



MONTSERRAT

## CHAPTER 10.15

# PAROLE OF PRISONERS ACT and Subsidiary Legislation

### Revised Edition

showing the law as at 1 January 2019

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

### PAROLE OF PRISONERS ACT

Act 4 of 2004 .. in force 22 November 2004

Amended by Acts: 9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

18 of 2011 .. in force 17 November 2011

### PAROLE OF PRISONERS RULES – Section 12

S.R.O. 89/2005 .. in force 18 November 2005

Amended by S.R.O.s: 46/2006 .. in force 21 November 2006

14/2012 .. in force 1 March 2012

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**CHAPTER 10.15**

**PAROLE OF PRISONERS ACT**

**ARRANGEMENT OF SECTIONS**

SECTION

1. Short title
2. Interpretation
3. Constitution and procedure of Parole Board
4. Functions of the Board
5. Parole Board Secretary
6. Basis on which Board to reach decisions
7. Assignment of parole officers
8. Release of prisoners on licence
9. Revocation of licence
10. Cases to be referred to the Board
11. Expenses of the Board
12. Rules



**CHAPTER 10.15**

**PAROLE OF PRISONERS ACT**

*(Acts 4 of 2004, 9 and 18 of 2011)*

AN ACT TO PROVIDE FOR THE CREATION OF A PAROLE BOARD CHARGED WITH THE DUTY OF MAKING RECOMMENDATIONS FOR THE RELEASE OF PRISONERS ON LICENCE, AND FOR OTHER MATTERS CONNECTED THEREWITH.

**Commencement**

*[22 November 2004]*

**Short title**

1. This Act may be cited as the Parole of Prisoners Act.

**Interpretation**

2. In this Act, unless the context otherwise requires—

“**Board**” means the Parole Board;

“**case**” means case referred to the Parole Board;

“**Chairman**” means the Chairman of the Board;

“**licence**” means a licence granted to a prisoner under section 8;

“**member**” means a member of the Board and includes the Chairman;

“**parole officer**” means a person assigned to perform the duties of parole officer pursuant to section 7; *(Amended by Act 18 of 2011)*

“**prisoner**” means a person serving a sentence of imprisonment imposed on conviction for the commission of an offence;

“**prison rules**” means regulations made under the Prisons Act;

“**Secretary**” means the Parole Board Secretary under section 5; and *(Amended by Act 18 of 2011)*

“**Superintendent**” means the person appointed as such under the Prison Act. *(Amended by Act 18 of 2011)*

**Constitution and procedure of Parole Board**

3. (1) The Governor acting on the advice of Cabinet shall appoint 7 persons to be members of the Board. Such members shall serve for a period of four years in the first instance, unless their appointment shall be earlier terminated, and shall be eligible for re-appointment. A member may at any time resign his office by notice in writing. The members of the Board shall include—

- (a) The Chief Medical Officer;

- (b) two community development officers; and

(c) four representatives from the community,  
(Amended by Act 18 of 2011)

(2) The Governor acting on the advice of Cabinet shall designate one member of the Board as Chairman. (Amended by Act 9 of 2011)

(3) At any meeting of the Board any 5 members shall constitute a quorum, but subject thereto the Board may act notwithstanding any vacancy in membership.

(4) The Chairman shall ordinarily preside at any meeting of the Board but in the event of his absence from any meeting the members present shall appoint any other member to preside at that meeting.

(5) Subject to the provisions of this section and section 6, the members of the Board may regulate the conduct of the proceedings of the Board in such manner as they think fit, but on any matter on which the votes of the members present are equally divided the person presiding at the meeting shall have a second or casting vote.

(6) In considering an application for parole the Board shall have regard to the rules made under section 12.

#### Functions of the Board

4. It shall be the duty of the Board to advise the Governor with respect to—

- (a) the release of prisoners on licence;
- (b) the conditions of any licence, and the variation or cancellation of any such conditions;
- (c) the revocation of any licence and the recall to prison of the prisoner concerned;
- (d) any other matter which is connected with the release on licence or recall of such prisoners;
- (e) the remission of any part of a prisoner's sentence; after considering a recommendation from the Superintendent.

#### Parole Board Secretary

5. (1) There shall be a Secretary to the Board, appointed by the Governor acting on the advice of Cabinet.

(2) The Secretary shall—

- (a) attend all meetings of the Board;
- (b) record the minutes of each meeting in proper form;
- (c) prepare and maintain all records of the Board; and
- (d) generally perform the administrative duties connected with the work of the Board.

