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STATUTORY INSTRUMENTS

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**1998 No. 1859**

**PRISONS**

**The Northern Ireland (Sentences) Act 1998  
(Sentence Review Commissioners) Rules 1998**

<i>Made</i>	- - - -	<i>30th July 1998</i>
<i>Laid before Parliament</i>		<i>30th July 1998</i>
<i>Coming into force</i>	- -	<i>31st July 1998</i>

In exercise of the powers conferred upon me by paragraph 1 of Schedule 2 to the Northern Ireland (Sentences) Act 1998(1), I hereby make the following Rules:

**PART I  
INTRODUCTORY**

**Citation and commencement**

**1.** These Rules may be cited as the Northern Ireland (Sentences) Act 1998 (Sentence Review Commissioners) Rules 1998 and shall come into force on 31st July 1998.

**Application and interpretation**

**2.—(1)** These Rules shall apply to proceedings of the Commissioner under the Northern Ireland (Sentences) Act 1998.

(2) In these Rules, unless the context otherwise requires:—

“the Act” means the Northern Ireland (Sentences) Act 1998;

“ancillary appeal” shall be construed in accordance with rule 13;

“ancillary application” shall be construed in accordance with rule 12;

“ancillary decision” shall be construed in accordance with rule 11;

“ancillary hearing” shall be construed in accordance with rule 18;

“Applicant”, in relation to a case, means the person who has made the application and is—

(a) the person concerned in relation to applications made under section 3(1) of the Act;

- (b) the Secretary of State in relation to applications made under section 8(1) of the Act;
- “application” means an application made under sections 3(1) or 8(1) of the Act;
- “application papers” shall be construed in accordance with rule 7;
- “case” means a set of proceedings to which these Rules apply;
- “Chairman” means the Sentence Review Commissioner appointed chairman (or, where there are joint chairmen, one of the joint chairmen), under Schedule 1 of the Act;
- “chairman of the panel” shall be construed in accordance with rule 4;
- “Commissioner” means a Sentence Review Commissioner appointed under section 1 of the Act;
- “damaging information” shall be construed in accordance with rule 22;
- “direction” means a type of ancillary decision and shall be construed in accordance with rule 11;
- “further application” shall be construed in accordance with rule 9;
- “hearing” means an ancillary hearing or a substantive hearing;
- “legal aid direction” shall be construed in accordance with rule 24;
- “panel” shall be construed in accordance with rule 4;
- “party”, in relation to a case, means the Applicant or the Respondent;
- “person concerned”, in relation to a case, means the person to whom the case relates whose sentence is, or sentences are, under review by the Commissioner or who is a recalled prisoner;
- “preliminary indication” shall be construed in accordance with rule 14;
- “recalled prisoner” means a person whose licence has been suspended under section 9(2) of the Act;
- “representative” shall be construed in accordance with rule 5;
- “Respondent”, in relation to a case, means the person responding to the application and is the person concerned in relation to applications made under section 8(1) of the Act and the Secretary of State in relation to applications made under section 3(1) of the Act;
- “response papers” shall be construed in accordance with rule 8;
- “single Commissioner” shall be construed in accordance with rule 3;
- “substantive determination” shall be construed in accordance with rule 15;
- “substantive hearing” shall be construed in accordance with rule 19; and
- “working day” means any day other than a Saturday, Sunday or public holiday in Northern Ireland.

## PART II

### GENERAL

#### **Allocation of cases to and functions of single Commissioners**

- 3.—(1) The Chairman, or a Commissioner acting on his behalf, shall allocate each case to a Commissioner who shall act as the single Commissioner for that case.
- (2) The single Commissioner may take ancillary decisions on behalf of the Commissioner.
- (3) Any decision of the single Commissioner shall be the decision of the Commissioner.

(4) The Chairman, or a Commissioner acting on his behalf, may at any time re-allocate a case to another Commissioner who shall thereafter act as the single Commissioner for that case.

#### **Allocation of cases to and functions of panels of Commissioners**

4.—(1) The Chairman, or a Commissioner acting on his behalf, shall allocate each case to a panel of three Commissioners.

