

CONVENTION RIGHTS (COMPLIANCE) (SCOTLAND) ACT 2001

EXPLANATORY NOTES

THE ACT

Part 2

Constitution of Parole Board for Scotland

Appointment and removal of Parole Board members

40. [Section 5\(1\)\(a\)](#) amends section 20(1) of the 1993 Act by repealing the words “this Part of”. This is a technical and consequential amendment. It is intended to ensure that the Board as reconstituted by the Act can still consider the cases of persons who are subject to the release provisions in the Prisons (Scotland) Act 1989.
41. [Section 5\(1\)\(b\)](#) amends section 20(4) of the 1993 Act by inserting new paragraph (ba). This paragraph allows the Scottish Ministers to make rules that would enable the Board to require any person to attend a hearing before it, either to give evidence or to produce documents. However, the Board’s power to require persons to attend does not extend to the prisoner whose case is being considered.
42. [Section 5\(1\)\(c\)](#) inserts subsection (4A) into section 20 of the 1993 Act. This allows the Scottish Ministers to apply subsections (4) and (5) of section 210 of the Local Government (Scotland) Act 1973 to any rules made under new paragraph (ba). These subsections make provision as to the attendance of witnesses and productions of documents at public inquiries. Section 210(4) sets out the persons who may be cited, the books and documents they may be required to produce, and the questions they may be required to answer. Section 201(5) sets out the circumstances in which an offence is committed, the method of trial and the sanctions available on conviction. However, subsection (4A) restricts the maximum penalty to a fine which cannot exceed level 2 on the standard scale.
43. [Section 5\(2\)](#) inserts two new paragraphs into schedule 2 to the 1993 Act. Paragraph 1A requires the Scottish Ministers to comply with any regulations they make on the procedure that is to govern the appointment of Board members, and the consultation with other parties which should take place before appointments are made.
44. Paragraph 1B allows the regulations to specify different procedures for the appointment of different Parole Board members. For example, it is intended that regulations will require most vacancies to be advertised in national newspapers or specialist journals. However, this would not be appropriate in relation to the appointment of a Lord Commissioner of Justiciary. A recommendation is received from the Lord Justice General prior to this appointment.