



Convention Rights (Compliance) (Scotland) Act 2001

2001 asp 7

PART 2

CONSTITUTION OF PAROLE BOARD FOR SCOTLAND

5 Appointment and removal of Parole Board members

- (1) In section 20 (the Parole Board for Scotland) of the 1993 Act—
- (a) in subsection (1) the words “this Part of” are repealed;
 - (b) in subsection (4), after paragraph (b) there is inserted—
 - “(ba) enabling the Board to require any person, other than a prisoner whose case the Board is considering, to attend a hearing before it to give evidence or to produce documents;”
- ;and
- (c) after subsection (4) there is inserted—
 - “(4A) In making provision such as is mentioned in subsection (4)(ba) above, the Scottish Ministers may apply subsections (4) and (5) of section 210 of the Local Government (Scotland) Act 1973 (c.65) with such modifications as may be set out in the rules but subject to the limitation that any penalty under subsection (5) of section 210 as so applied shall be restricted to a fine which shall not exceed level 2 on the standard scale.”.
- (2) After paragraph 1 of Schedule 2 to that Act, there is inserted—
- “1A In making those appointments, the Scottish Ministers shall comply with such requirements as to procedure and consultation as may be prescribed in regulations made by them.
 - 1B In making regulations under paragraph 1A above, the Scottish Ministers may make different provision for different kinds of members of the Board,

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including the kinds of members having the respective qualifications for office specified in paragraph 2 below.”.

(3) After paragraph 2 of that Schedule, there is inserted—

- “2A An appointment as a member of the Parole Board shall, subject to paragraphs 2B to 2D below, last for such period, being not shorter than six years nor longer than seven years, as is specified in the instrument of appointment.
- 2B A member of the Parole Board may resign at any time by giving notice to that effect to the Scottish Ministers.
- 2C An appointment of a person as a member of the Parole Board shall not extend beyond the day when the person reaches the age of 75.
- 2D The appointment of a member of the Parole Board shall come to an end upon the member’s being removed from office under paragraph 3 below.
- 2E A person may be reappointed to be a member of the Parole Board but only if—
- (a) three years or more have passed since the person ceased to be a member of the Parole Board; and
 - (b) the person has not previously been reappointed under this paragraph.
- 2F A person whose membership of the Parole Board came to an end by resignation under paragraph 2B above may be reappointed under paragraph 2E above.
- 2G A person whose membership of the Parole Board came to an end on removal from office under paragraph 3 below shall not be reappointed.
- 2H The provisions of paragraphs 1 to 2D above apply to a reappointment under paragraph 2E above as they apply to an appointment.
- 2J The Chairman of the Parole Board shall have regard to the desirability of securing that every member of the Parole Board is given the opportunity of participating appropriately in the functions of the Board under this Act on not fewer than 20 days in each successive period of 12 months beginning with the day of the member’s appointment as such.”.

(4) For paragraph 3 of that Schedule, there is substituted—

- “3 A member of the Parole Board may be removed from office by and only by order of the tribunal constituted by and under paragraph 3B below (“the tribunal”).

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- 3A The tribunal may order the removal from office of a member only if, after investigation carried out at the request of the Scottish Ministers, it finds that the member is unfit for office by reason of inability, neglect of duty or misbehaviour.
- 3B The tribunal shall consist of the following three members, who shall be appointed by the Lord President of the Court of Session—
- (a) either a Senator of the College of Justice or a sheriff principal (who shall preside);
 - (b) a person who is, and has been for at least ten years, legally qualified; and
 - (c) one other person who shall not be legally qualified.
- 3C For the purposes of paragraph 3B above, a person is legally qualified if that person is an advocate or a solicitor.
- 3D Regulations, made by the Scottish Ministers—
- (a) may make provision enabling the tribunal, at any time during an investigation, to suspend a member from office and providing as to the effect and duration of such suspension; and
 - (b) shall make such further provision as respects the tribunal as the Scottish Ministers consider necessary or expedient, including provision for the procedure to be followed by and before it.”

(5) After paragraph 6 of that Schedule there is inserted—

“6A Regulations under paragraphs 1A and 3D above shall be made by statutory instrument.

6B No such regulations shall be made unless laid in draft before, and approved by resolution of, the Scottish Parliament.”

(6) Part 6 of the schedule to this Act has effect for the purpose of making transitional provision in connection with this section.

Commencement Information

- II** S. 5 wholly in force at 8.10.2001; s. 5 not in force at Royal Assent see s. 15(2); s. 5(1)(2)(5) in force for all purposes and s. 5(4) in force for specified purposes at 27.7.2001 and s. 5 in force at 8.10.2001 insofar as not already in force by S.S.I. 2001/274, art. 3(1)(e)(f)(3)

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