



An Bille Parúil, 2016

Parole Bill 2016

Mar a tionscnaíodh

As initiated



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ACTS REFERRED TO

Criminal Justice (Temporary Release of Prisoners) Act 2003 (No. 34)

Criminal Justice Act 1960 (No. 27)

Criminal Justice Act 1990 (No. 16)

Defamation Act 2009 (No. 31)

Prisons Act 2007 (No. 10)



AN BILLE PARÚIL, 2016
PAROLE BILL 2016

Bill

entitled

An Act to provide for the establishment of an independent parole board and the release on parole of certain persons found guilty of criminal offences and serving sentences of imprisonment or committed or remanded in custody. 5

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL 10

Short title and commencement

1. (1) This Act may be cited as the Parole Act 2016.
(2) This Act shall come into operation on 1 June 2017.

Interpretation

2. In this Act— 15
“Board” means the Board established under *section 6(1)*;
“commencement day” shall be construed in accordance with *section 1(2)*;
“eligible person” shall be construed in accordance with *section 20*;
“hearing” shall be construed in accordance with *section 16*;
“judge of the Superior Courts” means a judge of the High Court or the Court of Appeal or the Supreme Court; 20
“Minister” means the Minister for Justice and Equality;
“panel” and “parole panel” shall be construed in accordance with *section 13*;
“parole order” shall be construed in accordance with *section 22*;
“review” shall be construed in accordance with *section 15*; 25
“Superior Courts” means the High Court, the Court of Appeal and the Supreme Court.

Regulations

3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.
- (2) Without prejudice to any provision of this Act, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations. 5
- (3) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next twenty one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 10

Expenses

4. (1) The expenses incurred by the Minister in the administration of this Act, shall to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas. 15
- (2) The Minister shall, in each financial year, pay to the Board out of moneys provided by the Oireachtas, such amount or amounts as the Minister may, with the concurrence of the Minister for Public Expenditure and Reform, determine for the purposes of expenditure by the Board in the performance of its functions. 20

Nature of Parole

5. (1) This section is intended to give a broad overview of how and when persons serving sentences of imprisonment may be released from custody on parole prior to the normal expiry of their sentence, and how such parole may be subject to conditions. It does not confer rights or impose obligations and, if there is an inconsistency between this section and any other, the other section shall prevail. 25
- (2) Parole shall have the following characteristics:
- (a) it is available only to persons who are subject to a sentence of eight years or more and who meet the eligibility requirements set out in *section 20*;
 - (b) it is granted by the Board, which also imposes the conditions applicable to the person's early release from detention; 30
 - (c) a person on parole from a fixed term sentence is subject to recall at any time until his or her release date as defined by the Prison Rules 2007, as amended;
 - (d) a person on parole from a life sentence is subject to recall for life.
- (3) Nothing in this Act shall preclude a person who is serving a sentence of imprisonment from otherwise availing of temporary release provisions under section 2 of the Criminal Justice Act 1960, as amended, or remission entitlements under the Prison Rules 2007, as amended, pursuant to the Prisons Act 2007. 35

PART 2

THE PAROLE BOARD

Establishment of Board

6. (1) There shall stand established on the commencement day a body to be known, in the English language, as the Parole Board, or, in the Irish Language, as An Bord Parúil, (in this Act referred to as the “Board”) to perform the functions conferred on it by this Act. 5
- (2) The Board shall be a body corporate with perpetual succession and an official seal and shall have power to sue, and may be sued, in its corporate name, and shall, with the consent of the Minister and the Minister for Public Expenditure and Reform, have power to acquire, hold and dispose of land or an interest in land, and to acquire, hold and dispose of any other property. 10
- (3) The Board shall, subject to the provisions of this Act, be independent in the performance of its functions.
- (4) The seal of the Board shall be authenticated by— 15
- (a) the signature of 2 members of the Board, or
- (b) the signatures of both—
- (i) a member of the Board, and
- (ii) such member of the staff of the Board as is authorised by the Board to act in that behalf. 20
- (5) Judicial notice shall be taken of the seal of the Board and any document purporting to be an instrument made by, and to be sealed with the seal of, the Board shall be received in evidence and be deemed to be such instrument without further proof, unless the contrary is shown.