(Inserted by Act 18 of 2011)



**Basis on which Board to reach decisions**

6. (1) The following provisions shall have effect with respect to the proceedings of the Board on any case referred to it—

- (a) the Board shall deal with the case on consideration of any documents or comments submitted by the Superintendent or parole officer, orally or in writing and any other information the Board has requested and obtained; *(Substituted by Act 18 of 2011)*
  - (b) the prisoner has the right to be present at his Board hearing and shall be given the opportunity to make representations orally and in writing and where he is present, he may be questioned by the Board; *(Substituted by Act 18 of 2011)*
  - (c) where a Prisoner, who has a sentence of ten years or more who was sentenced at the Court's Pleasure, applies for parole, the Attorney General may make a written submission to the Board supporting or objecting to the prisoner's application for parole; *(Amended by Act 18 of 2011)*
  - (d) such a submission in paragraph (c) must reach the Superintendent not less than seven days before the hearing and the Superintendent shall submit it to the Board and provide a copy to the prisoner to whom it relates before the meeting of the Board. *(Amended by Act 18 of 2011)*
- (2) The documents in any case to be given to the Board shall include—
- (a) a report of the nature and circumstances of the offence for which the sentence of imprisonment was imposed;
  - (b) the case history and the judge's sentencing remarks; *(Inserted by Act 18 of 2011)*
  - (c) a report by the Superintendent or other prison officer as to the conduct, demeanour and health of the prisoner while in the prison (including a report by a medical officer if relevant);
  - (d) details (so far as available) of the personal and family background of the prisoner, his psychological assessment, reports on his education, employment, training and housing, a proposed risk management plan, *(Amended by Act 18 of 2011)*
- and any written representations made by the prisoner concerned, including any made by him since his case was last considered by the Board, if it has been previously considered by the Board;
- (e) in a case relating to the revocation of a licence and the recall of the prisoner concerned to prison, a report setting out the grounds for the revocation and recall (or proposed revocation and recall) and any other relevant information as to the conduct of that prisoner while on licence, and also any written representations on the matter made by that prisoner.

(3) The Board shall in each case, invite and consider representations from members of the public, who were directly affected by the criminal conduct of the prisoner, in respect of which he is serving the current term of imprisonment.

(4) Members of the public may submit written impact statements, regarding factors that the Board may consider before arriving at a decision on the release of a prisoner. *(Inserted by Act 18 of 2011)*

#### **Assignment of parole officers**

7. The Governor shall assign a sufficient number of officers qualified by character and experience to be parole officers for the purposes of this Act. *(Inserted by Act 18 of 2011)*

#### **Release of prisoners on licence**

8. (1) The Governor, if recommended to do so by the Board may order the release on licence of a prisoner, other than a prisoner sentenced to imprisonment for life or a prisoner ordered to be detained at the Court's Pleasure, who is—

- (a) above eighteen years and serving a sentence of imprisonment of at least three years;
- (b) under eighteen years of age and sentenced to a term of imprisonment of at least eighteen months,

after that prisoner has served not less than one-third of his sentence or twelve months thereof, whichever is the longer period:

Provided that, in the case of a prisoner who was under the age of 18 at the date when the sentence which he is serving was passed, this subsection shall be construed as if for the reference to “**twelve months**” was substituted a reference to “**six months**”.

*(Amended by Act 18 of 2011)*

(2) For the purpose of determining under subsection (1) the length of that part of the sentence which a prisoner has served, any period spent in custody—

- (a) before conviction;
- (b) between conviction and sentence; and
- (c) pending the determination of an appeal against conviction or sentence,

shall be taken into account as if he had served that period as part of the sentence, unless the court directs otherwise on passing the sentence or determining the appeal.

(3) A prisoner released on licence under this section shall comply with such conditions (if any) as appear to the Governor to be desirable either generally or in any particular case and any such conditions may be varied from time to time or cancelled.

(4) The parole officer shall monitor a prisoner on licence to ensure compliance with the conditions imposed. *(Inserted by Act 18 of 2011)*

(5) (a) A licence granted to any prisoner under this section, unless earlier revoked shall remain in force until the date, on which he could have been discharged from prison, after allowing for any remission of sentence under any prison rules.