(2) The panel shall perform the following functions on behalf of the Commissioner:

- (a) hold hearings;
- (b) determine ancillary appeals;
- (c) take ancillary decisions;
- (d) give the preliminary indication; and
- (e) make the substantive determination.

(3) On appointing a panel, the Chairman, or the Commissioner acting on his behalf, shall nominate one of the panel members to act as its chairman, unless the Chairman is himself a member of the panel, in which case he shall act as the chairman of the panel.

(4) Where the person concerned is a life prisoner, the Chairman, or the Commissioner acting on his behalf, shall ensure that the case is allocated to a panel at least one of whose members is a psychiatrist or a psychologist.

(5) The single Commissioner to whom a case is allocated shall be eligible to sit as a member of the panel for that case, save that where he takes an ancillary decision he shall not sit as a member of the panel determining any ancillary appeal against that decision.

(6) Any decision of a majority of the members of the panel shall be the decision of the Commissioner.

(7) If a member of the panel to whom a case has been allocated is unavailable, the Chairman, or a Commissioner acting on his behalf, may nominate another Commissioner to take his place if he considers that that is necessary to ensure that the case is processed expeditiously.

#### **Representation**

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

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

- (a) any person serving a sentence of imprisonment;
- (b) any person who is on licence having been released from prison; and
- (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) Any person liable to be detained under the Mental Health (Northern Ireland) Order 1986(3) may not act as a representative of the person concerned.

(4) Where the person concerned has not appointed a representative, the Commissioner may, with the consent of the person concerned, appoint an eligible person to act as such.

(5) The Secretary of State may be represented by any person appointed by him for that purpose.

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(2) S.I. 1978/1908 (N.I. 27).

(3) S.I. 1986/595 (N.I. 4).

(6) 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 Commissioner and on the other party within seven days of his appointing the new representative or becoming aware of the change.

#### **General powers of the Commissioner**

6.—(1) Subject to the provisions of these Rules, the Commissioner may regulate their own procedure in dealing with each case as they consider appropriate.

(2) The Commissioners shall make available to applicants and 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 they shall, so far as it is practicable to do so, give priority to the consideration of cases where the person concerned is a recalled prisoner.

### **PART III**

#### **MAKING AN APPLICATION**

##### **Application papers**

7.—(1) Applications shall be made by serving on the Commissioner one original and one copy set of application papers comprising the information and documents specified in Schedule 1 to these Rules.

(2) The original set of application papers shall be marked as such and may contain copies (rather than originals) of the documents specified at paragraphs 2 and 3 of Schedule 1 to these Rules.

(3) The copy set of application papers shall be marked as such and, if supplied by the Secretary of State, shall not include any damaging information.

(4) The Commissioners shall, within seven days of receiving the copy set of application papers, serve them on the Respondent.

##### **Response papers**

8.—(1) Subject to paragraphs (3) and (4), the Respondent shall, within twenty one days of receiving the copy set of application papers, serve on the Commissioner one original and one copy set of response papers comprising the information and documents specified in Schedule 2 to these Rules.

(2) The original set of response papers shall be marked as such and may contain copies (rather than originals) of the documents specified in paragraph 2 of Schedule 2 and paragraphs 2 and 3 of Part I of Schedule 3 to these Rules.

(3) The copy set of response papers shall be marked as such and, if supplied by the Secretary of State, shall not include any damaging information.

(4) In the case of applications made under section 3(1) of the Act, the Secretary of State shall further include in the response papers:

- (a) the information and documents specified in Part I of Schedule 3 to these Rules; and
- (b) where the person concerned is a life prisoner, the information and documents specified in Part II of Schedule 3 to these Rules.

(5) The Commissioners shall, within seven days of receiving the copy set of response papers, serve them on the Applicant.

### **Further applications**

9.—(1) Subject to paragraph (2), any successive application made under section 3(1) or 8(1) of the Act shall be referred to as a further application.

(2) The Commissioners may only determine a further application if in their view:

- (a) circumstances have changed since the most recent substantive determination was made in respect of the person concerned; or
- (b) reliance is placed in support of the further application on any material information, document or evidence which was not placed before the Commissioner when the most recent substantive determination was made in respect of the person concerned.

(3) For the purposes of these Rules, an application is successive where it is not the first application to have been made under the section of the Act in question by or in respect of the person concerned.

### **Further papers**

10.—(1) Subject to paragraphs (2) and (3), the Applicant may not supplement or add to the application papers, and the Respondent may not supplement or add to the response papers, after these have been served on the Commissioner, without the leave of the Commissioner granted by way of ancillary decision.

(2) Any document required or authorised by these Rules to be served by or on the Applicant shall be appended to and form part of the application papers and any document required or authorised by these Rules to be served by or on the Respondent shall be appended to and form part of the response papers.

(3) In relation to further applications, the parties may make reference to and the Commissioner may have regard to the application papers and response papers served in previous cases relating to the person concerned save that there shall be no disclosure of any damaging information thereby.

## **PART IV**

### **CONSIDERATION AND DETERMINATION OF APPLICATIONS**

#### **Ancillary decisions**

11.—(1) The Commissioners may take any ancillary decision they consider appropriate including:

- (a) the grant or refusal of leave to do any act;
- (b) the giving, variation or revocation of any direction as to the conduct of the case in respect of matters such as—
  - (i) the timetable for the case,
  - (ii) the varying of the time within which or by which an act, required or authorised by these Rules, be done,
  - (iii) the service of documents,
  - (iv) the submission and production of evidence,
  - (v) the curing or waiving of irregularities,
  - (vi) the listing, location and adjournment of hearings,
  - (vii) the readiness of the case for being made the subject of a preliminary indication;
- (c) the giving or refusal of legal aid directions; and

(d) the appointment of representatives.

(2) The Commissioners may take ancillary decisions of their own motion, pursuant to an application made during the course of a hearing, or an ancillary application made in accordance with rule 12 (in which case the single Commissioner shall determine the application as provided by rule 12(5)).

(3) Subject to paragraph (5), the Commissioner shall serve written notice of any ancillary decision on the parties.

(4) Where a party makes an application for an ancillary decision during the course of a hearing, the panel shall consider whether to adjourn the hearing in order to allow the other party to respond to the application.

(5) Where the Panel takes an ancillary decision during the course of a hearing they shall inform the parties of this orally and the requirement to serve written notice of the ancillary decision shall not apply.

(6) Where the panel takes an ancillary decision, whether in determining an ancillary appeal or otherwise, their decision shall be final.

### **Ancillary applications**

**12.**—(1) A party may apply by way of ancillary application for the Commissioner to take an ancillary decision by serving on the Commissioner and on the other party a notice of ancillary application in an appropriate form.

(2) The notice of ancillary application shall specify the ancillary decision sought, shall state the grounds upon which the application is based, and shall be signed by the party making the ancillary application or by his representative.

(3) Within seven days of receiving a notice of ancillary application a party may reply by serving on the Commissioner and on the other party a notice of reply in an appropriate form.

(4) The notice of reply shall state any points considered to be of relevance and shall be signed by the party replying to the ancillary application or by his representative.

(5) As soon as is practicable after the expiry of the time for service of the notice of reply, the single Commissioner shall determine the ancillary application without a hearing and shall serve written notice of his decision on the parties, giving reasons.

### **Ancillary appeals**

**13.**—(1) A party may appeal against an ancillary decision taken by a single Commissioner by serving on the Commissioner and on the other party, within seven days of receiving written notice of the ancillary decision, a notice of ancillary appeal in an appropriate form.

(2) The notice of ancillary appeal shall state the grounds upon which the ancillary appeal is based and shall be signed by the party bringing the ancillary appeal or by his representative.

(3) Within seven days of receiving a notice of ancillary appeal a party may reply by serving on the Commissioner and on the other party a notice of reply in an appropriate form.

(4) The notice of reply shall state any points considered to be of relevance and shall be signed by the party replying to the ancillary appeal or by his representative.

(5) As soon as is practicable after the expiry of the time for service of the notice of reply, the panel shall determine the ancillary appeal pursuant to an ancillary hearing and (subject to rule 11(5)), shall serve written notice of their decision on the parties, giving reasons.

### **The preliminary indication**

14.—(1) Following receipt of the response papers, the single Commissioner shall take any ancillary decisions he considers appropriate and when satisfied that it is appropriate to do so he shall then give a direction that the case is ready to be made the subject of a preliminary indication.

(2) After the expiry of seven days from service on the parties of written notice of the direction given pursuant to paragraph (1), the panel shall give the preliminary indication in accordance with the provisions of this rule.

(3) The preliminary indication shall be given without a hearing and shall only be given if the following conditions are satisfied in relation to the case:

- (a) any irregularities have been cured or waived in accordance with rule 27;
- (b) there are no outstanding ancillary applications or ancillary appeals to be determined; and
- (c) the time for bringing an ancillary appeal against any ancillary decision has expired.

(4) The preliminary indication shall indicate the substantive determination that the panel are minded to make and shall be given by being recorded in a written decision notice, signed and dated by or on behalf of the members of the panel.

(5) The Commissioners shall serve a copy of the written decision notice on the parties as soon as is practicable after giving the preliminary indication and this shall contain, subject to rule 22, the following:

- (a) where the preliminary indication is that the panel is minded to refuse an application made under section 3(1) of the Act, a statement of the reasons for this;
- (b) where the preliminary indication is that the panel is minded to grant an application made under section 3(1) of the Act, a declaration specifying:
  - (i) the sentences in respect of which the person concerned would be eligible to be released in accordance with the provisions of the Act if the preliminary indication were to become the substantive determination; and
  - (ii) in relation to each life sentence in respect of which the person concerned would be eligible to be released if the preliminary indication were to become the substantive determination, the day which the Commissioner are minded to believe would mark the completion of the period specified in section 6(1) of the Act;
- (c) where the preliminary indication is that the panel is minded to grant an application made under section 8(1) of the Act, a statement of the reasons for this and a statement that any declaration previously granted to the person concerned under section 4 or 6 of the Act would be revoked if the preliminary indication were to become the substantive determination; and
- (d) where the person concerned is a recalled prisoner, a statement as to whether the panel is minded to confirm or revoke the recalled prisoner's licence, and a statement of the reasons for this.

(6) Within 14 days of receiving a copy of the written decision notice, each party shall serve on the Commissioner and on the other party a written notice, signed by him or by his representative, stating whether or not he wishes to challenge the preliminary indication.

### **The substantive determination**

15.—(1) After the preliminary indication has been given, the panel shall make the substantive determination in accordance with the provisions of this rule.

(2) Where both parties have indicated, in accordance with rule 14(6), that they do not wish to challenge the preliminary indication, the panel shall make the substantive determination that it was minded to make when it gave the preliminary indication.

(3) Where either party indicates, in accordance with rule 14(6), that he wishes to challenge the preliminary indication, the panel shall disregard the preliminary indication and shall make the substantive determination pursuant to a substantive hearing.

(4) The substantive determination shall be made by being recorded in a written decision notice, signed and dated by or on behalf of the members of the panel.

(5) The Commissioners shall serve a copy of the written decision notice on the parties as soon as is practicable after making the substantive determination and this shall contain, subject to rule 22, the following:

- (a) where an application made under section 3(1) of the Act has been refused, a statement of the reasons for this;
- (b) where an application made under section 3(1) of the Act has been granted, a declaration specifying:
  - (i) the sentences in respect of which the person concerned is eligible to be released in accordance with the provisions of the Act; and
  - (ii) in relation to each life sentence in respect of which the person concerned is eligible to be released, the day which the Commissioner believe marks the completion of the period specified in section 6(1) of the Act;
- (c) where an application made under section 8(1) of the Act has been granted, a statement of the reasons for this and a statement that any declaration previously granted to the person concerned under section 4 or 6 of the Act is thereby revoked; and
- (d) where the person concerned is a recalled prisoner, a statement as to whether the recalled prisoner's licence has been confirmed or revoked, and a statement of the reasons for this.

