

SCHEDULES

SCHEDULE 5

Release of prisoners on licence

Parole Commissioners' Rules (Northern Ireland) 2009

- 32.** Amend the Parole Commissioners' Rules (Northern Ireland) 2009(1) as follows.
- 33.** Subject to what follows, in Parts 1 to 6 for "Secretary of State" (wherever occurring) substitute "Department of Justice".
- 34.** In rules 2(1), 3(4), 6(1) and 12(1) omit "by the Secretary of State".
- 35.** In rule 9(1) for "Secretary of State's" substitute "Department of Justice's".
- 36.** In rule 25—
- (a) for "the Secretary of State refers a life prisoner's case" substitute "a life prisoner's case is referred";
 - (b) after "extended custodial prisoner's case" insert "is referred".
- 37.** After rule 32(2) insert—
- “(3) If proceedings on a case as is referred to in rule 31(1) are not completed under the 2001 Rules before the coming into force of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010, the functions of the Secretary of State under the 2001 Rules in relation to the proceedings are transferred to the Department of Justice; and—
- (a) in the 2001 Rules references to the Secretary of State are to be read accordingly;
 - (b) anything done in connection with the proceedings by or in relation to the Secretary of State is treated as having been done by or in relation to the Department of Justice so far as necessary or appropriate for continuing its effect after the transfer of functions.”
- 38.** After Part 7 insert—

“PART 8

A.—(1) The functions under rule 9(1) above by virtue of rule 9(1)(e) are exercisable by the Secretary of State (and not the Department of Justice).

(2) Where in any case the Secretary of State certifies by virtue of rule 9(1)(e) any information, document or evidence as confidential information, Parts 1 to 6 above apply for that case subject to paragraphs (3) to (5) below.

(3) Rule 9(3) above applies in relation to the Secretary of State's certification as if references to the Department of Justice were references to the Secretary of State.

Status: This is the original version (as it was originally made).

(4) So far as required by the Secretary of State for purposes connected with the confidential information certified by the Secretary of State, the Commissioners (or any of them) must—

- (a) conduct the case and otherwise carry out their functions as if the Secretary of State were a party (instead of, or in addition to, the Department of Justice);
- (b) permit the Secretary of State to carry out functions of the Department of Justice accordingly.

(5) Rule 28(1) above has effect as if after sub-paragraph (b) there were inserted—

“(ba) in the case of a document directed to the Secretary of State, to any offices of the Northern Ireland Office;”.

(6)

The cases covered by paragraph (2) above include cases where the certification was made before the coming into force of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010.

B.—(1) This rule applies to any case to which rule 32(3) above applies.

(2) The functions under rule 15(1) of the 2001 Rules by virtue of rule 15(1)(e) are to continue to be exercisable by the Secretary of State and, accordingly, rule 32(3) does not transfer—

- (a) any function under rule 15(1) by virtue of rule 15(1)(e), or
- (b) any function under rule 15(3) of the 2001 Rules in relation to a certification by virtue of rule 15(1)(e).

(3) Paragraphs (4) and (5) below apply if—

- (a) before the coming into force of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 a certification was made by virtue of rule 15(1)(e) of the 2001 Rules, or
- (b) after the coming into force of that Order a certification is made by virtue of rule 15(1)(e) of the 2001 Rules.

(4) So far as required by the Secretary of State for purposes connected with the information, document or evidence certified, the Commissioners (or any of them) must—

- (a) conduct the case and otherwise carry out their functions as if the Secretary of State were a party (instead of, or in addition to, the Department of Justice);
- (b) permit the Secretary of State to carry out functions of the Department of Justice accordingly.

(5) Rule 21(1) of the 2001 Rules has effect as if after sub-paragraph (b) there were inserted—

“(ba) in the case of a document directed to the Secretary of State, to any offices of the Northern Ireland Office;”.

39.—(1) Amend Schedule 2 as follows.

(2) In paragraph 9 of Part A—

- (a) omit “Secretary of State’s”;
- (b) for “the Secretary of State considered it” substitute “it was considered”.

(3) In paragraph 1 of Part B omit “Secretary of State’s”.

40.—(1) Parts 1 to 7 of the Parole Commissioners’ Rules (Northern Ireland) 2009⁽²⁾ (as amended by paragraphs 33 to 37 and 39 above) continue in effect as if made by the Department of Justice under paragraph 4 of Schedule 4 to the Criminal Justice (Northern Ireland) Order 2008⁽³⁾.

(2) Part 8 of those Rules (as inserted by paragraph 38 above) has effect as if made by the Secretary of State under paragraph 4A of Schedule 4 to the 2008 Order (as inserted by paragraph 31(3) above).

(3) Sub-paragraphs (4) and (5) below apply to a case as is referred to in rule 31(1) of those Rules.

(4) If under the Life Sentence Review Commissioners’ Rules 2001⁽⁴⁾ a prisoner and any representative appointed by him are excluded from proceedings, the Advocate General for Northern Ireland may appoint a person to represent the prisoner’s interests in those proceedings; and, accordingly—

(a) rule 2(2) of the 2001 Rules has effect as if for the definition of “special advocate” there were substituted—

““special advocate” means a person appointed under paragraph 40(4) of Schedule 5 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010.”;

(b) rule 16(1) of the 2001 Rules has effect as if for “Attorney General” (in each place) there were substituted “Advocate General for Northern Ireland”.

(5) A person appointed under sub-paragraph (4) above is not responsible to the prisoner whose interests he represents.

(2) S.R. (N.I.) 2009 No. 82.
(3) S.I. 2008/1216 (N.I. 1).
(4) S.R. (N.I.) 2001 No. 317.