Functions of Board

7. (1) Subject to the provisions of this Act, the function of the Board shall be— 25
- (a) to convene panels to—
- (i) consider persons for parole in accordance with *section 19*,
- (ii) direct, if appropriate, that such persons be released on parole and subject to such conditions as may be specified and make parole orders to that end in accordance with *section 22*, 30
- (iii) require, if appropriate, that persons released on parole be subject to monitoring under *section 23* for the purposes of determining compliance with parole conditions,
- (iv) consider and determine, as necessary, whether conditions in parole orders should be varied and/or discharged under *section 24*, 35
- (v) consider and determine, as necessary, whether parole orders should be suspended or revoked under *section 25*,

- (b) to issue warrants under *section 26* for the purposes of apprehending and returning to custody persons the subject of parole orders where there are grounds justifying the suspension or revocation of the parole order,
 - (c) to make annual reports to the Minister upon the operation of its functions and this Act, or at such intervals as the Minister may prescribe, 5
 - (d) to do anything else it is required to do under this Act or any other enactment.
- (2) The Board shall also have the following functions:
- (a) to develop policies on how to discharge its functions under this section, and to amend and revise those policies as it sees fit;
 - (b) to maintain a register of Board decisions; 10
 - (c) to keep statistical and other records relating to its work;
 - (d) to provide information that is readily accessible to prisoners, victims, and the general public about matters relating to release from detention on parole and the policies and operation of the Board generally.
- (3) Subject to this Act, the Board shall have all such powers as are necessary or expedient for the performance of its functions. 15

Membership

8. (1) The members of the Board (including the chairperson) shall be such number, not more than 15, as the Minister considers appropriate from time to time.
- (2) The membership of the board shall include: 20
- (a) a Chairperson, being a person who holds or has held judicial office as a judge of the Circuit Court or of the Superior Courts;
 - (b) at least 4 members who are appointed as panel convenors selected through a competitive selection process coordinated by the Public Appointments Service;
 - (c) a registered medical practitioner who is a psychiatrist; 25
 - (d) a psychologist;
 - (e) a representative of the Irish Prison Service;
 - (f) a current or retired member of An Garda Síochána, not below the rank of superintendent;
 - (g) a probation or welfare officer; 30
 - (h) a representative nominated by the Irish Penal Reform Trust;
 - (i) such other person or persons appearing to the Minister to have:
 - (i) knowledge and experience of the supervision or aftercare of discharged prisoners;
 - (ii) to have made a study of the causes of delinquency or the treatment of criminal offenders; 35
 - (j) not less than 4 members who are women and not less than 4 members who are

men.

- (3) The members of the Board shall be appointed by the Minister and the members appointed pursuant to:
- (a) *subsection (2)(a)* shall be a person nominated for appointment thereto by the Chief Justice; 5
 - (b) *subsection (2)(b)* as panel convenors shall be appointed following a competitive selection process coordinated by the Public Appointments Service;
 - (c) *subsection (2)(c)* shall be persons nominated for appointment thereto by the College of Psychiatrists or such organisation or organisations as the Minister considers to be representative of such medical practitioners; 10
 - (d) *subsection (2)(d)* shall be persons nominated for appointment thereto by the Psychological Society of Ireland or such organisation or organisations as the Minister considers to be representative of such psychologists;
 - (e) *subsection (2)(e)* shall be persons nominated for appointment thereto by the Director General of the Irish Prison Service; 15
 - (f) *subsection (2)(f)* shall be persons nominated for appointment thereto by the Commissioner of An Garda Síochána.
- (4) Before appointing a person as a member, the Minister shall be reasonably satisfied that the person has—
- (a) knowledge or understanding of the criminal justice system, and 20
 - (b) the ability to make a balanced and reasonable assessment of the risk a person convicted of a criminal offence may present to the community when released from detention, and
 - (c) the ability to operate effectively with people from a range of cultures.
- (5) The Minister shall endeavour, in so far as is practicable, to ensure an equitable gender and ethnic balance in the composition of the Board reflective of the community at large. 25

Terms of Office

9. (1) A member of the Board shall hold office for a term of 4 years.
- (2) A member of the Board may resign his or her membership by letter addressed to the Minister and the resignation shall take effect from the date specified therein or upon receipt of the letter by the Minister, whichever is the later. 30
 - (3) Each member of the Board shall be paid such remuneration and allowances for expenses incurred by him or her as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine. 35
 - (4) A member of the Board may at any time be removed from membership of the Board by the Minister if, in the Minister's opinion, the member has become incapable of performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Minister to be necessary for the effective performance by the Board of its functions. 40

