

# ORDINANCE

## OF THE STATES OF DELIBERATION

ENTITLED

### **The Parole Review Committee Ordinance, 1991** \*

*[CONSOLIDATED TEXT]*

#### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.*

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\* Recueil d'Ordonnances Tome XXV, p. 230; as amended by the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004 (No. IX of 2005); the Parole Review Committee (Amendment) Ordinance, 1992 (Recueil d'Ordonnances Tome XXVI, p. 150); the Parole Review Committee (Amendment) Ordinance, 2004 (No. XV of 2004); the Prison (Guernsey) Ordinance, 2013 (No. XXIX of 2013); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). This Ordinance is prospectively repealed by the Parole (Guernsey) Law, 2009 (No. IV of 2011).

# ORDINANCE OF THE STATES OF DELIBERATION

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## **The Parole Review Committee Ordinance, 1991**

### ARRANGEMENT OF SECTIONS

1. Powers of the Parole Review Committee.
2. Information to be provided to the Committee.
3. Provisions on the notification of decisions.
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4. Revocation and recall.
5. Effect of revocation.
6. Commission of further offences by persons on licence.
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8. Interpretation.
9. Citation.

*(Made on 31st January, 1991.)*

## **The Parole Review Committee Ordinance, 1991**

**THE STATES**, in pursuance of their Resolutions of the 26<sup>th</sup> day of November, 1986 and the 14<sup>th</sup> day of December, 1989, and in exercise of the powers conferred on them by section 3 of the Parole Review Committee (Guernsey) Law, 1989<sup>a</sup>, hereby order: –

### **Powers of the Parole Review Committee.**

1. (1) The Parole Review Committee ("**the Committee**") shall have the power to release on licence persons serving sentences of imprisonment on the Island of Guernsey for criminal offences ("**prisoners**"), whose cases have been referred to it by the States [Committee for Home Affairs] in accordance with section 2 of the Parole Review Committee (Guernsey) Law, 1989, ("**the Law of 1989**") [or section 5(2) of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004].

(2) The States [Committee for Home Affairs] shall not refer to the Committee any prisoner sentenced to a period of less than 15 months' imprisonment or to an indeterminate period.

(3) The Committee shall not consider a case until the prisoner sentenced has served either 6 months' imprisonment or [one quarter] of his total sentence, whichever is the greater.

(4) No prisoner shall be released on licence until he has served either 10 months' imprisonment or one-third of his total sentence, whichever is the greater.

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<sup>a</sup> Ordres en Conseil, No. XVI of 1989.

- (5) The Committee shall have the power to –
- (a) attach such conditions to licences granted as it thinks fit in the public interest,
  - (b) recall prisoners released on licence to prison,
  - (c) revoke licences or vary the conditions attached thereto,
  - (d) determine the date on which a prisoner shall be released on licence,
  - (e) defer a decision on any case referred to it for up to 3 months,
  - (f) ...
  - [(g) specify the date on which a licence expires, being the date on which a prisoner would have been released on remission under section 29 of the Prison (Guernsey) Ordinance, 2013 or such later date as he would have been released on or after any forfeiture of remission under any regulations made under that Ordinance, and]
  - (h) invite the Prison Governor, a Probation Officer, the Chief Officer of Police, their representatives, or any other person to be present and assist them in their deliberations.
- [ (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.]

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## NOTES

*In section 1,*

*the words "Committee for Home Affairs" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016;<sup>1</sup>*

*the words in the second pair of square brackets in subsection (1) were inserted by the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, section 6, with effect from 8th July, 2005;*

*the words in square brackets in subsection (3) were substituted by the Parole Review Committee (Amendment) Ordinance, 1992, section 1(b), with effect from 31st March, 1993;*

*paragraph (f) of subsection (5) was repealed, and subsection (6) was inserted, by the Parole Review Committee (Amendment) Ordinance, 2004, respectively section 3 and section 4, with effect from 26th May, 2004;*

*paragraph (g) of subsection (5) was substituted by the Prison (Guernsey) Ordinance, 2013, section 59, Schedule 7, with effect from 4th November, 2013, subject to the transitional and savings provisions in section 60 of, and Schedule 8 to, the 2013 Ordinance.<sup>2</sup>*

*The following cases have referred to this Ordinance:*

*Webster and Singleton v. Parole Review Committee* 2003-04 GLR 559;

*Bradley v. Parole Review Committee* 2005-06 GLR 335;

*Michael Joseph Peter Doyle v. Law Officers of the Crown* (2015) (Unreported, Court of Appeal, 7th December) (Guernsey Judgment No. 56/2015).

*In accordance with the provisions of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, section 8, with effect from 8th July, 2005, subsection (5)(b), (c), (d), (e) and (h) and subsection (6) of this section apply to prisoners serving extended sentences who are recalled under section 4(1) or (2) of this Ordinance.*

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**Information to be provided to the Committee.**

2. (1) An application for a licence shall be made by the prisoner on a form prescribed by order of the Committee and submitted to the [Prison Governor].

