ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER P3

PAROLE OF PRISONERS ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises and consolidates—
Act 8/2011, in force 3 October 2014
Act 7/2012, in force 3 October 2014
Act 1/2015, in force 20 August 2015
Act 13/2016, in force 2 December 2016
U.K S.I. 2019 No. 852, in force 14 May 2019

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PAROLE OF PRISONERS ACT

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PAROLE OF PRISONERS ACT

Interpretation

1. In this Act—

"Anguillian" means a person regarded as an Anguillian in accordance with the provisions of the Constitution of Anguilla;

(U.K. S.I. 2019 No. 852, s. 13(c))

"attorney-at-law" means a legal practitioner admitted to practise before the Eastern Caribbean Supreme Court in Anguilla;

"Board" means the Parole Board established under section 2;

"case" means a case concerning a prisoner who is eligible for parole;

"Chairperson" means the Chairperson of the Board;

"Chief Probation Officer" means the person holding the public office of Chief Probation Officer;

"Court" means the High Court;

"Department of Probation" means the department responsible for probation and parole;

"earliest possible parole date" means the earliest date on which a prisoner eligible for parole may be released on licence;

"eligible for parole", in relation to a prisoner, means that the Board or Governor, as the case may be, may order the release of that prisoner on licence in accordance with section 11(2) or 12(2);

"incapacitated prisoner" means a prisoner who no longer poses a threat to the safety of the public by reason of his affliction with a disease, medical disability or other infirmity and who cannot be cared for appropriately in prison as a result of that disease, medical disability or other infirmity;

"licence" means a licence granted to a prisoner under section 11, 12 or 14;

"member" means a member of the Board and includes the Chairperson;

"Minister" means Minister with responsibility for Parole;

"officer", in relation to the Department of Probation, means a person holding the public office of probation officer and who has been selected by the Chief Probation Officer to carry out the duties imposed on the Department of Probation under this Act;

"prisoner" means a person serving a sentence of imprisonment for the commission of an offence;

"Superintendent" means the Superintendent of Prisons appointed under the Prison Act;

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"victim" means—

(a) the person to whom harm is done or who suffers financial, physical or emotional loss as a result of the commission of the offence for which the prisoner is serving the sentence of imprisonment; and

(b) where the person described in paragraph (a) is dead, ill or otherwise incapable of making representations referred to in section 7(4), the spouse or any relative of that person, anyone who in law or fact has the custody of that person or is responsible for the care or support of that person, or a dependent of that person;

"working day" does not include a Saturday, Sunday or any public holiday.

Constitution and Procedure of the Board

2. (1) The Parole Board is established and shall consist of 5 members appointed by the Governor in Council.

(Act 7/2012, s. 1(a))

(2) Subject to subsection (8), in appointing the members the Governor in Council shall endeavour to ensure that they are appointed from each of the following—

(a) an attorney-at-law formerly engaged in the practice of criminal law;

(b) a social worker, psychologist, psychiatric nurse, or other mental health professional;

(c) a religious leader;

(d) a person with experience in law enforcement but who is not a public officer; and

(e) a member of the general public.

(Act 7/2012, s. 1(b))

(3) The Governor in Council shall appoint one member as the Chairperson.

(4) The members shall serve for a term of 2 years and shall be eligible for re-appointment.

(5) A member may at any time resign his office by notice in writing to the Governor.

(6) When a vacancy occurs in the membership of the Board, the Governor in Council may appoint a person to fill that vacancy for the unexpired portion of the period in respect of which the vacancy occurs, and, subject to subsection (8), that person shall be from the same category of persons specified in subsection (2) as the member in respect of whom the vacancy occurs.

(Act 7/2012, s. 1(c))

(7) When any member is absent from Anguilla, ill, or otherwise unable to discharge his functions or has an interest in the case of a prisoner—

(a) the Governor in Council may for the period of the absence, illness or other inability, or in relation to a particular case, as appropriate, appoint any person he thinks fit to be a member in the place of the member referred to in this subsection; or

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(b) where the urgency of the matter requires the Governor to act before Executive Council can be consulted, the Governor acting in his sole discretion may for the period of the absence, illness or other inability, or in relation to a particular case, as appropriate, appoint any person he thinks fit to be a member in the place of the member referred to in this subsection;

but subject to subsection (8) the person appointed must be from the same category of persons specified in subsection (2) as the said member.

(Act 7/2012, s. 1(d))

(8) If the Governor in Council is unable to appoint a person from a category in subsection (2), (6) or (7) then the Governor in Council may appoint a person whom the Governor in Council believes is suitably qualified to be a member.