- (b) A licence granted to any prisoner shall state clearly whether that prisoner is allowed to travel outside the territory before the expiration date of the licence and shall outline a procedure for obtaining permission for leaving Montserrat.
  - (c) Where a prisoner is a non-national the Board can include in its report to the Governor a recommendation that the prisoner be deported from the territory not to return during a specified time.
- (6) The Governor, if recommended to do so by the Board and after consulting with the Chief Justice, may order the release on licence of a prisoner serving a sentence of imprisonment for life after that prisoner has served—
- (a) not less than ten years of his sentence, if he is over sixty years; or
  - (b) not less than fifteen years of his sentence if he is under sixty years.
- (Amended by Act 18 of 2011)*

### Revocation of licences

9. (1) The Governor, on the recommendation of the Board may—
- (a) revoke any licence granted to a prisoner and recall him to prison to continue to serve his sentence; or
  - (b) revoke a licence in a case in which the prisoner subject to the licence has failed to comply with any condition attached to the licence.
- (2) The Governor, without consulting the Board may revoke any licence granted to a prisoner and recall him to prison to continue to serve his sentence, in any case in which it appears to him that it is expedient in the public interest so to do.
- (3) A prisoner recalled to prison under the provisions of this section may make representations in writing with respect to his recall and shall, on his return to prison, be informed in writing of the reasons for his recall and his right to make such representations.
- (4) If there is a factual dispute between the prisoner and another individual with regard to the offence or reason for the revocation of the prisoner's licence, the Board may interview both parties to the dispute, and the parole officer if necessary, to assist in the resolution of the dispute. *(Inserted by Act 18 of 2011)*
- (5) The Superintendent shall refer to the Board the case of a prisoner recalled to prison under this section whether or not that prisoner makes representations with respect to his recall.
- (6) If, upon a reference made under subsection (5) the Board recommends the release on licence of the prisoner the Governor may give effect to that recommendation, but without prejudice to the power again to recall that prisoner if circumstances appear to require it.
- (7) If a prisoner subject to a licence is convicted by any court of an offence punishable by imprisonment for six months or more, without the option of a fine, the court by which he is convicted may, revoke the licence.

(8) On the revocation of the licence of any prisoner under this section he shall be liable to be detained to serve the remainder of his sentence, and, if at large, shall be deemed to be unlawfully at large and may be arrested by any police officer or prison officer.

(9) The revocation of a licence of any prisoner by order of a court, shall not affect the power to order release of that prisoner again on licence, but that prisoner shall not again be released on licence until the expiration of six months from the date of revocation of the licence, or one third of the term of the licence unexpired at the date of revocation, whichever is the shorter period.

### Cases to be referred to the Board

10. (1) The Superintendent shall refer to the Board the case of any prisoner who is eligible for release on licence.

(2) The Superintendent shall, at intervals of not more than one year from the last previous reference of that case to the Board, again refer to the Board for its recommendations the case of any prisoner whose—

- (a) case has been considered previously by the Board but who has not been released on licence; or
- (b) whose licence has been revoked and who, having been recalled to prison, is continuing to serve his sentence:

Provided that, if the Board so directs, the case of any particular prisoner shall be referred to the Board at such shorter interval, not being less than three months, as the Board may specify.

### Expenses of the Board

11. Members of the Board shall receive such remuneration or allowance as may be prescribed by the Governor acting on the advice of Cabinet and the cost thereof and any other expenses of the Board shall be defrayed out of money authorised for that purpose by the Legislative Assembly. (*Amended by Act 9 of 2011*)

### Rules

12. The Governor acting on the advice of Cabinet may make Rules for carrying out the purposes of this Act. (*Amended by Act 9 of 2011*)

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**PAROLE OF PRISONERS RULES**

ARRANGEMENT OF RULES

RULE

1. Short title
2. Interpretation
3. Functions of the Board
4. Operation and procedures of the Board
5. Liability of members of the Board
6. Eligibility for parole
7. An eligible prisoner must qualify
8. Release of a prisoner serving life
9. Conduct review of a person serving at The Court's Pleasure
10. Early release
11. Conditions of a Licence
12. Period of conditional release
13. Applicants submission or appearance before the Board
14. Licence agreement
15. Loss of remission under Prison Rules
16. Provision of information to the Board in order to reach a decision
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18. Processing of Board's recommendations
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21. Remuneration for members of the Board
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SCHEDULE



**PAROLE OF PRISONERS RULES – SECTION 12**

*(S.R.O.s 89/2005, 46/2006, 14/2012, 62/2017 and Act 9 of 2011)*

**Commencement**

*[18 November 2005]*

**Short title**

1. These Rules may be cited as the Parole of Prisoners Rules.

**Interpretation**

2. In these Rules, unless the context otherwise requires—

“**prison officer**” means a person appointed as such under the Prisons Act;

“**Prison Visiting Committee**” means the Visiting Committee under section 42 of the Prison Rules; *(Amended by S.R.O. 14/2012)*

“**Superintendent**” means the person appointed as such under the Prisons Act.