- (5) (a) If a member of the Board dies, resigns, becomes disqualified or is removed from office, the Minister may appoint a person to be a member of the Board to fill the casual vacancy so occasioned and the person so appointed shall be appointed in the same manner as the member of the Board who occasioned the casual vacancy.
- (b) Subject to the other provisions of this section, a person appointed to be a member of the Board by virtue of this paragraph shall hold office for the remainder of the term of office of the member who occasioned the casual vacancy he or she is appointed to fill. 5
- (6) A member of the Board shall be disqualified for holding and shall cease to hold office if he or she is adjudged bankrupt or makes a composition or arrangement with creditors or is sentenced by a court of competent jurisdiction to a term of imprisonment or penal servitude. 10
- (7) A member of the Board whose period of membership expires by the effluxion of time shall be eligible for re-appointment as a member of the Board.
- (8) A member of the Board who has served 2 terms of office shall not be eligible for reappointment to the Board 15

Chairperson

- 10. (1) The primary function of the chairperson shall be to ensure that the Board carries out its functions in accordance with this Act in an efficient and effective manner.
- (2) Without limiting the function described in *subsection (1)*, it shall also be the function of the chairperson to allocate members including panel convenors to panels to undertake reviews and hearings. 20
- (3) In allocating members to panels under *subsection (2)*, the Chairperson shall endeavour to ensure the diverse skills and experiences of the different members of the Board are appropriately represented on any panel. 25
- (4) The chairperson may sit as a member, including as a panel convenor, at any panel review or hearing.
- (5) In the case of the absence or inability of the chairperson to act, the other members of the Board present at that meeting shall elect one of their number to act as chairperson of that meeting. 30

Panel Convenors

- 11. (1) Every member who is appointed as a panel convenor must be—
 - (a) a person who has held office as a judge of the District Court, or the Circuit Court; or
 - (b) a barrister or solicitor who has had not less than 9 years experience as a practising barrister or solicitor ending immediately before such appointment. 35
- (2) The functions of a panel convenor are—
 - (a) at a hearing or review—
 - (i) to preside at the hearing or review,

- (ii) to determine any matters of procedure that may arise during or in relation to the hearing or review,
- (iii) to sign the decision of the panel at that hearing or review,
- and
- (b) to do anything else that a panel convenor is required to do under this Act or any other enactment or regulations, 5
- (c) under the direction of the chairperson, to undertake or assist in the exercise of any of his or her functions,
- (d) to convene a further review or hearing for the purpose of any matter under *sections 22, 23, 24, and 25*, and 10
- (e) to supervise the preparation for a review or hearing under *section 27*.
- (3) The chairperson may appoint any member (whether or not qualified to be a panel convenor) as an acting panel convenor in respect of a particular hearing or review or number of hearings or reviews if, for any reason, a panel convenor is not available for that hearing or review or those hearings or reviews. 15
- (4) If the chairperson sits on a parole panel, he or she may act as a panel convenor for the purposes of that sitting; and for that purpose the chairperson has all the functions and powers of a panel convenor.

Staff

- 12. (1) The Minister, with the consent of the Board and the Minister for Public Expenditure and Reform, may second or assign to the Board five of his or her officers or such greater number as he or she may determine to be members of the staff of the Board. 20
- (2) Without prejudice to *subsection (1)* the Minister for Public Expenditure and Reform may permit such other officers as may be appropriate to be seconded or assigned to the Board, with the consent of the Board, to be members of the staff of the Board. 25
- (3) Subject to the provisions of this Act, the Board may perform its functions as it sees fit through or by a member of staff of the Board and in the performance of those functions that member of staff of the Board shall be subject to the directions of the Board.
- (4) Any member of staff of the Board shall attend meetings of the Board when requested to do so by the Board. 30

Parole Panels

- 13. (1) The Board shall sit as panels for the purposes of discharging its duties and functions under *sections 22, 23, 24, 25 and 27*.
- (2) A panel shall consist of 3 or 5 members, as the chairperson may in his or her discretion determine, at least one of whom shall be a panel convenor. 35
- (3) A decision by a panel under *sections 22, 23, 24, 25 and 27* of this Act is a decision of the Board.

- (4) At a review or hearing, each member of the panel shall have a vote and every question shall be determined by a majority of the votes of the members.
- (5) A decision of the Board on the grant or refusal of parole, or on the variation or revocation of a parole order, must be in writing and include reasons for the decision.

