the five categories of person who must be included in the Board's membership.
9. [Paragraph 3](#) allows the Scottish Ministers to make regulations specifying the procedure, including requirements as to consultation, to be followed in appointing members to the Board. The Scottish Ministers must comply with any such regulations. The regulations may make different provisions for different kinds of members.

Tenure of appointments

10. [Paragraphs 4 and 5](#) provide that members must be appointed for a period of between 6 and 7 years, though a member will cease to be such as soon as he or she has reached the age of 75.
11. [Paragraph 6](#) provides that if the member who is a High Court Judge ceases to hold that office, he or she also ceases to be a member of the Board. Similarly, [paragraph 7](#) provides that if the member appointed as a psychiatrist ceases to be a registered medical practitioner or ceases to be a psychiatrist (even if the person is still registered as a medical practitioner), he or she ceases to be a member of the Board.
12. [Paragraph 8](#) provides that a member may resign at any time by giving the Scottish Ministers written notice. Members may also be removed from office under [paragraph 14](#) of this schedule (as explained below), and in that case [paragraph 9](#) provides that the person ceases to be a member on the day on which an order is made under [paragraph 14](#).
13. [Paragraphs 10 to 12](#) deal with reappointment. They provide that a member may be reappointed to the Board so long as he or she has not been a member for the previous 3 years and has not previously been reappointed. Members who have previously resigned from the Board can be reappointed, but a person who has been removed from office by virtue of an order under [paragraph 14](#) (as explained below) may not be reappointed.

Carrying out functions

14. [Paragraph 13](#) requires the convenor to have regard to the desirability of ensuring that all members are given the opportunity to participate in the Board's functions on not fewer

than 20 days in each successive period of 12 months. The 12 month period begins on the first day of the member's appointment.

Removal of members

15. Paragraphs 14 to 17 deal with the removal of members from the Parole Board. Members may only be removed from the Board by order of a tribunal constituted under paragraph 16. This is to consist of either a Court of Session judge or a sheriff principal (who will preside over the proceedings), an advocate or a solicitor with at least 10 years' standing, and one other person who is not an advocate or a solicitor.
16. The tribunal may only act if it has been requested to carry out an investigation by the Scottish Ministers. It may then only order a member's removal if, following investigation, it finds that member unfit to continue to be a member of the Board by reason of inability, neglect of duty or misbehaviour.
17. The Scottish Ministers may make regulations to enable the tribunal to suspend a member from the Board during the investigation. These regulations may also make provision for the effect and duration of that suspension, and for any other matters pertaining to the tribunal, including the procedure to be followed by and before it, that the Scottish Ministers may deem appropriate.

Remuneration, allowances and other expenses

18. Paragraphs 18 and 19 provide that Board members are to be remunerated for their service and also receive reimbursement of any reasonable expenses incurred in carrying out their duties. Rates of pay and repayment of expenses are determined and paid for by the Scottish Ministers.

Reporting and planning

19. Paragraph 20 provides that the Board must, as soon as practicable after the end of each reporting year (as defined in paragraph 22), submit a report to the Scottish Ministers on the performance of its functions during the year. Paragraph 21 requires that the Board also submit, as soon as practicable at the beginning of each planning period (as defined in paragraph 22), a plan providing details as to how it will carry out its functions and setting performance targets in relation to those functions.
20. Paragraph 22(1) provides that the reporting period is the period beginning when section 1 of Part 1 of this Act comes into force and ending on the following 31 March, and then each 12 month period ending 31 March.
21. Paragraph 22(2) provides that the planning period is the period beginning when section 1 of Part 1 of this Act comes into force and ending on the third occurrence thereafter of 31 March, and then each successive 3 year period ending 31 March.
22. Paragraph 23 requires the Scottish Ministers to lay a copy of the annual report and the plan before the Scottish Parliament.