**Functions of the Board**

3. (1) It shall be the duty of the Board to conduct hearings and—
  - (a) review all available information on eligible prisoners;
  - (b) consider any oral and or written representations regarding any application for parole from—
    - (i) the prisoner concerned;
    - (ii) the Attorney General;
    - (iii) the Parole Officer; *(Inserted by S.R.O. 14/2012)*
    - (iv) any member of the community who was directly affected by the prisoner’s crime for which he is serving the sentence;
    - (v) any other person the Board determines has relevant information relating to the prisoner; *(Inserted by S.R.O. 14/2012)*
  - (c) conduct a review of the continued detention of a person serving at The Court’s Pleasure and make recommendations as to whether—

*(Amended by S.R.O. 14/2012)*

    - (i) a prisoner may be considered for early release;
    - (ii) it is no longer necessary for the protection of the public that a particular prisoner should be confined;
    - (iii) the prisoner’s rehabilitation can be continued within the community;
    - (iv) the conditional release of the prisoner would endanger the security of the general public unduly; and

(v) the prisoner is capable of adhering to the conditions of his release.

(2) Advise the Governor with respect to—

- (a) granting early release;
- (b) granting temporary release;
- (c) any special circumstances relating to continued detention of a specific person which the Governor may ask the Board to advise on.

(3) The Superintendent shall provide the Board with a full report on each applicant for parole along with his own recommendation thereon; the Board may ask for further elucidation of the Superintendent's report before they decide on the application.

(4) The Board may require further reports where it considers further information is necessary in order to make its decision. (*Inserted by S.R.O. 14/2012*)

#### **Operation and procedures of the Board**

4. (1) A person appointed to be a member of the Board shall hold office for such term, not exceeding three years, as may be determined by the Governor acting on the advice of Cabinet at the time of his appointment, but any member shall be eligible for reappointment or may at any time resign his office by notice in writing to the Governor. (*Amended by Act 9 of 2011*)

(2) The Governor may request that a member of the Board resign from the Board for non-compliance with the Parole of Prisoners Act or the Rules. (*Inserted by S.R.O. 14/2012*)

(3) The Chairman shall ordinarily preside at any meeting of the Board but in the event of his absence from any meeting the members present shall appoint any other member to preside at that meeting.

(4) The Board may convene—

- (a) a hearing meeting on the request of the Superintendent and notice of the meeting shall be—
  - (i) given by the Secretary to members of the Board and the Director of Public Prosecutions in writing, at least thirty days in advance of the meeting;
  - (ii) published in the *Gazette*; and
  - (iii) displayed at Her Majesty's Prison for perusal by all prisoners,

and the names of all prisoners applying for parole must be furnished to the Board and the Attorney General's Office by the Superintendent at least twenty one days before the hearing meeting;

- (b) a continuation meeting to continue a hearing meeting, and the time, date and place for the continuation meeting shall be set at the adjourned hearing meeting and no new item shall be included on the



agenda in a continuation meeting unless it was scheduled at the original hearing meeting; or

- (c) a general meeting to conduct business other than hearings, including reviewing the recall of any prisoner on licence and notice of the meeting shall be as agreed by the members and confirmed by the Secretary in writing to all members.

*(Substituted by S.R.O. 14/2012)*

(5) The Board shall meet at least twice in any calendar year for the purpose of hearing applications. At least one meeting must be held on or before 30 June and at least one other on or before 31 December in any year.

(6) The Board shall meet at the prison or another suitable place, to be determined by the Board. *(Substituted by S.R.O. 14/2012)*

(7) The Board shall decide the time, place and frequency of its meetings having regard to paragraphs (4), (5) and (6).

(8) The recommendation of the Board to the Governor shall be treated as confidential until it receives the concurrence of the Governor.

(9) The Secretary shall communicate to the Governor the recommendation of the Board. *(Inserted by S.R.O. 14/2012)*

(10) The deliberation of the Parole Board on any application is confidential.

(11) The Board shall record its reason or reasons for deciding to grant or deny a prisoners request for parole and shall include such in their recommendations to the Governor.

(12) The Chairman shall review the recommendations and approve the final version before it is sent to the Governor. *(Inserted by S.R.O. 14/2012)*

### **Liability of members of the Board**

5. No member of the Board shall be liable in any proceedings criminal or civil for any recommendation made by the Board, if the Board was acting in good faith, whether it receives the concurrence of the Governor or not.

