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DRAFT STATUTORY RULES OF NORTHERN IRELAND

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**2001 No.**

**The Life Sentence Commissioners' Rules 2001**

**Part IV**

**Evidence and Information**

**Information and reports by the Secretary of State**

**14.**—(1) Within 8 weeks of the case being listed, and subject to paragraph (2) and rule 15, the Secretary of State shall serve on the Commissioners and the prisoner or his representative:—

- (a) the information specified in Part A of Schedule 1 to these Rules; and
- (b) the reports specified in Part B of that Schedule.

(2) Any part of the information or reports referred to in paragraph (1) which, in the opinion of the Secretary of State, should be withheld from the prisoner on the ground that its disclosure would adversely affect the health or welfare of the prisoner or others, shall be recorded in a separate document and served only on the Commissioners together with the reasons for believing that its disclosure would have that effect.

(3) Where a document is withheld from the prisoner in accordance with paragraph (2), it shall nevertheless be served as soon as practicable on the prisoner's representative if he is:—

- (a) a barrister or solicitor;
- (b) a registered medical practitioner; or
- (c) a person whom the Chairman of the Panel directs is suitable by virtue of his experience or professional qualification;

provided that no information disclosed in accordance with this paragraph shall be disclosed either directly or indirectly to the prisoner or to any other person without the authority of the Chairman of the Panel.

**Non-disclosure of confidential information**

**15.**—(1) This rule applies where the Secretary of State certifies as confidential any information, document or evidence which, in his opinion, would if disclosed to the prisoner or any other person be likely to:

- (a) adversely affect the safety of any individual;
- (b) result in the commission of an offence;
- (c) facilitate an escape from lawful custody or the doing of any act prejudicial to the safe keeping of persons in custody;
- (d) impede the prevention or detection of offences or the apprehension or prosecution of suspected offenders;
- (e) be contrary to the interests of national security; or
- (f) otherwise cause substantial harm to the public interest;

and any such information, document or evidence is referred to in these Rules as confidential information.

(2) The Commissioners shall not in any circumstances disclose to or serve on the prisoner, his representative or any witness appearing for him any confidential information and shall not allow the prisoner, his representative or any witness appearing for him to hear argument or the examination of evidence which relates to any confidential information.

(3) Where the Secretary of State has certified information as confidential, he shall, within 7 days of doing so, serve on the prisoner and on the Commissioners, whether by way of inclusion with the case papers or otherwise, written notice of this stating, so far as he considers it possible to do so without causing harm of the kind referred to in paragraph (1), the gist of the information he has thus withheld and his reasons.

### **Special Advocates**

**16.**—(1) On receiving a certificate of confidential information under rule 15, the Chairman of the Panel shall inform the Attorney General of the proceedings before the Panel, with a view to the Attorney General, if he thinks fit to do so, appointing a special advocate to represent the interests of the prisoner.

(2) The function of the special advocate is to represent the interests of the prisoner, as mentioned by paragraph (1), by:—

- (a) making submissions to the Panel in any hearings from which the prisoner and his representative are excluded;
- (b) cross-examining witnesses at any such hearings; and
- (c) making written submissions to the Panel.

(3) Except in accordance with paragraph (5) a special advocate may not communicate directly or indirectly with the prisoner he has been appointed to represent on any matter connected with the case before the Panel.

(4) A special advocate may seek directions from the Panel authorising him to seek information in connection with the case from the prisoner whose interests he has been appointed to represent.

(5) In paragraph (5) a reference to a prisoner whose interests he has been appointed to represent includes the representative of the prisoner.

### **Evidence of the prisoner**

**17.**—(1) Where the prisoner wishes to make representations about his case, he shall serve them on the Commissioners and the Secretary of State within 15 weeks of the case being listed.

(2) Any other documentary evidence that the prisoner wishes to adduce shall be served on the Commissioners and the Secretary of State at least 14 days before the date of the hearing.

### **Further evidence and information**

**18.**—(1) Following receipt of the papers from the parties, the Commissioners may request either party to produce further evidence or information on any topic relevant to the conduct or determination of the case and may stay the progress of the case until a response to their request has been received.

(2) Subject to rules 14(2) and 15, any further evidence or information produced under paragraph (1) shall be served, by the party responding, on the Commissioners and on the other party.

(3) A party may not supplement or add to case papers, response papers or further evidence and information produced and served under this rule without the leave of the Commissioners, or, after the allocation of a case to a Panel, the Chairman of the Panel.

### **Witnesses**

**19.**—(1) Where a party wishes to call witnesses at the hearing, he shall make a written application to the Commissioners, a copy of which he shall serve on the other party, not less than 12 weeks before the date of the hearing, giving the name, address and occupation of the witness he wishes to call and the substance of the evidence he proposes to adduce.

(2) The Chairman of the Panel may grant or refuse an application under paragraph (1) and shall communicate within 7 days his decision to both parties, giving reasons in writing, in the case of a refusal, for his decision.