



BERMUDA

PAROLE BOARD ACT 2001

2001 : 2

TABLE OF CONTENTS

PART I  
PRELIMINARY

- 1 Short title and commencement
- 2 Interpretation

PART II  
THE PAROLE BOARD

- 3 Establishment of the Parole Board
- 4 Constitution of the Board
- 5 Appointment of members of the Board
- 6 Removal of members of the Board
- 7 Minister may give policy directions
- 8 Reports of the Board
- 9 Expenses of the Board

PART III  
FUNCTIONS OF THE BOARD

- 10 Functions of the Board
- 11 Matters to be taken into account by the Board
- 12 Public officers: exercise of function
- 13 Consequential amendments

FIRST SCHEDULE  
Proceedings of the Board

SECOND SCHEDULE

## PAROLE BOARD ACT 2001

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WHEREAS it is expedient to provide for the establishment of a Parole Board charged with the responsibility of handling all matters in respect of the parole of prisoners and for connected matters;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:—

### PART I PRELIMINARY

#### Short title and commencement

1 This Act may be cited as the Parole Board Act 2001 and shall come into operation on a day to be appointed by the Minister by notice published in the Gazette.

#### Interpretation

2 In this Act, unless the context otherwise requires—

“the Board” means the Parole Board established under section 3;

“Commissioner of Prisons” means the person appointed as such under the Prisons Act 1979;

“member” means any person appointed to be a member of the Board and includes the Chairman;

“Minister” means the Minister responsible for prisons;

“officer” means a training school officer within the meaning of section 50 of the Young Offenders Act 1950;

“prisoner” means a person serving a sentence of imprisonment imposed on conviction for an offence;

“prison officer” means a person appointed as such under the Prisons Act 1979;

“senior training school” means either of the training schools referred to in section 51 of the Young Offenders Act 1950;

“supervision” means release from a senior training school under section 62 of the Young Offenders Act 1950;

“inmate” means a person undergoing corrective training or otherwise required to be detained in a senior training school pursuant to the Young Offenders Act 1950;

PART II  
THE PAROLE BOARD

Establishment of the Parole Board

3 There is hereby established a Board to be known as the Parole Board.

Constitution of the Board

4 (1) The Board shall consist of—

- (a) a Chairman;
- (b) one member who shall be a person registered to practise in Bermuda as a psychological practitioner under the Psychological Practitioners Act 2018;
- (c) one member who shall be a barrister and attorney;
- (d) one member who shall be a person with knowledge or experience of the supervision or after care of discharged prisoners; and
- (e) three other members, one of whom shall be a person with such technical knowledge or expertise as in the opinion of the Minister will benefit the Board in its deliberations.

(2) The First Schedule shall have effect with respect to proceedings of the Board.

*[Section 4 subsection (1)(e) amended by 2013 : 15 s. 2 effective 24 June 2013; Section 4 subsection (1)(b) amended by 2018 : 9 s. 33(3) effective 28 March 2018]*

Appointment of members of the Board

5 (1) A member shall be appointed by the Minister by instrument in writing, to hold office for a period not exceeding three years.

(2) Any member shall be eligible for reappointment and may at any time resign his office by instrument in writing addressed to the Minister.

(3) Where a vacancy occurs in the Board, the Minister may appoint a person to fill that vacancy for the unexpired portion of the period in respect of which the vacancy occurs.

(4) Where any member is absent from Bermuda, ill, or otherwise unable to discharge his functions the Minister may, for the period of the inability, appoint any person he thinks fit to be a member in the place of the member who is so unable.

Removal of members of the Board

6 The Minister may revoke the appointment of a member who is unable or unwilling to perform his duties as a member, or in such other circumstances as the Minister deems appropriate.

Minister may give policy directions

7 The Minister may, after consultation with the Board, give such general or specific direction as to the policy to be followed by the Board in the performance of its functions as

## PAROLE BOARD ACT 2001

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appear to the Minister to be necessary in the public interest, and the Board shall give effect to any such direction, and in giving such direction the Minister shall in particular have regard to—

- (a) the need to protect the public from serious harm or danger from offenders; and
- (b) the desirability of preventing the commission by offenders of further offences and of securing their rehabilitation.

### Reports of the Board

8 (1) The Board shall, within three months after the end of each calendar year forward to the Minister a report on the activities of the Board during that calendar year.

(2) The report referred to in subsection (1) shall specify any directions given by the Minister to the Board during that year.

(3) The Minister shall cause copies of the report to be laid before both houses of the Legislature.

### Expenses of the Board

9 There shall be paid out of funds provided by the Legislature—

- (a) any sums payable to members of the Board as remuneration and allowances as the Minister may determine; and
- (b) any sums required for defraying the expenses of the Board.

