
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision with respect to the proceedings of the Parole Board for Scotland (“the Board”). The Rules apply to all cases referred to the Board from 1 April 2023.

Part 1 of the Rules contains introductory provisions including provision in rule 2 defining terms used in the Rules.

Part 2 makes general provision applicable to the proceedings of the Board in all cases referred to it by the Scottish Ministers (except where otherwise provided). Rules 4 and 5 make provision as to information to be provided to the Board and to the person to whom the case relates by the Scottish Ministers. Schedule 1 also sets out a list of such information to be provided as the Scottish Ministers’ dossier in relation to a case. Rules 6 and 7 make provision as to the procedure applying to individual cases and the allocation of members of the Board to a panel to consider a case. Rules 8, 9, and 10 make provision for preliminary hearings, consideration of information which is not to be disclosed to the person to whom the case relates, and the making of written representations by that person to the Board. Rules 11 and 12 detail particular matters which the Board may consider in relation to a case, where relevant. These provisions do not override statutory tests to be applied by the Board in particular cases, but indicate some of the matters which may be relevant to those tests. Rules 13, 14, 15 and 16 make general provision as to the conduct of parole proceedings such as in respect of confidentiality and the sending of documents. Rule 18 provides for the correction of procedural and administrative irregularities, and rule 19 sets out the circumstances in which the Board may reconsider a decision made by a panel in relation to a case.

Part 3 sets out the procedure which is to apply where a case is, by virtue of rule 6, to be considered by reference to the case papers only (i.e. by a “casework” panel). Provision is made as to the documents to be considered and the manner in which a decision may be reached. Other than in respect of these matters a casework panel may, by virtue of rule 20(1), regulate its own procedure.

Part 4 sets out the procedure which is to apply where a case is to be considered at an oral hearing. This relates to indeterminate cases (as defined in rule 2), and to any other case where (under Rule 6) it has been determined that an oral hearing is in the interests of justice. It is also possible for an indeterminate case to be considered under Part 4 by an oral hearing panel but without an oral hearing taking place, by virtue of Rule 23(2). For such cases, and for any other matter relating to a case not provided for in the Rules, an oral hearing panel may determine its own procedure, by virtue of rule 23(1). Part 4 includes provision as to the practical arrangements to be made for an oral hearing such as procedural directions, notice periods, representation of parties and citation of witnesses (rules 24, 25, 26, 27, 28 and 29). Rule 30 makes provision for oral hearings in relation to indeterminate cases to be observed by victims. Rule 31 sets out information to be provided by the person to whom the hearing relates, in advance of the hearing, to determine the extent to which they are prepared for the hearing. Rule 32 makes provision for the conduct of an oral hearing. Rule 33 sets out how the decision of an oral hearing panel is to be reached and communicated to parties, and rule 34 makes provision as to the publication of decision summaries in respect of indeterminate cases.

Part 5 (rule 35) and schedule 2 provide that the Parole Board (Scotland) Rules 2001 (and instruments amending those Rules) are revoked from 1 April 2023 and make transitional provision for cases under consideration by the Board at that date. Such cases are, in general, to be completed under these new Rules unless the Board considers this would be contrary to the interests of justice. Rule 35(5) therefore also provides that the 2001 Rules (and amending instruments) remain in effect for any such case.

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

An Equality Impact Assessment has been prepared in respect of these Rules and placed in the Scottish Parliament Information Centre. Copies may be obtained online at www.legislation.gov.uk.