(Act 7/2012, s. 1(e))

(9) The Governor in Council 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 Governor in Council considers appropriate.

(10) At a meeting of the Board—

(a) when the matter concerns a prisoner serving a sentence of imprisonment for an offence set out in the Schedule, all members must be present to constitute a quorum; and

(b) in any other matter, any 3 members shall constitute a quorum;

but subject thereto the Board is not disqualified from carrying out its functions by reason of any vacancy in membership.

(11) The Chairperson shall preside at meetings of the Board, but in the event of his absence from a meeting, the members present shall appoint another member to preside at that meeting.

(12) Subject to the provisions of this section and section 7, the members of the Board may regulate the conduct of the proceedings of the Board in such manner as they think fit, but on any matter on which the votes of the members present are equally divided the person presiding at the meeting shall have a second or casting vote.

(13) A person with administrative skills shall be the recording secretary to the Board and shall provide general secretarial assistance to the Chairperson and keep accurate and complete minutes of each meeting of the Board including particulars of—

(a) the notice to members of each meeting;

(b) the members in attendance and the members not in attendance;

(c) any decision or recommendation made and the members voting on it or abstaining from voting on it.

(Act 7/2012, s. 1(f) and Act 13/2016, s. 2)

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Immunity of members of the Board

3. No action for damages or other proceeding may be commenced against a member of the Board for anything done or not done in good faith by the member while carrying out his functions or exercising his powers under this Act.

Functions of the Board

4. It is the duty of the Board—

(a) to make decisions with respect to—

(i) the release of prisoners on licence, save for prisoners sentenced to a term of imprisonment for life and prisoners sentenced to detention during the Court's pleasure,

(ii) the conditions of such a licence, and the variation or cancellation of any such conditions,

(iii) the revocation of such a licence, and

(iv) any other matter which is connected with the release on licence or revocation of the licence of such a prisoner;

(b) to make recommendations to the Governor regarding the release on licence of a prisoner sentenced to a term of imprisonment for life and the conditions of such licence;

(c) at the request of the Court, to conduct reviews of the continued detention of a prisoner sentenced to detention during the Court's pleasure and to make recommendations regarding the release on licence of that prisoner and the conditions of such licence;

(d) at the request of the Superintendent—

(i) to decide whether a terminally ill prisoner should be released without conditions prior to the expiration of his sentence or whether an incapacitated prisoner should be released on licence, though the prisoner may not be eligible for parole,

(ii) where a terminally ill prisoner or an incapacitated prisoner is serving a term of imprisonment for life, to make a recommendation to the Governor as regards the release of the prisoner, though the prisoner may not be eligible for parole, or

(iii) where a terminally ill prisoner or an incapacitated prisoner is sentenced to detention during the Court's pleasure, to make a recommendation to the Court as regards the release of the prisoner; and

(e) to perform such other functions as required by this Act.

Cases to be referred to the Board

5. (1) When a prisoner makes an application for parole, the Superintendent shall refer the case to the Board 2 months before the prisoner's earliest possible parole date.

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(2) The Superintendent shall not refer a case to the Board in relation to a prisoner—

(a) who has an appeal pending in relation to the matter for which he is serving a sentence of imprisonment; or

(b) against whom there are pending criminal matters.

(3) The Superintendent shall, at intervals of not more than one year from the last previous reference of a particular case to the Board, again refer that case to the Board for its decision or recommendation where the prisoner to whom the case relates—

(a) has not been released on licence; or

(b) has had his licence revoked and is continuing to serve his sentence.

(4) Notwithstanding subsection (3), if the Board, the Governor or the Court so directs, a particular case shall be referred to the Board at such shorter interval, not being less than 3 months, as specified by the Board, the Governor or the Court, as the case may be.

(5) When a prisoner who is sentenced to a term of imprisonment of 10 years or more or sentenced to detention during the Court's pleasure applies for parole, the Superintendent shall forward a copy of that application to the Attorney General.

Referral of terminally ill or incapacitated prisoners

6. (1) When a request for release is made by or on behalf of a terminally ill or incapacitated prisoner in accordance with regulations made under this Act, the Superintendent may, after following the prescribed procedure, request that the Board make a decision or recommendation as regards the release of that prisoner.

(2) Where the Board, the Governor, or the Court as the case may be, decides that a terminally ill or incapacitated prisoner should not be released, or where an incapacitated prisoner released on licence has had his licence revoked and is continuing to serve his sentence, the Superintendent, shall at intervals of not more than 6 months after such decision or revocation, request that the Board make a decision or recommendation regarding the release of the prisoner.

(3) Notwithstanding subsection (2), if the Board, the Governor or the Court so directs, the release of a terminally ill or incapacitated prisoner shall be considered by the Board at a shorter interval as specified by the Board, the Governor or the Court as the case may be.