(2) When dealing with any case referred to it the Committee shall consider any representations, documents, reports or information submitted to it under subsections (3) to (7) of this section.

(3) The [Prison Governor] shall disclose to the Committee any written representations made by the prisoner and any records made in respect of him since he began serving his sentence.

(4) The [Chief Probation Officer] shall disclose to the Committee any written court reports submitted at the time of the prisoner's sentencing (including any reports made in respect of earlier court appearances that may be considered relevant) and any records or reports made in respect of him since he began serving his sentence.

(5) The [Chief Officer of Police] shall disclose to the Committee any written court reports submitted at the time of the prisoner's sentencing and any written records made in respect of him since he began serving his sentence — provided that no such reports or records shall be submitted if Her Majesty's Procureur considers that it is not in the public interest so to do.

(6) Her Majesty's Procureur may submit any confidential information to the Committee tending to indicate that it would not be in the Island's interest to release a prisoner on licence.

(7) The Committee may also consider any other information submitted to it or requested by it from any other person.

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

(9) The Committee may, in any case before it, interview the prisoner or request a member or members of the Committee to interview him.

[ (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 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.]

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## NOTES

*In section 2,*

*the words in square brackets in subsection (1) and subsection (3) were substituted by the Parole Review Committee (Amendment) Ordinance, 2004, section 5, with effect from 26th May, 2004;*

*the words in square brackets in subsection (4) were substituted by the Parole Review Committee (Amendment) Ordinance, 2004, section 6, with effect from 26th May, 2004;*

*the words in square brackets in subsection (5) were substituted by the Parole Review Committee (Amendment) Ordinance, 1992, section 1(c), with effect from 31st March, 1993;*

*subsection (8) was substituted, and subsection (10) and subsection (11) were inserted, by the Parole Review Committee (Amendment) Ordinance, 2004, respectively section 7 and section 8, with effect from 26th May, 2004.*

*In accordance with the provisions of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, section 8, this section applies to prisoners serving extended sentences who are recalled under section 4(1) or (2) of this Ordinance, with effect from 8th July, 2005.*

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**Provisions on notification of decisions.**

3. [ (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.]

(2) ...

(3) The court which sentenced the prisoner to imprisonment and the Chief Officer of Police [and the Chief Probation Officer] shall be notified forthwith of any decision to release him on licence and of any conditions attached

thereto.

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**NOTES**

*In section 3,*

*subsection (1) was substituted, and subsection (2) repealed, by the Parole Review Committee (Amendment) Ordinance, 2004, respectively section 9 and section 10, with effect from 26th May, 2004;*

*the words in square brackets in subsection (3) were inserted by the Parole Review Committee (Amendment) Ordinance, 2004, section 11, with effect from 26th May, 2004.*

*In accordance with the provisions of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, section 8, this section applies to prisoners serving extended sentences who are recalled under section 4(1) or (2) of this Ordinance, with effect from 8th July, 2005.*

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**[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).]

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**NOTES**

*Section 3A was inserted by the Parole Review Committee (Amendment) Ordinance, 2004, section 12, with effect from 26th May, 2004.*

*The following case has referred to section 3A:*

*Bradley v. Parole Review Committee 2005–06 GLR 335.*

*In accordance with the provisions of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, section 8, this section applies to prisoners serving extended sentences who are recalled under section 4(1) or (2) of this Ordinance, with effect from 8th July, 2005.*

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### **Revocation and recall.**

4. (1) A prisoner released on licence shall comply with the conditions specified on the licence. If he fails to do so, or in any case where the Committee considers it expedient, his licence may be revoked by the Committee and he shall be recalled to prison.

(2) Notwithstanding subsection (1), if it appears at any time to Her Majesty's Procureur that it is expedient in the public interest to recall a prisoner released on licence to prison and that it is impracticable to consult with the Committee at that time, he may revoke the licence and recall the prisoner to prison; provided that he shall as soon as reasonably practicable inform the Committee of any action so taken.

(3) If a licence is revoked by Her Majesty's Procureur the Committee shall within [96 hours] of the revocation consider whether or not to confirm the revocation. If not confirmed the order will lapse and the prisoner shall be released forthwith; provided that Her Majesty's Procureur may at any time during the [96 hours] period quash his revocation order with the same effect.

(4) A prisoner recalled to prison under subsections (1) and (2) above may make immediate written representations to the Committee with respect to his recall and shall be informed by the Committee of the reasons for his recall and his right to make such representations.

(5) A prisoner recalled to prison under subsections (1) and (2) above shall have his case considered as soon as reasonably practicable by the Committee as if it had been newly referred to it by the [Committee for Home Affairs] under [section 2(a) of the Law of 1989].