Powers of Parole Panels 5

- 14.** (1) A parole panel shall conduct reviews or hearings for the purposes of discharging the functions under *sections 21, 22, 23, 24 and 25* and may receive submissions and such evidence as it thinks fit.
- (2) A parole panel shall ordinarily discharge its functions by conducting a review, save as otherwise provided for in this Act, but shall also have a discretion to conduct a hearing in respect of any matter before it. 10
- (3) A parole panel shall have the power for the purposes of conducting a review or hearing to interview any person being considered for parole and may schedule an interview at the institution at which the person is being detained for that purpose.
- (4) A parole panel shall have the power, for the purposes of conducting a review or hearing, to commission a report or to procure evidence from an appropriate expert in respect of a parole candidate if it deems it necessary. 15
- (5) Without prejudice to the generality of *subsection (4)*—
- (a) a parole panel shall have the power, for the purposes of conducting a review or hearing to direct that a report be prepared in respect of a parole candidate by— 20
 - (i) the Governor of any prison in which the parole candidate is or has been detained,
 - (ii) the person in charge of any other institution in which the parole candidate is or has been detained,
 - (iii) or on behalf of the Irish Prison Service, 25
 - (iv) the Prison Review Committee in respect of the prison in which the person whose parole is being considered is or has been detained,
 - (v) a probation and welfare officer,
 - (vi) An Garda Síochána, or
 - (vii) a psychologist or psychiatrist, 30
 - (b) a report under *paragraph (a)* may concern any or all of the following matters:
 - (i) the conduct of the parole candidate to date;
 - (ii) the risk of a parole candidate re-offending;
 - (iii) the risk of a parole candidate failing to comply with any conditions attaching to a parole order; 35
 - (iv) the likelihood of a parole candidate presenting other serious risk to the community;
 - (v) the likelihood that parole may accelerate the parole candidate’s reintegration

into society or improve his or her prospects of obtaining employment;

(vi) such other matter as a panel deems necessary to consider a person for parole.

- (6) The reasonable costs of any report procured under *subsection (4)* shall be paid by the Board out of moneys at the disposal of the Board.
- (7) A parole panel shall have the power to determine the venue and time at which any review or hearing may take place and may take into account such security and public safety factors as it deems fit, and may, if necessary, convene any review or hearing at the institution at which the person being considered for parole is detained. 5
- (8) A parole panel may conduct a hearing as it thinks appropriate and, subject to this section, has the following powers: 10
- (a) to determine who may attend;
 - (b) to determine who may give evidence;
 - (c) to impose limits on what a person may talk about and for how long;
 - (d) to require any person to leave the hearing, either temporarily or for the remainder of the hearing; 15
 - (e) to adjourn the hearing; and
 - (f) to administer an oath or affirmation to persons giving evidence.
- (9) A parole panel may for the purposes of conducting a hearing—
- (a) direct in writing that any person whose evidence is required by the parole panel attend before the parole panel on a date and at a time and place specified in the direction and there to give evidence and to produce any document or item in his or her possession or power specified in the direction, 20
 - (b) direct in writing any person to send to the panel any document or item in his or her possession or power specified in the direction, and
 - (c) give any other directions for the purpose of the proceedings concerned that appear to the panel to be reasonable and just. 25
- (10) The reasonable expenses of witnesses directed under *subsection (8)(a)* to attend before a parole panel shall be paid by the Board out of moneys at the disposal of the Board.
- (11) The Board may receive written submissions from any victim of the person whose parole is being considered and, if considered, necessary— 30
- (a) allow any such victim to appear and make oral submissions at a hearing for the purpose of assisting the Board to reach a decision,
 - (b) allow for the representation of any such victim by solicitor and/or counsel.
- (12) A panel may make interim orders in the discharge of its functions under *sections 24 and 25* where it deems it appropriate. 35
- (13) A person who—
- (a) having been directed under *subsection (9)* to attend before a panel and, in the case

of a person so directed under *paragraph (a)* of that subsection, having had tendered to him or her any sum in respect of the expenses of his or her attendance which a witness summoned to attend before the High Court would be entitled to have tendered to him or her, without just cause or excuse disobeys the direction,

- (b) being in attendance before a panel pursuant to a direction under *paragraph (a)* of *subsection (9)*, refuses to take the oath or make an affirmation on being required by the panel to do so or refuses to answer any question to which the panel may legally require an answer or to produce any document or item in his or her possession or power legally required by the panel to be produced by the person, 5
- (c) fails or refuses to send to the panel any document or item legally required by the panel under *paragraph (b)* of *subsection (9)* to be sent to it by the person or without just cause or excuse disobeys a direction under *paragraph (c)* of that subsection, or 10
- (d) does any other thing in relation to the proceedings before the panel which, if done in relation to proceedings before a court by a witness in the court, would be contempt of that court, 15

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €1,500 or to imprisonment for a term not exceeding 12 months or to both.