*(Amended by S.R.O. 14/2012)*

### **Eligibility for parole**

6. (1) A prisoner serving at the Court's Pleasure is not eligible for a parole hearing under these Rules. *(Amended by S.R.O. 14/2012)*

(2) A prisoner sentenced to prison for less than eighteen months imprisonment does not qualify for a parole hearing, as he would not have satisfied the condition laid down in section 8(1) of the Act.

(3) A prisoner who was under eighteen years of age when he was sentenced and is sentenced to prison for less than nine months does not qualify for a parole hearing as he would not have satisfied the conditions laid down in section 8(1) of the Act.

(4) The Superintendent shall refer to the Parole Board at its next meeting the case of any prisoner who would have passed his earliest possible date for a parole hearing as provided for in section 8 of the Parole of Prisoners Act.

(5) A prisoner may make an application for parole beginning one year in advance of his earliest release date; however, if granted parole, he will not be released until his earliest possible parole date. (*Substituted by S.R.O. 14/2012*)

### **An eligible prisoner must qualify**

7. (1) A prisoner seeking parole shall make an application in writing, in Form A of the Schedule. (*Substituted by S.R.O. 14/2012*)

(2) No application for parole shall be heard so long as there is any legal appeal pending regarding the matter for which the applicant was sentenced.

(3) No application for parole shall be entertained from a prisoner who has previously been found guilty of breach of an earlier licence. (*Amended by S.R.O. 14/2012*)

(4) Subject to section 6 of the Act, in determining whether to grant parole to a prisoner, the Board shall consider—

- (a) all information before it, including any written or oral evidence obtained by the Board;
- (b) the prisoner's background, including the nature, circumstances and pattern of any previous offending;
- (c) the nature and circumstances of the offence, including any information provided in relation to its impact on the victim or the victim's family;
- (d) the risk of the prisoner re-offending;
- (e) whether it remains necessary for the protection of the public that the prisoner be imprisoned;
- (f) any probation, medical, or other relevant reports or material prepared for the Court;
- (g) whether the prisoner has made positive and successful efforts to address the attitudes and behavioural problems which led to the commission of the offence;
- (h) whether the prisoner has shown any remorse for the crime committed;
- (i) whether the prisoner is sufficiently rehabilitated that his continued rehabilitation can be safely carried out in the community;
- (j) the nature of any offences against prison discipline committed by the prisoner;
- (k) the prisoner's attitude and behaviour to other prisoners and prison staff;
- (l) the category of security in which the prisoner is held and any reasons or reports provided by the prison for the categorisation;

- (m) the prisoner's awareness of the impact of the offence, particularly in relation to the victim or victim's family;
- (n) any medical, psychiatric or psychological considerations (particularly, if there is a history of mental instability);
- (o) the prisoner's response when placed in positions of trust, including any absconds, escapes, past breaches of temporary release or licence conditions and licence revocations;
- (p) whether the prisoner is likely to comply with the conditions attached to his or her licence and the requirements of supervision;
- (q) the prisoner's relationship with outside support, such as family and friends;
- (r) the content of the resettlement plan and the suitability of the prisoner's release address;
- (s) the attitude of the local community in cases where it may have a detrimental effect upon the prisoner's compliance with licence conditions; and
- (t) representations on behalf of the victim or victim's relatives in relation to licence conditions.

*(Inserted by S.R.O. 14/2012)*

### **Release of a prisoner serving life**

**8. (1)** The Governor if recommended to do so by the Parole Board and after consultation with the Chief Justice may release a person serving a life sentence, on licence.

**(2)** A licence granted to a person released under subparagraph (1) shall last for the remainder of the prisoner's life, unless revoked under section 9(1), 9(2) or 9(6) of the Parole of Prisoners Act or rule 20(1), (4) or (5). *(Amended by S.R.O. 14/2012)*

**(3)** The licence may contain conditions the Governor sees fit to impose, taking into account the advice of the Board. *(Substituted by S.R.O. 14/2012)*

### **Conduct review of a person serving at the Court's Pleasure**

**9. (1)** The Board may conduct a review of the continued detention of a person serving a sentence at the Court's Pleasure if asked to do so by the Governor in which event—

- (a) the Board must be presented with a Psychiatric Report, Medical Report and the Chief Medical Officer must review and comment on its contents before it can form part of any application; and

- (b) the Board must determine if an application from a prisoner who is sentenced to detention at the Court's Pleasure has merit, and may request reports regarding the prisoner from the Prison Medical Officer.

*(Amended by S.R.O. 14/2012)*

(2) The Community Services Department may be required by the Board to provide a case officer or to appoint a Parole Officer to manage the prisoners' aftercare.

