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L.N. 65 of 2012

**RESTORATIVE JUSTICE ACT
(CAP. 516)**

Parole Board Regulations, 2012

IN exercise of the powers conferred by article 44 of the Restorative Justice Act, the Minister for Justice, Dialogue and the Family has made the following regulations:-

Citation. **1.** The title of these regulations is the Parole Board Regulations, 2012.

Interpretation. **2.** In these regulations, unless the context otherwise requires:

Cap. 516. "the Act" means the Restorative Justice Act;

"applicant" refers to the prisoner applying for the Parole licence;

"application" means an application for the Parole licence by a prisoner eligible to apply for parole;

"Board" means the Parole Board;

"Chairman" means the Chairman of the Board referred to in the Act;

"*dossier*" means the Parole *dossier* referred to in article 13 of the Act;

"prisoner" means a person who is serving a sentence in prison;

"Liaison Officer" refers to the person appointed under article 26(2) of the Act;

"Offender Assessment Board" refers to the Offender Assessment Board appointed under article 3 of the Act;

"Parole Clerk" has the same meaning as is assigned to it in article 2 of the Act, who shall be a public officer;

"Parole Officer" has the same meaning as is assigned to it in article 2 of the Act;

Cap. 260. "prison" has the same meaning as is assigned to it in the Prisons Act;

"temporary recall" means the recalling of the parolee upon a

report mentioned in regulation 5(1).

3. (1) When an application is received at the Parole Clerk's office, the application shall be listed in a special register and given a reference number, and the applicant shall be given an acknowledgement in writing.

Duties of the
Parole Clerk.

(2) The Parole Clerk shall immediately inform the Liaison Officer, the Parole Unit and the Care and Re-integration Unit on receiving an application as referred to in this regulation.

(3) The Parole Clerk shall submit to the Board the applicant's *dossier*, upon ascertaining that the *dossier*, compiled as required by article 13 of the Act, is available.

(4) In the performance of his duties, the Parole Clerk shall:

(a) have access to all relevant records pertaining to the application, including those kept by the Police, the Courts, the Correctional Services, the Probation Services and any other relevant authority; and

(b) be bound by confidentiality, and shall not divulge any personal information on any applicant, except as provided for in the Act and in these regulations.

4. (1) In carrying out its functions, the Board shall not be under the authority of any other body.

Board
proceedings.

(2) In conducting its functions, the Board shall regulate its own proceedings:

Provided that the Board shall meet at least once a month, and at shorter intervals when and if so deemed necessary to evaluate pending applications and reports of breach of the parole licence.

(3) In order to commence and continue proceedings in a Board meeting, the number of Board members present shall be at least fifty per cent plus one of the total number of Board members.

(4) When an application is forwarded to the Board by the Parole Clerk, the following procedure is to apply:

(a) it shall be the discretion of the Chairman to decide on the number of cases to be inserted in the agenda of the meeting to decide on applications;

(b) the Liaison Officer, the Parole Unit, the Offender

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Assessment Board and the Police shall be notified of the date when the application would be heard before the Board and they shall be obliged to forward to the Board any information deemed relevant to the application.

Proceedings in cases of breaches of parole licence.

5. (1) In cases of a report for breaches of the parole licence, submitted in terms of article 16(1) of the Act, the Chairman or his representative shall issue a temporary recall. The temporary recall, which shall be executed by the Police, shall not exceed a period of seven working days.

(2) When deciding the case following a recall, the Board may either re-activate the Parole licence, or it may amend the Parole licence, or suspend the Parole licence.

(3) In cases of a breach of the parole licence, the Board shall only decide on matters of fact and not on matters of law.

(4) During the proceedings, the Parole Officer shall present the facts of the alleged breach but shall not assume the function of a prosecutor. The Parole Officer may, in fact, be summoned as a witness.

(5) If the parolee is found guilty of a breach of the parole licence and the Board's decision is that the parolee be recalled to continue the part of his sentence for which he was granted parole, the Police shall be requested to effect such recall.

(6) The Board's decision shall be communicated to the Director responsible for Parole, the Director responsible for Correctional Services and the Commissioner of Police.

Evaluation of applications by the Board.

6. (1) During the evaluation of an application, the Manager responsible for the Care and Re-integration Unit, or his representative, shall be present during the proceedings in order to clarify any matter or take any action as recommended by the Board.

(2) If the Liaison Officer has signified his intention to speak on behalf of the victim, he shall be afforded the opportunity to do so before the Board during its evaluation.

(3) When evaluating an application, the case shall be considered on its own merits, and no reference to any other similar case shall be made either in defence of, or against, such application.

(4) When evaluating the application, due consideration shall be given by the Board to the assessments included in the *dossier*, any reports submitted by the Parole Officer, as well as the

recommendation of the Offender Assessment Board.

(5) When granting parole, the Board may impose in the Parole Licence any conditions it may deem necessary. These conditions shall be explained in ordinary language to the parolee by Parole Clerk.

(6) The Board's decision shall be final:

However, in the case of a refusal by the Board to grant parole, the applicant shall be entitled to lodge another application after the lapse of six months from the Board's decision.

(7) By not later than one week after the Board's decision, the Parole Clerk shall forward a copy of the decision to the Director of Probation and Parole Services, the Director of Correctional Services, the applicant, the Liaison Officer, and the Police.