## PART V

### HEARINGS

#### **Listing**

**16.—**(1) The panel shall hold a hearing as soon as is reasonably practicable after the duty to determine an ancillary appeal under rule 13(5), or to make a substantive determination under rule 15(3), has arisen.

(2) After consulting the parties, the Commissioner shall list a hearing by way of a direction specifying the date, time and place of the hearing.

(3) Written notice of this direction shall be served on the parties as soon as practicable in accordance with rule 11(3) and in any event not less than fourteen days before the hearing in the case of an ancillary hearing and not less than twenty one days before the hearing in the case of a substantive hearing.

(4) Subject to paragraph (5), the substantive hearing shall not be listed unless the following conditions are satisfied;

- (a) there are no outstanding ancillary applications or appeals to be determined; and
- (b) the time for bringing an ancillary appeal against any ancillary decision has expired.

(5) Where they consider it appropriate to do so, the Commissioner may list ancillary and substantive hearings together.

(6) Unless the Commissioner decide otherwise, the single Commissioner shall be responsible for listing hearings.

### **Location and privacy of hearings**

17.—(1) Subject to rule 28(7), hearings shall be held at the prison where the person concerned is detained.

(2) Hearings shall be held in private except in so far as the Commissioner may otherwise direct.

### **Ancillary hearings**

18. Ancillary hearings are to be conducted in accordance with rule 19 as it applies to substantive hearings, save that where the person concerned is to be represented at the ancillary hearing he shall not be entitled to accompany his representative unless the Commissioner otherwise direct.

### **Substantive hearings**

19.—(1) At the beginning of the hearing the Commissioner shall explain the order of proceeding which they propose to adopt.

(2) Subject to this rule, the Commissioner 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 (4) and (7), the parties shall be entitled to appear and be heard at the hearing and take such part in the proceedings as the Commissioner consider 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 Commissioner have authorised to give evidence in accordance with rule 21; and
- (e) put questions to any witness appearing at the hearing.

(4) Subject to rule 10, the parties may not, without the leave of the Commissioner, make submissions or rely on or refer to documents, information or evidence which do not appear in substance in the application papers or the response papers.

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

(6) The Commissioners may receive in evidence any document or information notwithstanding that such document or information would be inadmissible in a court of law.

(7) The Commissioners shall require the person concerned, 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 any damaging information.

(8) Where the person concerned and his representative are required to leave the hearing pursuant to paragraph (7), the Commissioner shall adjourn the proceedings so that consideration can be given to appointing a person to represent the interests of the person concerned in accordance with paragraph 7(2) of Schedule 2 to the Act.

(9) After all the evidence has been heard by the Commissioner, the Commissioner shall allow an opportunity for closing submissions to be made by or on behalf of the parties in the order the Commissioner consider appropriate.

### **Adjournment**

**20.**—(1) The Commissioners may at any time adjourn a hearing by way of direction for any purpose they consider appropriate.

(2) On adjourning any hearing, the Commissioner shall give such directions as they consider appropriate for ensuring the prompt consideration of the case at a resumed hearing.

(3) In any case where a hearing is adjourned without a resumed hearing date having been fixed by way of a direction given under paragraph (2), the resumed hearing date shall be listed in accordance with rule 16.

## **PART VI**

### **EVIDENCE AND INFORMATION**

#### **Witnesses**

**21.** Where a party wishes to call one or more witnesses at a hearing, he shall apply by way of ancillary application for leave to do so giving the name, address and occupation of each witness he wishes to call and the substance of the evidence he proposes to adduce.

#### **Non-disclosure of damaging information**

**22.**—(1) This rule applies where the Secretary of State certifies as “damaging information” any information, document or evidence which, in his opinion, would if disclosed to the person concerned or any other person be likely to:

- (a) adversely affect the health, welfare or safety of the person concerned or any other person;
- (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 such 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 “damaging information”.