## PART III

### FUNCTIONS OF THE BOARD

#### Functions of the Board

10 The Board shall have the powers and shall discharge the duties conferred or imposed on it under any statutory provision.

#### Matters to be taken into account by the Board

11 (1) In the exercise of its functions the Board shall have regard to the following—

- (a) any documents given to it by the Commissioner of Prisons;
- (b) any reports it has called for and any other information, whether oral or in writing, that it has obtained;
- (c) if in any particular case the Board thinks it necessary to interview the person to whom the case relates before reaching a decision, the Board may interview that person or may request one of its members to interview him and, in the latter case, shall take into account the report of that interview by that member; and

## PAROLE BOARD ACT 2001

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(d) where a prisoner or inmate is interviewed by the Board or a member of the Board such interview shall be held within the sight and hearing of a prison officer or a training school officer within the meaning of section 50 of the Young Offenders Act 1950.

(2) The documents in any case to be given to the Board shall include, in addition to a report of the nature and the circumstance of the offence for which the sentence of imprisonment was imposed, a report by the Commissioner of Prisons, prison officer, or a training school officer, within the meaning of section 50 of the Young Offenders Act 1950, as to the conduct, demeanour and health of the prisoner or inmate while in prison or a senior training school, including a report by a medical officer of relevant and any details of the personal and family background of the prisoner or inmate.

### Public officers: exercise of function

12 The Minister may authorize any public officer to exercise any function of the Board under the direction and control of the Board and if he does so any such officer shall exercise that function accordingly.

### Consequential amendments

13 The statutory provisions set out in column 1 of the Second Schedule are amended in the manner set out in column 2 of that Schedule.

FIRST SCHEDULE

(section 4)

PROCEEDINGS OF THE BOARD

- 1 The Chairman shall preside at the meetings of the Board.
- 2 If at any meeting of the Board the Chairman is absent, the members present shall elect one of their number to act as chairman at the meeting.
- 3 (1) Every matter to be determined by the Board shall be decided by a majority of the votes of the members present and voting on the matter.  
(2) In any matter before the Board the Chairman or person acting as Chairman shall have a deliberate vote, but on any matter on which the votes of the members present are equally divided the Chairman or person acting as Chairman shall have a second or casting vote.
- 4 The Board shall meet twice a month to discharge its functions under this Act, and on such other occasions as from time to time become necessary.
- 5 Meetings of the Board may be held in such places as the Chairman may determine and may be held in a prison or a senior training school.
- 6 The Board may act notwithstanding any vacancy in its membership, and no act of the Board shall be deemed to be invalid by reason only of a defect in the appointment of a member.
- 7 At any meeting of the Board three members shall form a quorum.
- 8 A minute shall be made of every decision of the Board.
- 9 Subject to this Act, the Board may regulate the conduct of its proceedings in such manner as it thinks fit.

SECOND SCHEDULE

(section 13)

Criminal Code Act 1907  
Section 288

In the proviso to subsection (1), delete the words “the Minister responsible for treatment of offenders” and substitute the words “the Parole Board established by the Parole Board Act 2001”.

Prisons Act 1979  
Section 2

Insert in the appropriate alphabetical order the following definition:  
“Parole Board” means the Board established under section 3 of the Parole Board Act 2001;”.

Section 6

In paragraph (n) delete the word “Minister” and substitute the words “Parole Board”.

Section 9

In subsection (3)—

(a) delete paragraph (c);

(b) delete in the tailpiece the words “on the advisability of his release on licence or under supervision”.

Section 11

Repealed

Section 12

In subsection (1)—

(a) delete the word “Minister” and substitute the words “Parole Board”; and

(b) delete the word “Board” and substitute the words “Commissioner of Prisons”.

In subsection (3) delete the word “Board” and substitute the words “Parole Board”.

In subsection (4) delete the word “Minister” and substitute the words “Parole Board”.

In subsection (5) delete the word “Minister” wherever it occurs and substitute the words “Parole Board”.

Insert next after subsection (5) the following:

“(5A) Where the Parole Board has recalled a prisoner to a prison for failure to comply with any requirements specified in the licence, the prisoner shall be entitled to appear and be heard in person before the Parole Board, before a final decision is made on whether he will be recalled to prison.”

In subsection (6) delete the word “Minister” and substitute the words “Parole Board”.

Section 13

In subsection (1)—

(a) delete the word “Minister” wherever it occurs and substitute the words “Parole Board”; and

(b) delete the word “Board” and substitute the words “Commissioner of Prisons”.