(4) Notwithstanding subsections (2) and (3), the Superintendent may again request that the Board make a decision or recommendation regarding the release of a terminally ill or incapacitated prisoner where the Superintendent reasonably believes based on medical reports that the prisoner's health has significantly deteriorated since the previous decision of the Board, the Governor or the Court as the case may be, in relation to the prisoner.

Basis on which Board to reach decisions or recommendations

7. (1) When a case is referred to the Board, the Board shall deal with the case on consideration of any documents submitted by the Superintendent and any reports it has requested and any other information, whether oral or in writing that it has obtained.

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(2) The documents to be given to the Board in each case shall include—

(a) the prisoner's application for parole;

(b) a report of the nature and circumstance of the offence for which the sentence of imprisonment was imposed;

(c) a report by the Superintendent or other prison officer as to the conduct, demeanour and health of the prisoner while in the prison, including a report as to whether the prisoner successfully completed a rehabilitation programme and a report by a medical officer;

(Act 7/2012, s. 2(a))

(d) details of the prisoner's criminal history, if any;

(e) details of the personal and family background of the prisoner including information regarding his nationality;

(f) any written representation made by the prisoner concerned, including any made by him since his case was last considered by the Board, if it had previously been considered;

(g) an assessment of risk prepared by the Department of Probation in accordance with section 9(1)(b);

(h) documented official or community attitudes as regards the release of the prisoner, if any; and

(i) any other relevant documentation.

(3) The Board shall give the prisoner to whom the case relates an opportunity to make representations in person before reaching a final decision.

(4) Where, in accordance with regulations made under this Act, a victim wishes to make written representation or wishes to appear in person to make oral representations before the Board, the Board shall give the victim an opportunity to do so before reaching a final decision.

(Act 7/2012, s. 2(b))

(5) Save for a decision or recommendation regarding the conditions of a licence, a decision or recommendation of the Board made pursuant to this Act shall—

(a) where the matter concerns a prisoner serving a sentence of imprisonment for an offence set out in the Schedule, be based on the unanimous votes of the members of the entire Board; and

(b) in any other matter, be based on the affirmative votes of the majority of the members of the entire Board.

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Considerations of the Board

8. In carrying out its functions under this Act, the Board shall consider the following—

(a) whether it is no longer necessary for the protection of the public that a particular prisoner be imprisoned;

(b) whether the prisoner is sufficiently rehabilitated that his continued rehabilitation can be safely carried out in the community;

(c) whether the prisoner is capable of adhering to the conditions of a licence; and

(d) the risk of the prisoner re-offending.

Duties of Department of Probation

9. (1) For the purposes of this Act, the Department of Probation shall—

(a) interview a prisoner who is eligible for parole, whose detention is being reviewed or who is being considered for release and interview the victim of the relevant offence as provided for in regulations made under this Act;
(Act 7/2012, s. 3)

(b) prepare and submit to the Board a report containing information necessary to comply with such requirements of section 7(2) as the Superintendent may specify, and such report shall include an assessment of risk regarding—

(i) whether the prisoner is a suitable candidate for release on licence,

(ii) the risk of the prisoner re-offending and risk of the prisoner endangering the community,

(iii) the risk of the prisoner harming himself and his vulnerability to possible retaliation by the community,

(iv) the suitability of the prisoner's proposed residence if released on licence and, if necessary, a proposed alternative residence,

(v) a proposed programme for the prisoner's rehabilitation and recommendations with respect to conditions to be included in his licence, if the prisoner is in fact considered a suitable candidate for release on licence, and

(vi) if applicable, any representations made by the victim in accordance with regulations made under this Act;

(c) implement an appropriate programme for the rehabilitation of the prisoner;

(d) supervise a prisoner released on licence with a view to assisting the prisoner's rehabilitation and reintegration into the community as a law-abiding person;

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(e) where appropriate, prepare and submit to the Board, on behalf of a prisoner released on licence or of its own accord, a request to vary or cancel a condition of the licence along with a report setting out the grounds for such variation or cancellation;

(f) where appropriate, prepare and submit to the Board a report of a prisoner's breach of the conditions of a licence which shall set out the basis of the allegation of breach; and

(g) perform any other duties required by this Act.

(2) The duties imposed on the Department of Probation under this Act shall be exercised by the Chief Probation Officer or any officer of the Department of Probation selected by the Chief Probation Officer.

