POLICY NOTE

THE PAROLE BOARD (SCOTLAND) AMENDMENT RULES 2022

SSI 2022/10

THE CORONAVIRUS (SCOTLAND) ACT 2020 (EARLY EXPIRY OF PROVISIONS) REGULATIONS 2022

SSI 2022/11

The above instruments were made by the Scottish Ministers in exercise of the power conferred by *Section 20(4) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 and Section 13 (1) of the Coronavirus (Scotland) Act 2020*, and all other powers enabling them to do so. The instruments are subject to the negative procedure.

Summary Box

These SSIs amends the Parole Board (Scotland) Rules 2001 to allow the Parole Board for Scotland to conduct the entirety (or any part) of a parole hearing by live link and to expire early provisions in the Coronavirus (Scotland) Act 2020 which made temporary provision for use of a live link in this way.

Legislative Background

The Coronavirus (Scotland) Act 2020 ("the Act") came into force on 7 April 2020 (except for one provision). The Act provides powers and measures which have helped to maintain essential public services in the face of unprecedented and ongoing public health challenges created by the pandemic. This includes measures to support the ongoing operation of the justice system, and support for public bodies in their response to coronavirus.

Policy Objectives

The provisions in schedule 4, paragraph 18(1) and 18(3) of the Coronavirus (Scotland) Act 2020, have allowed the Parole Board to continue to conduct oral hearings by video or tele conference. This measure has proved very successful with the Parole Board continuing to operate during the pandemic almost unaffected. To allow flexibility, provide resilience and allow for any further occasions where an emergency situation arises it is considered appropriate that these provisions should be made permanent. . This instrument amends the Parole Board (Scotland) Rules 2001 to achieve this. In person hearings will still be possible where it is in the interests of justice a face-to-face hearing takes place.

The amendments make clear that where hearings take place by video or tele conference, this allows any current rights to attend or participate in the hearing to be exercised in that way. The amendments do not create additional rights to participate in a hearing where this is not otherwise provided for in the Parole Board (Scotland) Rules 2001.

At the same time the temporary provisions in the Coronavirus (Scotland) Act 2020 are being expired by the, Coronavirus (Scotland) Act 2020 (Early Expiry of Provisions) Regulations

2022. As the Parole Board (Scotland) Amendment Rules 2022 amend the Parole Board (Scotland) Rules 2001 with the same effect as the modifications made by the temporary provisions, the expiry will not result in any change in practice to the proceedings of the Parole Board for Scotland.

Consultation

The Scottish Government consulted with the Parole Board for Scotland about the rules amendment provisions and expiry of the temporary provisions. The Parole Board is fully supportive and confirmed the permanent provisions are necessary.

We also included the proposal to make these provisions permanent in the Coronavirus Recovery Bill consultation. The consultation found that those who agreed with making permanent the provision to allow parole hearings to take place over live link described the benefits of virtual hearings, including travel and resource savings, more flexibility and increased accessibility. Third sector organisations Victim Support Scotland and Families Outside (both of whom supported making the provision permanent) highlighted the benefits that remote parole hearings can have for victims, witnesses and families, such as opening up access to hearings and avoiding delays in the process, which in turn can reduce distress.

Some respondents who disagreed with making the provision permanent noted that it can be difficult to interpret a person's body language and demeanour or detect nuance through their virtual presence. While some recognised the need for virtual hearings during the pandemic for health and safety reasons, they felt that in the interests of procedural fairness and recognition of the seriousness of parole matters, in person hearings should be resumed when it is safe to do so. On balance it is considered appropriate to make the provisions permanent.

The Parole Board is fully supportive of the provisions in the Coronavirus (Scotland) Act 2020 (Early Expiry of Provisions) Regulations 2022 in light of the provisions included in the Parole Board (Scotland) Amendment Rules.

Impact Assessments

An EQIA has been prepared in respect of the Parole Board (Scotland) Amendment Rules 2022.

Financial Effects

The Cabinet Secretary for Justice and Veterans confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Justice Directorate
January 2022