POLICY NOTE

THE PAROLE BOARD (SCOTLAND) AMENDMENT RULES 2026

SSI 2026/82

The above instrument was made in exercise of the powers conferred by section 20(4) of the Prisoners and Criminal Proceedings (Scotland) Act 1993. The instrument is subject to negative procedure.

Summary Box

The purpose of this instrument is to make changes to the Parole Board (Scotland) Rules 2022 ('the Rules'). The Rules set out the procedure to be followed by the Parole Board for Scotland ("the Board") when considering cases referred by the Scottish Ministers for parole.

The changes that this instrument will make to the Rules implement new provisions in primary legislation on parole and prisoner release. Sections 55 and 56 of the Victims, Witnesses, and Justice Reform (Scotland) Act 2025 ("the 2025 Act") amend section 20 of the Prisoners and Criminal Proceedings (Scotland Act 1993 ("the 1993 Act"). Section 55 amends section 20(4)(c) and introduces new section 20(4AA). Section 56 introduces new sections 20(4AB) and (4AC).

The instrument will substitute the existing rules 11 and 12 within the Rules with new rules to deliver on the requirements, set out in sections **55** and **56** of the 2025 Act, for matters that **must** be taken into account by the Board in their considerations when making decisions in a case.

The substituted rule 11 provides that a panel of the Board **must,** rather than **may,** take into account the likely impact of any of their decisions on the safety and security of any victim or any family member of a victim. Rule 11 then sets out matters which the panel **may** take into account when considering a case in very similar terms to the previous rule 11.

The new rule 12 provides that a panel of the Board **must**, rather than **may**, when dealing with a case where the person concerned is serving a sentence following a conviction of murder or culpable homicide, take into account whether the individual has not disclosed the location of a victim's remains, where the victim's remains have not been recovered.

Policy Objectives

Overview

The purpose of this instrument is to make changes to the Parole Board (Scotland) Rules 2022 ('the Rules'). The Rules set out the procedure to be followed by the Parole Board for Scotland ("the Board") when considering cases referred by the Scottish Ministers for the release on licence, remaining on licence or re-release on licence of offenders.

The changes that this instrument will make to the Rules fully implement sections 55 and 56 of the Victims, Witnesses and Justice Reform (Scotland) Act 2025 ("the 2025 Act") which amended section 20 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 ("the 1993 Act") at section 20(4)(c) and introduced (4AA), (4AB) and (4AC). Section 20(4) is the enabling power for the Scottish Ministers to make rules for the Board.

These changes replace existing rules to deliver on section 20(4AA) and (4AB) of the 1993 Act and the requirement for certain matters that **must** be considered by the Board when making decisions in a case, rather than **may,** as those rules specified.

Proposed changes

The policy purpose is to amend and clarify the Rules to explicitly set out matters that the Board **must** consider. This implements the policy purpose of sections 55 and 56 of the 2025 Act to strengthen the law and associated procedural practice in these areas.

Background to Rule 11

The existing rule 11 in the Rules sets out that, in considering a case, a panel of the Board, **may** take into account any matter it considers relevant to the case, including a list of matters then set out under (a)-(e). This includes matters such as the nature and circumstances of the offence and the conduct of the person during their sentence. Paragraph (e) sets out then that the panel **may** take into account the effect on the safety or security of any other person (including in particular any victim or any family member of a victim, or any family member of the person concerned), were the person concerned to be released on licence, remain on licence, or be re-released on licence (as the case may be).

Proposed changes to Rule 11

Section 56 of the 2025 Act, in introducing section 20(4AB) and (4AC) to the 1993 Act, requires that the Rules include provision that the Board **must** take into account the likely impact on the safety and security of any victim and a victim's family in any decision being made in a case.

Rule 2(2) of this instrument implements the changes to the Rules that this requires by substituting the existing rule 11 with a new rule 11 which places the requirement on the panel of the Board considering a case, that they **must** take this matter into account in all its decision-making. Rule 11 then restates the matters from the existing rule 11 (with victims and victims family members removed) which the panel **may** take into account in its consideration of a case. In paragraph (2)(e), safety or security has been amended to safety and security to provide for consistency with paragraph (1).

The policy purpose of this rule change is to ensure that the safety and security of victims' and/or their family members is always taken into consideration by the Board when making decisions in cases.

Background to Rule 12

Following on from the matters set out on rule 11 which a panel of the Board **may** take into account in any case, rule 12 then set out an additional matter that a panel **may** consider in the circumstances where a person is serving a sentence of life imprisonment, detention for life or detention without limit of time, which has been imposed following a conviction for murder or culpable homicide imposed by a court in Scotland, or for an equivalent offence imposed by a court elsewhere in the United Kingdom. The matter is that the panel does not know where and how the victim's remains were disposed of. If the panel believes that the person has information about where or how the victims remains were disposed of but has not disclosed that information, then the panel **may** take that into account when considering the case.

Proposed changes to Rule 12

Rule 2(3) of this instrument substitutes a new rule 12 which requires a panel of the Board to take into account whether there are reasonable grounds to believe the person concerned has information about where or how the victim's remains were disposed and has not disclosed it. The new rule 12 applies where the person is serving a sentence imposed following a conviction for murder or culpable homicide imposed by a court in Scotland, or for an equivalent offence imposed by a court elsewhere in the United Kingdom. The new rule 12 implements section 55 of the 2025 Act, simplifying rule 12 and strengthening the consideration the panel is to give this matter. This is through the change from this being a matter that **may** be taken into account, to a matter that **must** be taken into account when the panel is making a decision as to the initial release of the person concerned.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the 2024 Act), the Scottish Ministers certify that, in their view, the Parole Board (Scotland) Amendment Rules 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the 2024 Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

Consultation on the changes to these Rules has primarily been with the Board to ensure that the changes can be operationalised effectively. This will be done through updates to their guidance for Parole Board Members.

There has been engagement with the Board during the passage of the 2025 Act on these matters, and as part of the Rule changes set out in this instrument, to ensure that they are operationally feasible.

There is also support from Victim Support Organisations for these changes.

Impact Assessments

An equality impact assessment and children's rights and wellbeing impact assessment have been completed on the Parole Board (Scotland) Amendment Rules 2026.

Financial Effects

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

Scottish Government
Justice Directorate

January 2026