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**NOTES**

*In section 4,*

*the words and figures in square brackets in subsection (3) were substituted by the Parole Review Committee (Amendment) Ordinance, 2004, section 13, with effect from 26th May, 2004;*

*the words in the first pair of square brackets in subsection (5) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016;<sup>3</sup>*

*the words in the second pair of square brackets in subsection (5) were substituted by the Parole Review Committee (Amendment) Ordinance, 2004, section 14, with effect from 26th May, 2004.*

*In accordance with the provisions of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, section 8, subsections (1), (2), (3) and (4) of this section apply to prisoners serving extended sentences who are recalled under subsection (1) or (2) of this section, with effect from 8th July, 2005.*

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**Effect of revocation.**

5. (1) A prisoner who remains at large after his licence has been revoked (whether he has been notified of the revocation or not) shall be deemed to be unlawfully at large and may be detained without warrant by any person.

(2) A prisoner detained under subsection (1) above shall be conveyed as soon as is reasonably practicable to the prison.

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**NOTE**

*In accordance with the provisions of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, section 8, this section applies to prisoners serving extended sentences who are recalled under section 4(1) or (2) of this Ordinance, with effect from 8th July, 2005.*

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**Commission of offences by persons on licence.**

6. (1) If a prisoner on licence is convicted of any offence punishable with imprisonment committed during the period of licence the court dealing with him (without prejudice to the Committee's powers under section 4(1) of this Ordinance) may revoke the licence and order his return to prison; and shall inform the Committee of the revocation as soon as is reasonably practicable.

(2) If the court decides not to revoke the licence it shall inform the Committee of the conviction and its decision as soon as is reasonably practicable.

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**NOTE**

*In accordance with the provisions of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, section 8, this section applies to prisoners serving extended sentences who are recalled under section 4(1) or (2) of this Ordinance, with effect from 8th July, 2005.*

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**General legal provisions.**

7. (1) ...

[ (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.]

(3) The Committee, its members and officers and any person exercising any power under the Law of 1989 shall not be liable in any civil action whatsoever as a result of any decision to release or to recall a prisoner on licence.

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#### NOTES

*In section 7, subsection (1) was repealed, and subsection (2) substituted, by the Parole Review Committee (Amendment) Ordinance, 2004, respectively section 15 and section 16, with effect from 26th May, 2004.*

*In accordance with the provisions of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, section 8, this section applies to prisoners serving extended sentences who are recalled under section 4(1) or (2) of this Ordinance, with effect from 8th July, 2005.*

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#### **Interpretation.**

**8.** In this Ordinance, except where the context otherwise requires –

**"Chief Officer of Police"** means the Chief Officer of the salaried police force of the Island of Guernsey,

**"Committee"** means the Parole Review Committee,

**"court"** means any court of law in the Bailiwick of Guernsey, Alderney or Sark,

**"Her Majesty's Procureur"** includes Her Majesty's Comptroller,

[ ...]

**"Prison"** means the Island Prison,

[ **"Committee for Home Affairs"**] means the States [Committee for Home Affairs],

**"Prisoner"** means any person serving a sentence of imprisonment in the Island of Guernsey for a criminal offence,

**"Prison Governor"** means the Governor of the Island Prison,

**"Probation Officer"** means any person employed in that capacity by the [Committee for Home Affairs],

**"written court reports"** and **"written records"** shall be deemed to include items held as computer data prior to committal to written form.

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## NOTES

*In section 8,*

*the words omitted in the first pair of square brackets were repealed by the Parole Review Committee (Amendment) Ordinance, 2004, section 17(a), with effect from 26th May, 2004;*

*the words in square brackets in the definition of the expression "Committee for Home Affairs" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016;<sup>4</sup>*

*the words in square brackets in the definition of the expression "Probation Officer" were substituted by the Organisation of States' Affairs*

*(Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016.<sup>5</sup>*

*The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*

*In accordance with the provisions of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, section 8, this section applies to prisoners serving extended sentences who are recalled under section 4(1) or (2) of this Ordinance, with effect from 8th July, 2005.*

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**Citation.**

9. This Ordinance may be cited as the Parole Review Committee Ordinance, 1991.

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**NOTE**

*The Ordinance was made and came into operation on 31st January, 1991.*

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**1** These words were previously substituted by the Parole Review Committee (Amendment) Ordinance, 2004, section 2, with effect from 26th May, 2004.

**2** Prior to its substitution, paragraph (g) was amended by the Parole Review Committee (Amendment) Ordinance, 2004, section 2, with effect from 26th May, 2004.

**3** These words were previously substituted by the Parole Review Committee (Amendment) Ordinance, 2004, section 2, with effect from 26th May, 2004.

**4** These words were previously substituted by the Parole Review Committee (Amendment) Ordinance, 2004, section 2, with effect from 26th May, 2004.

**5** These words were previously substituted by the Parole Review Committee (Amendment) Ordinance, 2004, section 17(b), with effect from 26th May, 2004.