- (14) If a person gives false evidence before a panel in such circumstances that, if he or she had given the evidence before a court, he or she would be guilty of perjury, he or she shall be guilty of that offence. 20
- (15) No member of the Board is personally liable for any act or omission done in pursuance, or intended pursuance, of the Board's functions, unless the act or omission was done in bad faith.

Reviews

25

- 15. (1) A review may involve consideration of such information, documents, memoranda of interview, physical evidence and written submissions as the panel shall think fit, but shall not involve oral testimony or oral representations.
- (2) A decision by a panel conducting a review shall be in writing and shall include reasons and a copy shall be provided to— 30
 - (a) the parole candidate to whom it relates,
 - (b) the Commissioner of An Garda Síochána,
 - (c) the Irish Prison Service, and
 - (d) the Minister.
- (3) Where a person whose parole is being considered is dissatisfied with the decision of a review, that person shall be entitled to a hearing, if requested in writing within 14 days of the communication of the decision of a review. 35
- (4) Where the decision by a panel is to decline to make a parole order in respect of a person, the decision shall specify a date at which the person will be next considered for parole not later than 2 years from the date of the decision so declining parole. 40

Hearings

16. (1) A hearing shall be conducted in such manner as the parole panel thinks fit and the parole panel may receive submissions and such evidence including oral evidence as it thinks fit.
- (2) A decision by a panel conducting a hearing shall be in writing and shall include reasons and a copy shall be provided to— 5
- (a) the parole candidate to whom it relates,
 - (b) the Commissioner of An Garda Síochána,
 - (c) the Irish Prison Service, and
 - (d) the Minister. 10
- (3) For the purposes of a hearing, a person whose parole is being considered is entitled to—
- (a) appear, give evidence and make submissions to a panel,
 - (b) attend while any other person is making submissions, provided that the person whose parole is being considered may not be present at the hearing when any victim is present unless the victim, the person whose parole is being considered, and the Board agree, 15
 - (c) be represented by a solicitor and, with the leave of the panel, by counsel, and
 - (d) present, with the leave of the panel, a person known to the person whose parole is being considered to give evidence on behalf of his/her character. 20
- (4) Where the decision by a panel is to decline to make a parole order in respect of a person, the decision shall specify a date at which the person shall next be considered for parole, not later than 2 years from the date of the decision so declining parole.

Reports

17. (1) As soon as may be after the end of each year beginning with the year in which the establishment day falls, but not later than 6 months thereafter, the Board shall prepare and submit a report in writing to the Minister of its activities during that year and not later than one month after such submission, the Minister shall cause copies thereof to be laid before each House of the Oireachtas. 25
- (2) The Board shall, whenever so requested by the Minister, furnish to the Minister information in relation to such matters as he or she may specify concerning or relating to the scope of its activities. 30
- (3) The Board may publish such other reports on matters related to its activities and functions, as it may from time to time consider relevant and appropriate.

PART 3

THE PAROLE PROCESS

Guiding principles

18. (1) When making decisions about, or in any way relating to, the release of a person on parole, the paramount consideration for the Board in every case is the safety of the community. 5
- (2) The Board shall also be guided by the following principles in the discharge of its functions:
- (a) the Board shall endeavour to take into consideration all relevant available information, including: 10
 - (i) the stated reasons and recommendations of the sentencing judge;
 - (ii) the nature and gravity of the offence;
 - (iii) the degree of responsibility of the person whose parole is being considered;
 - (iv) information from the trial or sentencing process and information obtained from victims, the person/s convicted of the relevant offences and other components of the criminal justice system, including assessments provided by prison authorities or the probation services; 15
 - (b) persons whose parole is being considered should be provided with information relevant to the consideration of their parole and be advised how they may participate in decision-making that directly concerns them; 20
 - (c) the Board shall endeavour to take due account of the position of any victims affected by any decision and any victim impact statement or submissions made by or on behalf of victims.

Criteria for Parole

19. (1) The Board may grant parole to a person if, in its opinion— 25
- (a) the person being considered for parole will not present an undue risk to society before the expiration according to law of the sentence the person is serving, and
 - (b) the release of the person being considered for parole will facilitate the reintegration of that person into society as a law-abiding person.
- (2) In deciding whether to make a parole order granting parole to a person, and whether the criteria set out at *subsection (1)* are satisfied, the Board may have regard to— 30
- (a) the nature and gravity of the offence to which the sentence of imprisonment being served by the person relates,
 - (b) the sentence of imprisonment concerned and any recommendations of the court that imposed that sentence in relation thereto, 35
 - (c) the period of the sentence of imprisonment served by the person,
 - (d) the potential threat to the safety and security of members of the public (including