*(Amended by S.R.O. 14/2012)*

### Early release

10. The Board may, by reason of a prisoner's failing health, his good conduct, or for any other reason that the Board may consider sufficient and with the concurrence of the Superintendent—

- (a) recommend that he be granted unconditional early release;
- (b) or recommend that the prisoner who was sentenced to six years or more be granted weekend release with conditions or if he has less than six months of his sentence to serve, full release with conditions;
- (c) formulate the conditions for a prisoner granted weekend release under subparagraph (b).

*(Amended by S.R.O. 14/2012)*

### Conditions of a Licence

11. A licence can include but is not limited to any of the following conditions that the licensee shall—

- (a) not use alcohol;
- (b) not use any illegal substance;
- (c) abide by a stated curfew;
- (d) not frequent particular places;
- (e) surrender his travel documents;
- (f) keep the peace;
- (g) not enter a particular locality or place;
- (h) not contact or interfere with a particular person;
- (i) not habitually associate with known bad characters;
- (j) present himself to the gate officer at the prison a stated number of times per week;
- (k) engage in gainful employment while on conditional release;
- (l) attend counselling at particular places and times;
- (m) attend educational classes at particular places and times;
- (n) present himself for medical treatment at a particular place and time;

- (o) not drive any motor vehicle;
- (p) if he is permitted to travel outside the territory, do so subject to conditions stated;
- (q) in the case of a non-national, if the Board thinks fit, be deported as a condition of his licence;
- (r) submit to mandatory drug testing; and *(Inserted by S.R.O. 14/2012)*
- (s) report to the parole officer as required. *(Inserted by S.R.O. 14/2012)*  
*(Amended by S.R.O. 14/2012)*

### **Period of conditional release**

**12.** The period of conditional release that can be covered by a parole licence is that period of time from when parole is granted to the earliest date of release plus any time gained or lost under the Prison Act and rules made thereunder.

### **Applicants submission or appearance before the Board**

**13. (1)** If a prisoner is eligible to apply to the Parole Board and he is illiterate or unable to represent himself properly in writing—

- (a) the Prison Visiting Committee may with the consent and on the instructions of the prisoner, assist the prisoner in preparing his written submission; and
- (b) the submission shall be signed by the prisoner and the assisting member of the Prison Visiting Committee and the Board must treat the submission as if it is from the prisoner concerned.

*(Amended by S.R.O. 14/2012)*

**(2)** Where a prisoner is required to appear before the Board for an interview and the prisoner is unable to represent himself orally, the Superintendent shall call upon the services of a member of the Prison Visiting Committee who shall with the consent and on the instructions of the prisoner assist him in representing himself orally at the interview before the Parole Board and any information provided by the Justice of the Peace who is assisting the prisoner shall be treated as information provided by the prisoner. *(Amended by S.R.O. 14/2012)*

### **Licence agreement<sup>1</sup>**

**14. (1)** The conditions of every licence must be made clear to the prisoner concerned and he must express his understanding and agreement with the conditions by signing or making his mark on the licence. *(Amended by S.R.O. 14/2012)*

**(2)** The prisoner shall be given a copy of the licence after he has signed it. *(Inserted by S.R.O. 14/2012)*

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<sup>1</sup> *Rectified by S.R.O. 6/2012*

### Loss of remission under Prison Rules<sup>2</sup>

15. Where a prisoner loses remission for breach of prison discipline under the Prison Rules and the Parole Board recommends that that prisoner be granted parole, the Board may recommend that the release on parole be effected after the expiration of the remitted period and if so the calculation of the time lost shall commence on the day the Governor has given concurrence in writing to the recommendations of the Board.

### Provision of information to the Board in order to reach a decision<sup>3</sup>

16. The Superintendent shall cause to be made available to the Board the following information on any prisoner applying for or recommended for parole or early release—

- (a) the prisoner's full name and any known aliases;
- (b) date of birth;
- (c) date of conviction;
- (d) length of conviction;
- (e) earliest possible parole date, earliest date of release if parole is not granted and latest date of release;
- (f) any breach of prison discipline;
- (g) any exceptional conduct, behaviour or action by the prisoner;
- (h) next of kin if known;
- (i) last known address;
- (j) health report if applicable;
- (k) psychiatric report if applicable;
- (l) psychological report if applicable;
- (m) activities the prisoner was involved in while in prison; and
- (n) any other information that may be deemed necessary.

*(Amended by S.R.O. 14/2012)*

### Supervision of prisoners released on Licence<sup>4</sup>

17. (1) The Board may require a parole officer or assistant parole officer be appointed for the purpose of ensuring that any person released on licence complies with the conditions of the licence and to ensure proper management of the prisoner's care after release on conditions and they shall provide regular reports to the Superintendent and the Parole Board on all prisoners. *(Amended by S.R.O. 14/2012)*

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<sup>2</sup> Rectified by S.R.O. 6/2012

<sup>3</sup> Rectified by S.R.O. 6/2012

<sup>4</sup> Rectified by S.R.O. 6/2012

(2) The parole officer shall report to the Board at least once every six months.  
(*Inserted by S.R.O. 14/2012*)

**Processing of Board's recommendations<sup>5</sup>**

18. (a) The Board in making their recommendations to the Governor shall include the following—

- (i) the name of the prisoner;
- (ii) offence committed;
- (iii) sentence imposed;
- (iv) a list of the information that was made available to the Board during their consideration of that application;
- (v) risk factors;
- (vi) risk management;
- (vii) protective factors;
- (viii) recommendation;
- (ix) reasons; and
- (x) list of conditions to be included in the licence if parole is recommended.

(b) The Governor on receipt of these recommendations and if in agreement shall refer to the Office of the Attorney General for the formulation of the licence agreement.

(c) If the Governor is not in agreement or the application was denied by the Board and the Governor concurs the Governor will write to the prisoner through the Superintendent informing him of such.

(d) After the licence has been formulated the Governor will inform the Superintendent in writing with the draft licence attached and giving the effective date of the conditional release.

(e) The Superintendent shall inform the prisoner.

(f) The prisoner must agree to the conditions of the licence and indicate this in writing by signing it or making his mark thereon and this will constitute a formal agreement between the prisoner and the Crown.

(g) If the prisoner disagrees with any of the conditions laid down in the licence the Superintendent shall inform the Governor and the Chairman of the Parole Board in writing and the release will be deferred until the next sitting of the Board.

(h) If the prisoner agrees to it and signs the licence a copy shall be given to the prisoner, the Attorney General, the Commissioner of Police and a copy shall be kept at the prison. (*Amended by S.R.O. 14/2012*)

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<sup>5</sup> Rectified by S.R.O. 6/2012

**Release of parolee<sup>6</sup>**

19. (1) In keeping with the Prison Act and rules made there under no prisoner shall be released on parole, early release or temporary release on a Sunday, Good Friday or Christmas day. *(Amended by S.R.O. 6/2012)*

(2) When a prisoner is released on parole he shall be released in accordance with the provisions of the Prison Act and rules made there under.

**Breach of licence**

20. (1) If a parolee is found to be in breach of any of the conditions of his licence the licence may be revoked and he may be recalled to prison by the Superintendent. *(Amended by S.R.O. 14/2012)*

(2) A parolee can be arrested by a police officer or prison officer and brought to the prison with a statement outlining the condition that was breached.

(3) Such a statement and a report from the Parole Officer shall be forwarded to the Board by the Superintendent and the Board shall hold a meeting to review the recall. *(Amended by S.R.O. 14/2012)*

(4) The Superintendent if he thinks it is expedient to do so shall ask the Governor to revoke a parolee's licence and that he be brought back to prison to continue to serve his sentence if it is in the public interest to do so.

(5) The Governor may—

- (a) act in finality and revoke the licence of a parolee if asked to do so by the Board;
- (b) order the immediate recall and ask the Parole Board to review the recall;
- (c) before acting ask the Board to review the continued release of the parolee and to take into account all information that is available and make recommendations.

(6) A police officer or prison officer shall take into custody a parolee whose licence has been revoked and that parolee shall be conveyed to the Prison along with the order of revocation and there he will be processed in accordance with the Parole of Prisoners Act and the Prison Rules respectively. *(Amended by S.R.O. 14/2012)*

**Remuneration for members of the Board**

21. (1) The Chairman of the Board shall receive—

- (a) \$500 for each hearing meeting, including a continuation of a hearing meeting;
- (b) \$400 for each General meeting; and
- (c) reasonable expenses, where incurred.

(2) A member of the Board other than the Chairman shall receive—

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<sup>6</sup> Rectified by S.R.O. 6/2012



- (a) \$400 for each hearing meeting, including a continuation of a hearing meeting;
- (b) \$300 for each General meeting; and
- (c) reasonable expenses, where incurred.

*(Substituted by S.R.O. 62/2017)*

### **Forms**

**22.** The forms that shall be used in the parole process shall be those set out in the Schedule hereto—

- (a) Form A: Prisoners Application for parole;
- (b) Form B: Prisoner's eligibility report;
- (c) Form C: Recommendations by the Parole Board;
- (d) Form D: Letter from the Governor granting parole to an applicant;
- (e) Form E: Denying request for release on parole.