(2) The Commissioners shall not in any circumstances disclose to or serve on the person concerned, his representative or any witness appearing for him any damaging information and shall not allow the person concerned, his representative or any witness appearing for him to hear argument or the examination of evidence which relates to any damaging information.

(3) Where the Secretary of State has certified information as damaging he shall within seven days of doing so serve on the person concerned and on the Commissioner, whether by way of inclusion with the application or response papers or otherwise, written notice of this stating, so far as he considers it possible to do so without causing damage of the kind referred to in paragraph (1), the gist of the information he has thus withheld and his reasons.

### **Further evidence and information**

23.—(1) Following receipt of the response papers the Commissioner may give a direction requesting either party to produce further evidence or information on any topic and may adjourn the progress of the case until a response to this request has been received.

(2) Subject to rule 22, any response to a direction given in accordance with paragraph (1) shall be served, by the party responding, on the Commissioner and on the other party.

## **PART VII**

### **MISCELLANEOUS**

#### **Legal aid**

24.—(1) This rule applies to any person who:

- (a) is the person concerned in relation to a case;
- (b) wishes to become the person concerned in relation to a case by making an application under section 3(1) of the Act; or
- (c) wishes to seek advice on becoming the person concerned in relation to a case by making an application under section 3(1) of the Act.

(2) Any person to whom this rule applies, may apply to the Commissioner by way of ancillary application for a direction, referred to in these Rules as a “legal aid direction”, that he be awarded money to pay for legal advice or representation in connection with his being, becoming or seeking advice on becoming the person concerned in relation to a case.

(3) The Commissioners shall have power to give legal aid directions and when doing so they shall specify the extent to which and the terms and conditions on which money is being made available thereby.

(4) Legal aid directions shall have effect to award money which shall be paid, in accordance with the terms of the legal aid direction, by the Secretary of State as provided by paragraph 9(2) of Schedule 2 to the Act.

(5) Where a person to whom paragraph (1)(b) or (1)(c) applies, has applied for a legal aid direction, he shall, for the purposes of appealing against the Commissioner’s ancillary decision on whether to give a legal aid direction, be treated as the person concerned in a case brought by way of an application made under section 3(1) of the Act.

(6) The Commissioners shall not have power to give a legal aid direction which has the effect of awarding money to pay for legal advice or representation in connection with any challenge to a substantive determination.

#### **Time**

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

(2) Any time appointed by or under these Rules for doing an act may be varied by the Commissioner by way of a direction.

### **Transmission of documents etc.**

**26.** Any document required or authorised by these Rules to be served on or otherwise transmitted to any person may be sent by pre-paid post or delivered:

- (a) in the case of a document directed to the Commissioner, to the office of the Commissioner;
- (b) in the case of a document directed to the Secretary of State, to Northern Ireland Office, Dundonald House, Upper Newtownards Road, Belfast BT4 3SU; and
- (c) in any other case, to the last known address of the person to whom the document is directed.

### **Irregularities**

**27.—(1)** Any irregularity resulting from a failure to comply with these Rules or any direction under these Rules which occurs before the substantive determination has been made shall not of itself render the proceedings void, and the Commissioner may, and shall if they consider that any person may have been prejudiced by the irregularity, take such steps as they consider appropriate, before the substantive determination is made, to cure or waive the irregularity, by way of direction.

(2) Clerical mistakes in any document recording the preliminary indication or the substantive determination of the Commissioner, or errors arising in such a document from an accidental slip or omission, may be corrected by the chairman of the panel by certificate under his hand.

## **PART VIII**

### **RECALLED PRISONERS**

#### **Recalled prisoners**

**28.—(1)** This rule applies where the Commissioner are required to consider the case of a recalled prisoner by virtue of section 9(3)(b) of the Act.

(2) Subject to the provisions of this rule, the recalled prisoner shall be treated as the person concerned and a party to the case as if he were an Applicant who had made an application under section 3(1) of the Act and the Secretary of State shall be treated as a party to the case as if he were the Respondent in relation to that application.