- the victim of the offence to which the sentence of imprisonment being served by the person relates) should the person be released from prison,
- (e) any offence of which the person was convicted before being convicted of the offence to which the sentence of imprisonment being served by him relates,
 - (f) the risk of the person failing to return to prison upon the expiration of any period of temporary release, 5
 - (g) the conduct of the person while in custody, while previously the subject of a parole order, or during a period of temporary release pursuant to the Criminal Justice (Temporary Release of Prisoners) Act 2003,
 - (h) any report of, or recommendation made by— 10
 - (i) the governor of, or person for the time being performing the functions of governor in relation to, the prison concerned,
 - (ii) An Garda Síochána,
 - (iii) a probation and welfare officer, or
 - (iv) any other person whom the Board considers would be of assistance in enabling it to make a decision as to whether to make a parole order under *section 22* that relates to the person concerned, 15
 - (i) the risk of the person committing a criminal offence whilst on parole,
 - (j) the risk of the person failing to comply with any conditions attaching to his parole, 20
 - (k) any treatment the person whose parole is being considered has undergone or programmes in which the person has participated,
 - (l) the likelihood that any period of parole might improve the prospects of the person being considered for parole obtaining employment, and
 - (m) the likelihood that any period of parole might accelerate the person's reintegration into society as a law-abiding person. 25

Eligibility

- 20.** (1) Subject to the provisions of this section, every person serving a sentence of eight years or greater period shall be eligible for parole having served a period of one-half of such sentence or after seven years, whichever is the lesser. 30
- (2) A person serving a life sentence shall not be eligible for parole until that person has served a minimum period of eight years.
- (3) Where concurrent sentences have been imposed on a person such person shall be eligible for parole in respect of the longest of such sentences as provided for in *subsection (1)*. 35
- (4) Where consecutive sentences have been imposed on a person such person shall be eligible for parole after having served one-half of the aggregate of such sentences or ten years, whichever is the lesser.
- (5) When imposing sentence upon a person, a sentencing judge may impose a specified

period during which that person shall not be eligible for parole.

- (6) A person convicted of an offence under section 3 of the Criminal Justice Act 1990 shall not be eligible for parole until the expiry of the minimum period specified under section 4 of the 1990 Act.

Consideration for Parole

5

21. (1) The Board must consider an eligible person who is detained under a custodial sentence for release on parole and shall schedule a review or hearing for that purpose at a time and place prior to the parole eligibility date but not more than 3 months prior to that parole eligibility date.
- (2) The Board may, after a review or hearing at which it has considered whether to release a person on parole, make a parole order under *section 22* subject to such conditions as it deems appropriate. 10
- (3) In deciding whether or not to release a person on parole, the Board must bear in mind that the person has no entitlement to be released on parole and, in particular, that neither the person's eligibility for release on parole nor anything else in this Act or any other enactment confers such an entitlement. 15
- (4) The Board may make an order under *subsection (2)* only if it is satisfied on reasonable grounds that the criteria set out in *section 19* are satisfied.

Parole Orders

22. (1) A parole order shall— 20
- (a) release on parole an eligible person who is detained under a custodial sentence,
 - (b) have effect until the expiry of the sentence term to which it relates therein, and
 - (c) be subject to such other conditions , if any, as are specified in the order having regard to the principles and criteria for parole set down in this Act.
- (2) Without limiting *subsection (1)* a parole order may be subject to, inter alia , any or all of the following conditions: 25
- (a) that the person the subject of the order must reside at a specified place;
 - (b) that the person the subject of the order not associate with persons specified in the order;
 - (c) that the person the subject of the order shall submit to such supervision or monitoring as may be provided for in regulation; 30
 - (d) that the person the subject of the order not engage in specified employment or work;
 - (e) that the person the subject of the order not attend at or in the vicinity of specified locations; 35
 - (f) that the person the subject of the order not beset or communicate with specified persons, whether directly or indirectly; and
 - (g) that the person the subject of the order not be permitted to travel outside the

jurisdiction.

Monitoring compliance with conditions

23. (1) If the Board is satisfied that, because of the special circumstances of a person the subject of a parole order, it is desirable for the Board to do so, the Board may determine to monitor, during the period specified, the person's compliance with the release conditions imposed pursuant to the parole order. 5
- (2) In monitoring the conditions imposed under *section 22(1)(c)*, the Board may on each occasion do either or both of the following:
- (a) commission a progress report on the person's compliance with the conditions from such person as the Board considers appropriate in the circumstances; 10
 - (b) require the person the subject of the parole order to attend a hearing notified to that person in writing.
- (3) Each power specified in *subsection (2)* may be exercised on 1 or more occasions during the specified period, but may not be exercised more frequently than at 3-monthly intervals. 15

Variation of Parole Order

24. (1) The Board may, at any time, vary or discharge any conditions of a parole order of its own motion or on the application of—
- (a) the Minister,
 - (b) or a member of An Garda Síochána holding the rank of Chief Superintendent or higher, 20
 - (c) the person the subject of a parole order.
- (2) In determining whether any condition should be varied or discharged the Board shall take into account the criteria for parole under *section 18* and the appropriateness of the particular condition in the particular circumstances of the person the subject of the parole order. 25
- (3) Before determining an application for variation or discharge, the Board may seek information from anyone it considers has, or may have, an interest in the application, such as (without limitation) An Garda Síochána or any victim of the person being considered for parole. 30
- (4) An application for variation or discharge may be determined by way of review without the necessity for conducting a hearing, unless—
- (a) the person being considered for parole has asked to appear before the Board to state his or her case, or
 - (b) the Board wishes to hear from any person orally. 35
- (5) If the Board directs the variation or discharge of a condition—
- (a) the variation or discharge takes effect on the date specified in the direction,
 - (b) every variation must be treated as part of the conditions of the parole order, and

- (c) notice of the direction must be given to the person the subject of the parole order, the Minister, An Garda Síochána, and (if Board deems is practicable) any victim to whom notice of the original parole order was given.
- (6) Failure, notwithstanding reasonable efforts, to give notice of the variation or discharge of a condition shall not affect the validity of such variation or discharge. 5

Revocation of Parole Order

25. (1) Subject to *subsection (3)* the Board, at any time of its own motion or on the application of the Minister or a member of An Garda Síochána holding the rank of Chief Superintendent or higher, if satisfied that grounds exist under *subsection (2)*, may— 10
- (a) revoke a parole order, or
 - (b) suspend a parole order on such terms as it thinks fit.
- (2) The grounds for revocation of a parole order are that—
- (a) the person the subject of a parole order—
 - (i) poses an undue risk to the safety of the community or any person or class of persons, or 15
 - (ii) has breached his or her release conditions,
 and
 - (b) the Board is satisfied that the gravity of the matters established under *subsection (2)(a)* justify the revocation of a parole order. 20
- (3) The grounds for suspension of a parole order are that—
- (a) the person the subject of a parole order—
 - (i) poses an undue risk to the safety of the community or any person or class of persons, or
 - (ii) has breached his or her release conditions, 25
 or
 - (b) the person the subject of a parole order has been charged with committing an offence punishable by imprisonment, whether or not this has resulted in a conviction and the Board is satisfied that his or her parole should be suspended, and 30
 - (c) the Board is satisfied that the gravity of the matters established under *subsection (3)(b)* justify the suspension of a parole order for such period as the Board may specify.
- (4) Where it is proposed to revoke or suspend a parole order, subject to *subsection (3)*, a parolee shall be entitled to a hearing before a parole panel and to make submissions in respect of the proposed grounds upon which it is proposed to revoke or suspend the parole order. 35
- (5) The Board shall have the power to make interim orders suspending a parole order

- with immediate effect and to issue a warrant recommitting the person to custody pending a review or hearing.
- (6) Where an interim suspension order is made, the Board shall, save in exceptional circumstances, schedule a hearing and determine the matter within 35 days of any interim suspension order taking effect. 5
- (7) If a person is sentenced to imprisonment for an offence committed during the period of his or her release on parole, the parole order shall be revoked.
- (8) *Subsection (7)* does not apply where the entirety of the sentence referred to in that subsection is suspended.
- (9) If a person's release on parole is revoked— 10
- (a) in the case of a person who is serving a determinate sentence, the person is liable to serve the remainder of his or her sentence in accordance with the Prison Rules 2007, as amended, and the period of release on parole is not to be taken into account in determining how much of the term of his or her sentence remains to be served unless the Board otherwise directs, and 15
- (b) in the case of a person serving a life sentence, that person shall not be further considered for parole until a period of 2 years has expired from the date of revocation of the parole order.
- (10) Where the Board revokes a parole order applying to a prisoner after his or her release from prison, the Board may, by warrant signed by the chairperson of the Board or the secretary of the Board at the chairperson's direction, authorise a member of An Garda Síochána to apprehend the prisoner and return the prisoner to prison. 20

Warrants

26. (1) The Board may, by warrant signed by the chairperson of the Board or the secretary of the Board at the chairperson's direction, authorise a member of An Garda Síochána to apprehend a person who has been released on parole and return the person to prison if at any time the Board has reasonable cause to suspect that there are grounds which may justify the suspension or revocation of the parole order within the meaning of *section 25*. 25
- (2) The Board may exercise its powers under *subsection (1)* without holding a review or hearing. 30
- (3) The chairperson of the Board, in the same circumstances as the Board may act under *subsection (1)* and if the chairperson considers that circumstances exist that require action to be taken urgently, may issue a warrant authorising a member of An Garda Síochána to apprehend a person who has been released on parole and to return the person to prison. 35
- (4) If a prisoner is returned to prison after the execution of a warrant against the prisoner under *subsection (1)*, the Board, shall within 21 days after the person is so returned to prison, schedule a hearing and afford the parolee an opportunity to be heard.

Preparation for reviews and hearings

27. (1) When a review or hearing has been scheduled for the purpose of considering a person for parole the Board will take all reasonable steps to notify the following persons that a hearing is scheduled:
- (a) the person to be considered for parole; 5
 - (b) the Minister;
 - (c) the Commissioner of An Garda Síochána or such other member as the Commissioner shall designate;
 - (d) the governor of the prison in which the person to be considered for parole is detained (if applicable); and 10
 - (e) the victim or victims of the criminal offences for which the person being considered for parole is in custody.
- (2) When the Board gives notice to a victim that a review or hearing is pending, the Board must also prepare and send to the victim an explanation of the review or hearing processes, as the case may be, and how the victim may participate in that process. 15
- (3) When a person is due to be considered for parole and a review or hearing has been scheduled, the Minister shall provide the Board not less than 5 weeks in advance of the review or hearing with—
- (a) copies of all relevant information relating to the current and previous convictions of the person whose parole is being considered, including (for example) sentencing notes and pre-sentence reports, 20
 - (b) a report from the Irish Prison Service or by or on behalf of the Governor of the prison in which the person whose parole is being considered is detained, and
 - (c) any other report or information which the Minister considers relevant to the consideration of the person's parole. 25
- (4) Any person notified under *subsection (1)* may write to the Board, by a date specified in the notification, making submissions on, or giving information relevant to, the substantive matter to be decided.
- (5) The Board shall take all reasonable steps to ensure that the information received by the Board on which it will make any decision including any material obtained is made available to the person whose parole is being considered: 30
- (a) at least 2 weeks before the relevant review or hearing; or
 - (b) if that is not possible, as soon as practicable before the review or hearing.
- (6) Despite *subsection (5)*, the Board shall ensure that— 35
- (a) no information is given to the person whose parole is being considered that discloses the address or contact details of any victim, and
 - (b) if any written submissions by a victim or victim impact statements are shown to the person whose parole is being considered, that they are not retained by the person whose parole is being considered. 40

(7) Notwithstanding *subsection (4)*, the Board may, in exceptional circumstances, order that any information referred to in that subsection not be made available to a person whose parole is being considered if, in the opinion of the relevant panel convenor, it would prejudice the mental or physical health of the person whose parole is being considered, or endanger the safety of any person. 5

(8) Information withheld under *subsection (7)* may be provided to the legal representatives of the person whose parole is being considered.

Amendment of section 17 of Defamation Act 2009

28. (1) Section 17 of the Defamation Act 2009 is amended by the insertion of the following provisions in subsection (2): 10

“(x) made in a document of the Parole Board or a document of its members connected with the Parole Board or its functions, wherever published;

(y) made in a report of or commissioned by the Parole Board, wherever published; 15

(z) made in any form at meetings or reviews or hearings of the Parole Board by its members or officials and such statements wherever published subsequently.”.

An Bille Parúil, 2016

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do dhéanamh socrú chun bord parúil neamhspleách a bhunú agus chun daoine áirithe a scaoileadh amach ar parúl, ar daoine iad a fuarthas ciontach i gcionta coiriúla agus a bhfuil pianbhreitheanna príosúnachta á gcur isteach acu nó a cimíodh nó a athchuireadh faoi choimeád.

*An Teachta Seamus ÓCeallacháin a thug isteach,
24 Bealtaine, 2016*

Parole Bill 2016

BILL

(as initiated)

entitled

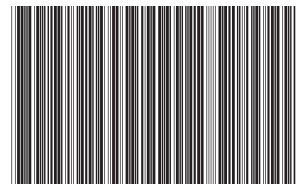
An Act to provide for the establishment of an independent parole board and the release on parole of certain persons found guilty of criminal offences and serving sentences of imprisonment or committed or remanded in custody.

*Introduced by Deputy Jim O'Callaghan,
24th May, 2016*

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