

Island of  Guernsey

Ordinance of the States

**XV
2004**

Made

26th May, 2004

**The Parole Review Committee
(Amendment) Ordinance, 2004**

The Parole Review Committee (Amendment) Ordinance, 2004

THE STATES, in pursuance of their Resolutions of the 31st July, 2003^a and the 31st October, 2003^b, and in exercise of the powers conferred on them by section 3 of the Parole Review Committee (Guernsey) Law, 1989^c and sections 1, 2 and 3 of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991^d, and all other powers enabling them in that behalf, hereby order:-

Amendment of Ordinance of 1991.

1. The Parole Review Committee Ordinance, 1991^e, as amended, is further amended in accordance with the provisions of this Ordinance.

2. In sections 1(1), 1(2), 1(5)(g)(ii), 4(5) and 8 for "Committee for Home Affairs"^f substitute "Home Department".

3. Section 1(5)(f) is repealed.

4. After section 1(5) insert the following subsection -

^a Article VII of Billet d'État No. XVI of 2003.

^b Article XII of Billet d'État No. XXIV of 2003.

^c Ordres en Conseil Vol. XXXI, p. 414.

^d Order in Council No. XXI of 1991.

^e Recueil d'Ordonnances Tome XXV, p. 230; amended by No. V of 1993.

^f The words "Committee for Home Affairs" were substituted for "Prison Board" by No. V of 1993.

"(6) Unless the Committee orders otherwise in any particular case, and without prejudice to the powers conferred on the Committee by subsection (5)(a) and (c), it is a condition of a prisoner's licence that he shall be under the supervision of a Probation Officer, who shall be assigned by the Chief Probation Officer."

5. In sections 2(1) and 2(3) for "Committee for Home Affairs"^g substitute "Prison Governor".

6. In section 2(4) for "Probation Service Committee" substitute "Chief Probation Officer".

7. For section 2(8), substitute -

"(8) Subject to subsections (10) and (11), the items referred to in subsections (3) to (7) shall be disclosed to the prisoner."

8. After section 2(9), insert the following subsections -

"(10) This subsection applies where -

- (a) Her Majesty's Procureur considers that any information disclosed or submitted to the Committee under subsection (5) or (6), or
- (b) the Committee considers that any information disclosed to it under subsection (3) or (4) or

^g The words "Committee for Home Affairs" were substituted for "Prison Board" by No. V of 1993.

considered by it under subsection (7),

should not be disclosed to the prisoner because its disclosure would be likely to be harmful on one or more of the following grounds -

- (i) that it would be likely adversely to affect the health, welfare or safety of the prisoner or any other person,
- (ii) that it would be likely to impede the prevention, detection or investigation of crime, the prevention of disorder, or the apprehension or prosecution of suspected offenders,
- (iii) that it would be likely to facilitate an escape from legal custody or otherwise prejudice prison security,
- (iv) that it would otherwise be likely to damage the public interest,

and any such information is referred to in this Ordinance as 'harmful information' .

(11) Where subsection (10) applies -

- (a) the harmful information shall not be required to be disclosed to the prisoner whether under subsection (8) or otherwise,

- (b) the Committee may consider the harmful information and take it into account even though it has not been disclosed to the prisoner, and
- (c) the Committee shall inform the prisoner in writing that certain information has not been disclosed to him and give him, so far as is practicable without prejudicing the reasons for which the harmful information is withheld, the reasons for withholding it together with the substance or gist of that information.”.

9. For section 3(1), substitute -

“(1) The decision of the Committee in relation to an application for a licence shall be recorded in a document which -

- (a) shall contain a statement of the reasons for the decision,
- (b) if the application is granted, shall state the date on which the prisoner is to be released and the conditions to be attached to the licence, and
- (c) shall be signed and dated by the Chairman of the Committee (or another member authorised by him),

and a copy of the document shall be sent to the prisoner within 14 days after the day of the decision.”.

10. Section 3(2) is repealed.

11. In section 3(3) after "Chief Officer of Police" insert "and the Chief Probation Officer".

12. After section 3 insert the following section -

“Reconsideration of applications.

3A. Where an application for a licence is not granted, the Committee -

(a) shall reconsider the application not more than 12 months after that determination, or not less than 6 months before the earliest release date of the prisoner, whichever is the sooner,

(b) may reconsider the application at any time in any circumstances which appear to the Committee to be exceptional (whether of its own motion or on the application of the prisoner).”.

13. In section 4(3), for “7 days”, wherever appearing, substitute “96 hours”.

14. In section 4(5), for “section 2(1)” substitute “section 2(a) of the Law of 1989”.

15. Section 7(1) is repealed.

16. For section 7(2), substitute the following subsection -

“(2) A prisoner may receive legal advice and assistance -

(a) in preparing an application for a licence and in preparing and making any written representations to be considered by the Committee under section 2,

(b) in preparing and making any written representations to the Committee in respect of -

(i) his recall to prison and revocation of a licence under section 4, or

(ii) any review or reconsideration of any application under this Ordinance.”.

17. In section 8 -

(a) the definition of "Police Committee" is repealed, and

(b) in the definition of "Probation Officer" for "Probation Service Committee" substitute "Home Department".

Amendment of Law of 1989.

18. In section 2(a) of the Parole Review Committee (Guernsey) Law,

1989 for "Prison Board" substitute "Home Department".

Citation.

19. This Ordinance may be cited as the Parole Review Committee (Amendment) Ordinance, 2004.