(3) Pursuant to paragraph (2), the Commissioner shall determine the case on this basis in accordance with these Rules save where the provisions of this rule indicate otherwise.

(4) Rule 7(1) shall not apply and the recalled prisoner shall instead serve on the Commissioner one original set and one copy set of papers which shall be treated as the application papers and which shall comprise the following:

- (a) so much of the information and documents specified in Schedule 1 to these Rules as the recalled prisoner sees fit to include;
- (b) a statement made in response to the notice of and reasons for suspension of the recalled prisoner's licence under section 9(2) of the Act as provided in accordance with section 11(4) of the Act; and
- (c) any further supporting information or documents which the recalled prisoner wishes to rely on.

(5) Rule 8(1) and (4) shall not apply and the Secretary of State shall instead serve on the Commissioner one original set and one copy set of papers which shall be treated as the response papers and which shall comprise the following:

- (a) a further copy of the notice of and reasons for suspension of the recalled prisoner's licence under section 9(2) of the Act as provided in accordance with section 11(4) of the Act;

- (b) so much of the information and documents specified in Schedules 2 and 3 to these Rules as the Secretary of State sees fit to include; and
- (c) any further supporting information or documents which the Secretary of State wishes to rely on.
- (6) The case shall not be treated as a further application save for the purposes of rule 10(3).
- (7) If the recalled prisoner is unlawfully at large, the Commissioner shall have power to direct where any hearings shall be held.
- (8) For the purposes of this rule:
  - (a) the words “seven days” in rules 5, 7, 8, 12, 13, 14 and 22, the words “fourteen days” in rule 16 and the words “twenty one days” in rules 8 and 16 shall be substituted by the words “three working days”; and
  - (b) the words “fourteen days” in rule 14 shall be substituted by the words “seven days”.

Northern Ireland Office  
30th July 1998

*Marjorie Mowlam*  
One of Her Majesty’s Principal Secretaries of  
State

SCHEDULE 1

Rule 7(1)

INFORMATION AND DOCUMENTS REQUIRED TO  
MAKE UP A COMPLETE SET OF APPLICATION PAPERS

1. A completed standard application form appropriate to the application in question signed and dated by the Applicant or his representative stating:

- (a) The name and address of the Applicant.
- (b) The section of the Act under which the application is made.
- (c) The sentence or sentences in respect of which the person concerned is applying for a declaration.
- (d) The grounds on which the application is made and any outline submissions which the Applicant wishes to make in support thereof.
- (e) Whether the application is a further application and if so the basis on which it is claimed that the Commissioner have jurisdiction to determine it.
- (f) Whether the Applicant has appointed any person to act as his representative; whether that person falls within sub-paragraph (a), (b) or (c) of rule 5(2) and, if he does, a request that the Commissioner consent to him acting as representative of the person concerned; and whether any representative will appear at any hearing before the Commissioner.
- (g) (If applicable), the name, address and occupation of the Applicant's representative and whether any document required or authorised by these Rules to be served on or otherwise transmitted to the Applicant should be sent to the representative instead.
- (h) The name, address and occupation of any witness whom the Applicant would wish to call at any substantive hearing before the Commissioner and the substance of the evidence he would propose to adduce.

2. Any supporting information or documents which the Applicant wishes to rely on in support of the application.

3. Any written decision notices and accompanying reasons previously given by the Commissioner or the Secretary of State under section 11 of the Act in relation to the person concerned.

SCHEDULE 2

Rule 8(1)

INFORMATION AND DOCUMENTS REQUIRED TO  
MAKE UP A COMPLETE SET OF RESPONSE PAPERS

1. A completed standard response form appropriate to the application in question signed and dated by the Respondent or his representative stating:

- (a) Any outline submissions which the Respondent wishes to make in response to the application.
- (b) Any outline submissions which the Respondent wishes to make on the subject of whether the application is a further application and if so the basis on which it is claimed that the Commissioner have jurisdiction to determine it.
- (c) Whether the Respondent has appointed any person to act as his representative; whether that person falls within sub-paragraph (a), (b) or (c) of rule 5(2) and, if he does, a request that the Commissioner consent to him acting as representative of the person concerned; and whether any representative will appear at any hearing before the Commissioner.