PAROLE BOARD ACT 2001

---

	<p>In subsection (2) delete the word “Minister” wherever it occurs and substitute the words “Parole Board”.</p>
Section 14	<p>In subsection (1)— (a) delete the word “Minister” wherever it occurs and substitute the words “Parole Board”; and (b) delete the word “Board” and substitute the words “Commissioner of Prisons”. In subsection (3) delete the word “Minister” and substitute the words “Parole Board”. In the proviso to subsection (3) delete the word “Minister” and substitute the words “Parole Board”. In subsection (4) delete the word “Minister” wherever it occurs and substitute the words “Parole Board”. In subsection (5) delete the word “Minister” and substitute the words “Parole Board”.</p>
Prison Rules 1980	
Rule 2	<p>Insert in the appropriate alphabetical order the following definition: “Parole Board” means the Board established under section 3 of the Parole Board Act 2001;”.</p>
Rule 160	<p>In paragraph (2) delete the words “relating to the release of prisoners on licence”.</p>
Rule 162	<p>Repeal subparagraph (b) of paragraph (1).</p>
Rule 166	<p>Repeal subparagraph (1) and substitute the following:— “(1) The Parole Board shall review at such intervals as are hereinafter specified the sentences of prisoners—”. In subparagraph (1)(a) delete the word “report” and substitute the word “review”. In subparagraph (1)(b) delete the word “report” and substitute the word “review”. Repeal paragraph (2) and substitute the following— “(2) The Parole Board may, in the case of any such prisoner who is, in the opinion of the Parole Board, suitable for release from prison on licence or under supervision, grant such release from prison.”</p>
Rule 167	<p>Delete the word “Board” wherever it occurs and substitute the words “Parole Board” and delete the words “, then the Board shall as soon as may be report the circumstances to the Minister and shall make such recommendations to the Minister as appear to the Board to be desirable; and the Board shall inform the Minister accordingly”.</p>
Rule 168	<p>Delete the word “Minister” and substitute the words “Parole Board” and delete the word “Board” and substitute the words “Parole Board”.</p>

PAROLE BOARD ACT 2001

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Rule 169	Delete the word “Board” wherever it occurs and substitute the words “Parole Board” and delete the words “,as soon as may be inform the Minister of the circumstances, and shall make such recommendations with respect to” and substitute the word “consider”.
Young Offenders Act 1950	
Section 2	Insert in the appropriate alphabetical order the following definition: ““Parole Board” means the Board established under section 3 of the Parole Board Act 2001;”.
Section 56	In subsection (3)— (a) delete the word “Board” and substitute the words “Parole Board”; and (b) delete the words “report to the Governor and the Minister on the advisability of” and substitute the word “consider”.
Section 62	In subsection (1) delete the word “Governor” and substitute the words “Parole Board”.  In subsection (2)— (a) delete the word “Board” and substitute the words “Parole Board”; and (b) delete the word “Governor” and substitute the words “Parole Board”. In the proviso to subsection (2) delete the word “Governor” and substitute the words “Parole Board”.  In subsection (3) delete the word “Governor” wherever it occurs and substitute the words “Parole Board”.  In paragraph (b) in the proviso to subsection (3) delete the word “Governor” and substitute the words “Parole Board”.  In subsection (4)— (a) delete the word “his” and substitute the word “its”; and (b) delete the word “Governor” and substitute the words “Parole Board”.
Senior Training School Rules 1951	
Rule 2	Insert in the appropriate alphabetical order the following definition: ““Parole Board” means the Board established under section 3 of the Parole Board Act 2001;”.
Rule 121	(a) in subsection (2), delete the words “the Governor or by”; (b) in subsection (3), delete the words “the Governor and to”.
Rule 127	In subsection (1), delete the word “Board” and substitute the words “Parole Board”.  Repeal subsection (2) and substitute the following—

PAROLE BOARD ACT 2001

---

“(2) The Parole Board shall, in the case of an inmate who has undergone corrective training for not less than nine months and who is, in the opinion of the Parole Board, suitable for release from the training school under supervision, assess his prospects on release and the probability that he will not revert to a criminal life and grant such release where deemed appropriate.”.

Rule 129

Delete the word “Governor” and substitute the words “Parole Board” and delete the word “Board” and substitute the words “Parole Board”.

In paragraph (b) delete the word “Governor” and substitute the words “Parole Board”.

Rule 130

Delete the word “Board” wherever it occurs and substitute the words “Parole Board” and delete the words “as soon as may be, inform the Governor and the Minister of the circumstances, and shall make such recommendations with respect to” and substitute the word “consider”.

[Assent Date: 9 March 2001]

[Operative Date: 1 October 2001]

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*[Amended by:*

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