*(Amended by S.R.O.s 46/2006 and 14/2012)*

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**SCHEDULE**

*(Amended by S.R.O.s 46/2006 and 14/2012)*

**FORM A**

**PRISONER’S APPLICATION FOR PAROLE**

**Date:** .....

**To:** Superintendent of Prisons

FOR THE ATTENTION OF THE PAROLE BOARD

Dear Sir

In keeping with the provisions of the PAROLE OF PRISONERS ACT section 8(1) and section 10(1), I declare that—

1. I, was convicted on .....on a charge of ..... and sentenced by the ..... to a sentence of .....
2. I have not previously been found guilty of breach of an earlier licence.
3. I have no appeal pending on this case.
4. I hereby submit this, my humble application for consideration of parole at the next and upcoming Parole Board Meeting.

Yours respectfully

\_\_\_\_\_  
PRISONER/APPLICANT

1. Copy to be given to prisoner
2. A letter addressed to the Board from the prisoner can be attached to this application

\_\_\_\_\_

FORM B

**PRISONER'S ELIGIBILITY REPORT**

**TO:** The Parole Board

**FROM:** The Superintendent of Prisons

**DATE:**

**REF APPLICATION FOR PAROLE BY PRISONER.....#.....**

I wish to confirm to the Parole Board the following—

- (i) That prisoner..... # .....  
was sentenced to Prison on the .....  
by the ..... Court on a charge of.....  
and sentenced to..... of which he has served  
that portion of his sentence as stipulated under section 8(1) of the Parole of  
Prisoners Act.
- (ii) That this case is put forward for your hearing and consideration because:  
(Superintendent will delete as necessary)
  - (a) The prisoner has applied for parole by completing the necessary  
application form;
  - (b) This referral to the Board qualifies under section 10(2)(a);
  - (c) This referral to the Board qualifies under section 10(2)(b).
- (iii) That the report and information as required under rule 3(3) and rule 16 is  
annexed to this form.
- (iv) That the name of this prisoner and the necessary notice was given to all  
concerned as required under rule 4(4).

Therefore, the prisoner, whose name contained herein and on the application form  
hereby attached, is eligible for a hearing of this Parole Board at its next and upcoming  
meeting.

.....  
Superintendent of Prisons

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## FORM C

**RECOMMENDATION BY THE PAROLE BOARD  
(under section 8(1) of the Parole of Prisoners Act)**

To: HE the Governor

From: The Parole Board

Ref: (prisoners name)

Date of Birth of Prisoner:

Having considered the application of the foregoing prisoner, together with such information gathered from:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.
- 11.

The Parole Board hereby recommends, in accordance with section 8(1) of the Parole of Prisoners Act as follows:

- That the application for release on Licence by the foregoing prisoner, having served more than one third of his sentence, be denied.
- That you order the release of the foregoing prisoner on Parole of Licence, having served more than one third of his imprisonment, subject to the standard terms and conditions and those we hereby recommend as seen attached.



FORM D

**LETTER FROM THE GOVERNOR  
GRANTING PAROLE TO AN APPLICANT**

Under the powers conferred on me by the Parole of Prisoners Act.

I ..... Governor of the territory of Montserrat hereby  
grant you .....

*(name of prisoner)*

a period of release on licence. If you agree to the conditions of the licence and sign  
such, you will be released from prison under this licence from ..... until  
your due date for release from prison on .....

The Governor has the right to revoke this licence at any time for reasons including for  
breach of the conditions on which the licence is granted.

Attached is a licence outlining the conditions of your release, if you accept these  
conditions you must indicate this by signing in the space provided and a copy of the  
licence will be given to you on your release.

Signed H E the Governor

.....

\_\_\_\_\_

FORM E

*(Amended by S.R.O. 14/2012)*

**DENYING REQUEST FOR RELEASE ON PAROLE**

TO: The Superintendent of Prisons

FOR: The attention of Prisoner \_\_\_\_\_

DATE:

**REF: APPLICATION FOR PAROLE**

Your application for parole was considered by the Parole Board and the necessary advice was forwarded to me. On this occasion I regret to inform you that your application for parole was not successful. The reasons(s) behind this decision is (are):

Please be mindful of the provisions under section 10(2) of the Parole of Prisoners Act which states **“The Superintendent shall, at intervals of not more than one year from the last previous reference of that case to the Board refer to the Board for its recommendation the case of any prisoner whose - a) case has been considered previously by the Board but who has not been released on licence.....”**.

.....  
Governor

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