- (d) (Where applicable), the name, address and occupation of the Respondent's representative and whether any document required or authorised by these Rules to be served on or otherwise transmitted to the Respondent should be sent to the representative instead.
  - (e) The name, address and occupation of any witness whom the Respondent would wish to call at any substantive hearing before the Commissioner and the substance of the evidence he would propose to adduce.
2. Any supporting information or documents which the Respondent wishes to rely on in response to the application.

### SCHEDULE 3

Rule 8(4)

#### FURTHER INFORMATION AND DOCUMENTS TO BE INCLUDED IN THE RESPONSE PAPERS BY THE SECRETARY OF STATE IN CERTAIN CIRCUMSTANCES

#### PART I

##### INFORMATION AND DOCUMENTS TO BE INCLUDED IN THE RESPONSE PAPERS BY THE SECRETARY OF STATE IN RELATION TO APPLICATIONS MADE UNDER SECTION 3 OF THE ACT

1. The following information relating to the person concerned:
  - (a) The full name and date of birth of the person concerned.
  - (b) The prison in which the person concerned is detained and details of other prisons in which the person concerned has been detained, the date and reasons for any transfer between prisons.
  - (c) Details of the offence(s) in question, including whether it was the subject of a certificate of the Attorney General for Northern Ireland that it was not to be treated as a scheduled offence in the case in question, the date it was imposed and the sentence(s) being served.
  - (d) (Where applicable) the previous convictions, sentences, parole history (including periods of temporary release from prison), and release and recall history of the person concerned.
2. (Where available) records or reports of the following:
  - (a) The comments of the trial judge in passing sentence on the person concerned.
  - (b) The conclusions of the Court of Appeal in respect of any appeal by the person concerned against conviction or sentence.
3. Any report on the person concerned made while or in respect of a period during which he was subject to a transfer direction under Article 53 of the Mental Health (Northern Ireland) Order 1986.

#### PART II

##### INFORMATION AND DOCUMENTS TO BE INCLUDED IN THE RESPONSE PAPERS BY THE SECRETARY OF STATE IN RELATION TO APPLICATIONS MADE UNDER SECTION 3 OF THE ACT WHERE THE PERSON CONCERNED IS SERVING A SENTENCE OF IMPRISONMENT FOR LIFE

1. Information on the length of time served by persons sentenced in Northern Ireland to imprisonment for life and released on licence after 1982 and before 1999.

2. Any information which the Secretary of State considers relevant to the case and wishes to draw to the attention of the Commissioner including:

- (a) The length of any tariff fixed in respect of the person concerned where he was sentenced in England and Wales and has been transferred to Northern Ireland to serve his sentence.
- (b) In the case of persons sentenced in Northern Ireland, particularly relevant examples of the length of time served by persons sentenced in Northern Ireland to imprisonment for life and released on licence.
- (c) The likelihood of the person concerned being a danger to the public if released immediately.

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### EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules make provision with respect to the proceedings of the Sentence Review Commissioners (“the Commissioner”) in relation to the release on licence and recall of prisoners under the Northern Ireland (Sentences) Act 1998 (“the 1998 Act”). In particular, the Rules prescribe the procedure to be followed in connection with the following proceedings under the 1998 Act: an application by a prisoner under section 3(1) for a declaration of eligibility for release; an application by the Secretary of State under section 8(1) for the revocation of such a declaration; and the consideration by Commissioners under section 9(3)(b) of the cases of recalled prisoners.

The Rules also make general provision, inter alia, for: the allocation of proceedings to panels of Commissioners (rule 4); the taking of specified decisions by a single Commissioner (rule 3); the representation of prisoners (rule 5); hearings to be held in private except in so far as the Commissioner otherwise direct (rule 17); the withholding from disclosure of certain information in specified circumstances (rule 22); proceedings to be held in the absence of a prisoner and his representative in specified circumstances (rule 19); legal aid to be awarded by Commissioners for legal advice or representation (rule 24).