(8) When evaluating an application, the Board may consider the following criteria as positive factors:

(a) the fact that the applicant had immediately signified his intention to follow the care plan prepared by the Offender Assessment Board;

(b) the fact that the applicant wished to meet his victim and make good for any damages suffered;

(c) the existence of a reparation agreement and the actual implementation of the terms and conditions contained therein;

(d) the progress made in undergoing rehabilitative and re-integration programmes included in the applicant's care plan;

(e) any additional rehabilitative and re-integration programmes, including any educational, vocational, religious or other activity carried out by the applicant during his incarceration, even though such programme or activity was not included in his care plan;

(f) the applicant's good or exemplary behaviour in prison.

7. (1) When the Board receives a report of a breach of a parole licence in terms of article 19(h) of the Act, the Board:

(a) shall convene a meeting as soon as possible but not later than two working days from receipt of the report;

Board proceedings when evaluating a report of a breach of a parole licence.

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(b) may summon the Parole Officer and any other witnesses to testify on the facts relevant to the breach;

(c) may summon the parolee to give evidence and hear his justifications, if any; and

(d) shall decide whether to amend, suspend or revoke the parole licence.

(2) Any decision by the Board shall be explained in ordinary language to the parolee by the Parole Clerk.

Amendment of
a parole licence.

8. (1) When a parole licence is amended, the Board shall immediately inform the Director of Probation and Parole services, the Director of Correctional Services, the Parole Officer, the Police, the Liaison Officer and the parolee, of the conditions in the amended parole licence.

(2) The amended parole licence shall include a clause stating that any further breach of conditions, if proved, will result in the immediate incarceration of the parolee and the date, if any, when the prisoner shall once again become eligible for parole.

Suspension of a
parole licence.

9. (1) The suspension of a parole licence shall be made when a parolee breaches a condition of parole or when the Board deems it necessary and reasonable to suspend the parole licence in order to prevent a breach of any condition in the parole licence or to protect society.

(2) When a parole licence is suspended, the Board shall order the immediate recommitment of the parolee to prison until the suspension is withdrawn.

(3) The Board shall decide on the period during which the parole licence shall be suspended, which period shall not last till the time when the sentence of the offender has expired according to law.

Revocation of a
parole licence.

10. When a parole licence is revoked, the parolee shall be immediately recommitted to prison to serve the remaining period of his original sentence, including the time during which he had benefitted from parole.

Location for
Board sittings.

11. (1) The Board shall meet at the correctional facility.

(2) During the sittings, the Director of Correctional Services shall make available a number of correctional officers for security purposes and for the purpose of apprehending an offender should a parole licence be suspended or revoked.

(3) During the sittings, the Skrivani tal-Parole shall record the proceedings and such record, which shall be in writing, shall be signed by the Chairman and the Skrivani tal-Parole. The record shall include the matter under review, a list of witnesses heard, and the Board's decision.

12. Each member of the Board shall, on taking office, take the oath of office prescribed in the First Schedule, which oath of office shall be taken before a Commissioner for Oaths. Oath of Office.

13. The Director of Correctional Services and Uffiċjal ta' Kollegament may attend all Board sittings. Attendance.

14. The parole licence shall be included in the Parole Agreement, which shall be in the format set out in the Second Schedule. Parole Agreement.

15. For the purposes of the location of the placement of the parolee for community service work as provided in the proviso to article 12 of the Act, the Bord tal-Parole shall refer the case to the Director. Placement of parolee for community service work.

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FIRST SCHEDULE
(Regulation 12)
OATH OF OFFICE OF PAROLE BOARD MEMBERS

Form of oath to be taken by the chairman and members of the Parole Board

I having been appointed as Chairman/Member of the Parole Board do swear/solemnly affirm that I will faithfully, fully, impartially and to the best of my ability discharge the trust and perform the duties devolved upon me by virtue of the said appointment.

So help me God.

.....
(Signature of Board member)

.....
(Signature of Commissioner for Oaths)

.....
(date)

RUBBER
STAMP

SECOND SCHEDULE
(Regulation 14)
Parole Board Regulations

PAROLE AGREEMENT

Today, the application for Parole licence filed by (name and surname) (hereunder referred to as "the Parolee"), bearing Identity Card Number and residing at was considered by the Parole Board set up by virtue of the Restorative Justice Act.

By virtue of the said Act, the Parole Board is hereby granting a Parole Licence to the afore-mentioned person on the conditions laid down hereunder, effective from

The following shall serve as minimum conditions:

1. Reporting/Release:

(As per Board's decision)

2. Residence:

(As per Board's decision)

3. Cooperation:

(As per Board's decision)

4. Out-of-State Travel:

(As per Board's decision)

5. Employment/Program:

(As per Board's decision)

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6. Special Conditions:

(As per Board's decision)

7. Your Parole Expiration Date is:

This parole licence is granted to, and accepted by, you, subject to the conditions stated herein, and with the knowledge that the Parole Board has the power, at any time, in case of violation of any of the conditions of parole, to cause your return to prison.

.....
Chairman, Parole Board

.....
(date)

AGREEMENT BY PAROLEE

I have read, or have had read to me, the conditions of my parole licence, and I fully understand them and I agree to abide by and strictly follow them.

I fully understand the penalties involved should I, in any manner, violate the foregoing conditions.

Parolee:

Officer Witness (Parole Clerk):
(full name)

Dated:

