

2021 No. 4

PRISONS

The Parole Board (Scotland) Amendment Rules 2021

Made - - - - *7th January 2021*

Laid before the Scottish Parliament *11th January 2021*

Coming into force - - *1st March 2021*

The Scottish Ministers make the following Rules in exercise of the powers conferred on them by section 20(4) of the Prisoners and Criminal Proceedings (Scotland) Act 1993(a) and all other powers enabling them to do so.

Citation, commencement and application

1.—(1) These Rules may be cited as the Parole Board (Scotland) Amendment Rules 2021 and come into force on 1 March 2021.

(2) These Rules apply to every case referred to the Parole Board for Scotland on or after 1 March 2021.

Amendment of the Parole Board (Scotland) Rules 2001

2.—(1) The Parole Board (Scotland) Rules 2001(b) are amended as follows.

(2) In rule 2 (interpretation), after the definition of “prisoner” insert—

““registered victim” means a person who has intimated under section 16(1) of the Criminal Justice (Scotland) Act 2003(c) that they wish to receive information about the release of an offender;”.

(3) In rule 8 (matters to be taken into account by the Board)—

(a) after paragraph (c), omit “and”,

(b) after paragraph (d), insert—

“and

(e) the effect on the safety or security of any other person, including in particular any victim or any family member of a victim, were he or she to be released on licence, remain on licence, or be re-released on licence as the case may be.”.

(a) 1993 c.9. Section 20(4) was amended by paragraph 106 of schedule 8 of the Crime and Disorder Act 1998 (c.37) and by section 5(1)(b) of the Convention Rights (Compliance) (Scotland) Act 2001 (asp 7). The functions conferred on the Secretary of State were transferred to the Scottish Ministers by virtue of section 53(1) of the Scotland Act 1998 (c.46).

(b) S.S.I. 2001/315, as relevantly amended by S.S.I. 2010/164, S.S.I. 2011/133 and S.I. 2013/2042 and temporarily modified by schedule 4 of the Coronavirus (Scotland) Act 2020 (asp 7).

(c) 2003 asp 7. Section 16(1) was relevantly amended by section 27(a) of the Victims and Witnesses (Scotland) Act 2014 and S.S.I. 2008/185.

- (4) In rule 9 (confidentiality)—
- (a) after sub-paragraph (i) omit “or”,
 - (b) after sub-paragraph (ii) insert—
 - “or
 - (iii) where the information is included in a summary published under rule 28A.”.
- (5) In rule 26 (attendance at hearing)—
- (a) in paragraph (2)—
 - (i) after sub-paragraph (f), omit “or”,
 - (ii) at the end, insert—
 - “or
 - (i) any person who is authorised by the tribunal to attend the hearing under rule 26A, or a support person attending under that rule.”,
 - (b) in paragraph (4), after “any person”, insert “(other than a person to whom rule 26A applies)”.
- (6) After rule 26 insert—

“Observation of hearing by victim

26A.—(1) A registered victim in relation to a case may attend a hearing under this Part for the purpose of observing proceedings if authorised to do so under this rule.

(2) The registered victim must apply in writing to the Board to be authorised to attend the hearing.

(3) An application under this rule must be made either during the period intimated to the registered victim by the Board for the purpose of making the application or, if applicable, during such extended period as may be agreed by the Board.

(4) On receipt of an application under this rule the Board must inform the parties that the application has been made, and must provide an opportunity for the parties to make representations about the application.

(5) The chairman of the tribunal may grant or refuse an application under this rule and must send the applicant and the parties a written notice of the decision which includes a statement of the reasons for the decision.

(6) A person authorised to attend a hearing under this rule may be accompanied at the hearing by one other person (or such greater number as the chairman of the tribunal may agree) for the purpose of support, and must provide the tribunal with the name and contact details of the support person or persons not later than 5 working days before the date of the hearing.

(7) Attendance at a hearing under this rule is to be by live link, unless the tribunal considers that another means of attendance is required and in the interests of justice.

(8) The tribunal may at any time exclude a person authorised under this rule, or a support person mentioned in paragraph (6), from any part of the hearing.

(9) In this rule, “live link” means any arrangement as the Board may direct by which a person authorised under this rule is able to see and hear, or hear, the proceedings while not present at the place where the case is being heard.”.

- (7) After rule 28 (decision) insert—

“Publication of decision summary

28A.—(1) Where the tribunal’s decision under rule 28 is a decision to direct that a prisoner is released, the tribunal must publish, in such manner as it may determine, a summary of the reasons for that decision.

(2) Where the tribunal makes a decision under rule 28 to which paragraph (1) does not apply, the tribunal may publish, in such manner as it may determine, a summary of the reasons for that decision.

(3) A summary published under this rule must not include information which identifies, or could be used to identify, any person concerned in the proceedings.

(4) In publishing a summary under this rule, the tribunal may withhold information about the reasons for the decision if it considers that publication of the information would be contrary to the public interest or the interests of justice.

(5) Before publishing a summary under this rule, the Board must send a copy of the summary to any registered victim in relation to the case, unless the registered victim has notified the Board that they do not wish to receive a copy of the summary.”.

St Andrew's House,
Edinburgh
7th January 2021

HUMZA YOUSAF
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Parole Board (Scotland) Rules 2001 (“the 2001 Rules”) to make provision about victim involvement in proceedings of the Parole Board for Scotland (“the Parole Board”), and about the publication of decision summaries by the Parole Board.

Rule 2(2) amends rule 2 of the 2001 Rules to add a definition of “registered victim”.

Rule 2(3) amends rule 8 of the 2001 Rules. Rule 8 sets out that when making a decision about a case referred to it, the Parole Board may take into account any relevant matter, and further provides that in doing so the Parole Board may take into account particular listed matters. Rule 2(3) of these Rules adds the matter of the safety or security of any victim or family member of a victim to the list of particular matters in rule 8 of the 2001 Rules.

Rule 2(4) amends rule 9 of the 2001 Rules as a consequence of the provision added by rule 2(7). The publication of a decision summary under the new provision inserted by rule 2(7) is excluded from the general requirement in rule 9 that information in relation to Parole Board proceedings may not be disclosed to any person not involved in the case.

Rule 2(5) amends rule 26 of the 2001 Rules in consequence of the amendments made by rule 2(6). Rule 26(2) of the 2001 Rules provides that only persons listed in that paragraph may attend an oral hearing held under Part 4 of those Rules. Rule 2(5) adds persons authorised under rule 26A (which is inserted by rule 2(5)) to that list. Rule 2(5) also amends rule 26(4) of the 2001 Rules, to provide that the general power of the tribunal in rule 26(4) to authorise persons to attend hearings does not apply to persons specifically authorised to attend under new rule 26A.

Rule 2(6) inserts a new rule 26A into the 2001 Rules. Rule 26A makes provision for a procedure whereby a person who is registered with the Victim Notification Scheme established under the Criminal Justice (Scotland) Act 2003, in relation to a particular case (a “registered victim”), may request authorisation to attend to observe the Parole Board’s oral hearing under Part 4 of the 2001 Rules in relation to that case. The Parole Board must permit representations from the parties to the hearing (the prisoner and the Scottish Ministers) before deciding whether to authorise attendance by a registered victim. Rule 26A also makes provision for a registered victim to be accompanied by a support person or persons, for attendance by live link unless the Parole Board permits otherwise, and to provide that the Parole Board may exclude a registered victim or a support person from any part of the hearing.

Rule 2(7) inserts a new rule 28A into the 2001 Rules, which provides for publication of summaries of Parole Board decisions under rule 28. Rule 28A(1) provides that a summary must be published for a decision to release a prisoner. Rule 28A(2) enables the Parole Board to publish summaries in other cases. Rule 28A(3) and (4) make provision about information which must, or may, be excluded from published summaries. Rule 28A(5) makes provisions with regard to the Parole Board’s obligations to send a copy of a summary to any registered victim in relation to the case, before the summary is published.

No Business or Regulatory Impact Assessment has been prepared for these Rules as no impact upon business, charities or voluntary bodies is foreseen.

A Data Protection Impact Assessment has been prepared. A copy is available online at www.legislation.gov.uk.

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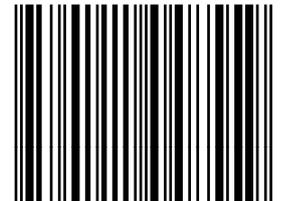
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