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STATUTORY INSTRUMENTS

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**1998 No. 1904 (S.100)**

**PRISONS**

**The Parole Board (Scotland) Amendment Rules 1998**

*Made* - - - - *30th July 1998*  
*Laid before Parliament* *4th August 1998*  
*Coming into force* - - *1st September 1998*

The Secretary of State, in exercise of the powers conferred upon him by section 18(3A) of the Prisons (Scotland) Act 1989<sup>(1)</sup>, section 20(4) of the Prisoners and Criminal Proceedings (Scotland) Act 1993<sup>(2)</sup>, and of all other powers enabling him in that behalf, hereby makes the following Rules:

**Citation, commencement and interpretation**

1.—(1) These Rules may be cited as the Parole Board (Scotland) Amendment Rules 1998 and shall come into force on 1st September 1998.

(2) In these Rules—

“the 1993 Rules” means the Parole Board (Scotland) Rules 1993<sup>(3)</sup>; and

“the 1995 Rules” means the Parole Board (Scotland) Rules 1995<sup>(4)</sup>.

**Amendment of the 1993 and 1995 Rules**

2. For rules 6(1) and (2) and 7 of each of the 1993 and 1995 Rules there shall be substituted—

**“Non disclosure of information**

6.—(1) This rule applies where—

(a) the Secretary of State considers that any written information or document contained in a dossier sent to the Board under rule 5 or otherwise given to the Board by him; or

(b) the Board considers that any other written information or document obtained by it, should not be sent or disclosed to the person concerned because its disclosure would be likely to be damaging on one or more of the following grounds, namely:—

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(1) 1989 c. 45; section 18(3A) was inserted by section 134(3) of the Criminal Justice and Public Order Act 1994 (c. 33).  
(2) 1993 c. 9.  
(3) S.I.1993/2225, amended by S.I. 1997/2317.  
(4) S.I. 1995/1273.

- (i) that it would be likely adversely to affect the health, welfare or safety of that person or any other person;
- (ii) that it would be likely to result in the commission of an offence;
- (iii) that it would be likely to facilitate an escape from legal custody or the doing of any act prejudicial to the safe keeping of persons in legal custody;
- (iv) that it would be likely to impede the prevention or detection of offences or the apprehension or prosecution of suspected offenders;
- (v) that it would be likely otherwise to damage the public interest;

and any such information or document is referred to in these Rules as “damaging information”.

(2) Where this rule applies—

- (a) the Secretary of State or, as the case may be, the Board shall not be required to send a copy of the damaging information to the person concerned whether under rule 5 or otherwise;
- (b) the Board may take such damaging information into account even although it has not been disclosed to the person concerned; and
- (c) the Secretary of State or, as the case may be, the Board shall send to the person concerned a written notice—
  - (i) informing him that certain information which has been sent to or obtained by the Board has not been sent to him because the Secretary of State or, as the case may be, the Board considers that the disclosure of that information would be likely to be damaging on one or more of the grounds mentioned in paragraph (1) which is or are specified in the notice;
  - (ii) giving that person, but only so far as is practicable without prejudicing the purposes for which that information is not disclosed, the substance or gist of the damaging information,

and, where this rule applies by virtue of paragraph (1)(a) above, the Secretary of State shall send a copy of that written notice to the chairman of the Board.

### **Representations**

7.—(1) A person shall have the right to submit written representations with respect to his case together with any other information in writing or documents which he considers to be relevant to his case and wishes the Board to take into account, following receipt of the dossier under rule 5(1), any other information sent to him by the Secretary of State or the Board or any written notice under rule 6(2).

(2) Any such representations shall be sent to the Board and the Secretary of State within four weeks of the date on which the Secretary of State or, as the case may be, the Board sent to the person the dossier, information or written notice referred to above.

(3) In a case where the person has a right to submit written representations following receipt of a written notice, the representations may include any representations about the non disclosure of any damaging information.”.

3. In rule 8 of each of the 1993 and 1995 Rules—

- (a) in paragraph (c) for “be;” there shall be substituted “be; and”;
- (b) in paragraph (d) there shall be deleted “; and”; and
- (c) paragraph (e) shall be deleted.

4. In rule 14 of the 1993 Rules and rule 13 of the 1995 Rules—
  - (a) for the words “paragraph (2)” there shall be substituted “paragraphs (2) and (3)”; and
  - (b) at the end there shall be added—
    - “(3) The powers of the Board under rule 6(1) to decide that any written information or document should not be sent or disclosed to a person shall be exercised by the chairman of the Board or such member as may be appointed by him for that purpose.”.
5. In rule 15(2)(c) of the 1993 Rules and rule 14(2)(c) of the 1995 Rules there shall be added at the end “or otherwise”.
6. In rule 15 of the 1993 Rules and rule 14 of the 1995 Rules there shall be added at the end—
  - “(5) Subject to rule 6, the Board shall send to the person concerned a copy of any information obtained by it under paragraph (4) or otherwise which it considers to be relevant to the case.”.

St Andrew’s House,  
Edinburgh  
30th July 1998

*Henry McLeish*  
Minister of State, Scottish Office

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Rules amend the Parole Board (Scotland) Rules 1993 and the Parole Board (Scotland) Rules 1995. The Rules make some minor drafting alterations and—

- (a) make provision for the circumstances in which the Board can decide not to disclose information obtained by it to the person concerned (regulation 2). The circumstances specified are identical to the existing circumstances in which the Secretary of State can decide not to disclose information sent by him to the Board;
- (b) substitute a new rule 7 in similar terms to the existing rule 7 but which now provides persons with a right to make representations on receipt of information sent by the Board (regulation 2);
- (c) provide that for the purposes of disclosure the powers of the Board may be exercised by the chairman or a nominated member (regulation 4);
- (d) impose a duty on the Board to send relevant information that it has obtained to the person concerned (regulation 6).