(3) For the purpose of ensuring the effective supervision of prisoners released on licence, the Chief Probation Officer shall—

(a) assign officers to serve in such areas and for such matters as he determines;

(b) direct and supervise the work of officers;

(c) formulate and implement methods of investigation and supervision of such prisoners, record keeping and reporting;

(d) develop policies and procedures for dealing with prisoners released on licence; and

(e) prepare and submit to the Board biannually, a report regarding the prisoners under its supervision during the period covered by the report.

Submission of the Attorney General

10. (1) When a prisoner who is sentenced to a term of imprisonment of 10 years or more or sentenced to detention during the Court's pleasure applies for parole, the Attorney General may make a written submission to the Board supporting or objecting to the prisoner's application.

(2) The Attorney General shall forward his submission under subsection (1) to the Superintendent not less than 14 working days before the date set for hearing and the Superintendent shall within 5 days of receiving such submission—

(a) submit it to the Board; and

(b) provide a copy to the prisoner to whom it relates.

(Act 7/2012, s. 4)

Release of prisoners on licence

11. (1) This section does not apply to prisoners sentenced to a term of imprisonment for life or to prisoners sentenced to detention during the Court's pleasure.

(2) The Board may order the release on licence of a prisoner who is sentenced to a term of imprisonment of more than one year, after the prisoner has served not less than one half of his sentence.

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(3) For the purpose of determining under subsection (2) the length of that part of the sentence which a prisoner has served, a period spent in custody—

(a) before conviction; and

(Act 7/2012, s. 5(a))

(b) between conviction and sentence; and

shall not be taken into account unless the relevant court directs otherwise on passing the sentence or determining an appeal.

(4) Notwithstanding subsection (2), the Board may order the release on licence of an incapacitated prisoner or the release with or without conditions of a terminally ill prisoner, though the prisoner may not be eligible for parole and in deciding whether to make such an order, the Board shall act in accordance with sections 7 and 8.

(Act 7/2012, s. 5(b))

(5) A licence granted to a prisoner under this section may be made subject to such conditions, if any, as appear to the Board to be desirable either generally or in any particular case, and any such conditions may be varied from time to time or cancelled by the Board, after considering the report of the Department of Probation prepared in accordance with section 9(1)(e).

(6) A prisoner released on licence under this section shall comply with such conditions, if any, as may be specified in the licence.

(7) A licence granted to a prisoner shall, unless earlier revoked, remain in force until the expiration of two thirds of the term of his sentence.

(Act 7/2012, s. 5(c))

(8) When the Board releases on licence a prisoner who is not an Anguillian, the Board may recommend to the Governor that the Governor make an expulsion order in relation to that prisoner under the Undesirable Persons Expulsion Act.

(U.K. S.I. 2019 No. 852, s. 13(c))

Release of life prisoners

12. (1) When sentencing a prisoner to a term of imprisonment for life, the Court may specify the period of imprisonment the prisoner must serve before he can make an application for parole, the period being such as the Court considers appropriate to satisfy requirements of retribution and deterrence.

(2) The Governor shall, if the Board so recommends, order the release on licence of a prisoner sentenced to a term of imprisonment for life—

(a) after the prisoner has served the period of imprisonment specified by the Court under subsection (1); or

(b) where no period of imprisonment has been specified by the Court under subsection (1), after the prisoner has served not less than 15 years of his sentence.

(3) Notwithstanding subsection (2), the Governor shall, if the Board so recommends, and with the approval of the Judge of the Court, order the release on licence of an incapacitated prisoner

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sentenced to a term of imprisonment for life or the release without conditions of a terminally ill prisoner sentenced to a term of imprisonment for life, though the prisoner may not be eligible for parole.

(4) The provisions of sections 11(3), (5) and (6) apply to a prisoner released on licence under this section, save that licence conditions may be varied or cancelled by the Governor in accordance with the recommendation of the Board.

(5) A licence granted to a prisoner sentenced to a term of imprisonment for life shall remain in force for such period as recommended by the Board, being not less than 10 years.

(Act 7/2012, s. 6)

(6) Before making a recommendation to the Governor under this section the Board shall act in accordance with sections 7 and 8.

(7) When the Board makes a recommendation to the Governor under this section, he shall act in accordance with that recommendation, unless the approval of the Judge of the Court is required under subsection (3) in which case that approval must be obtained before the Governor can act.

(8) When the Governor releases on licence a prisoner sentenced to a term of imprisonment for life who is not an Anguillian, the Governor may make an expulsion order in relation to that prisoner under the Undesirable Persons Expulsion Act.

(U.K. S.I. 2019 No. 852, s. 13(c))

Review of prisoners sentenced to detention during the Court's pleasure

13. (1) The Board shall review the continued detention of a prisoner sentenced to detention during the Court's pleasure at such intervals as ordered by the Court at the time of sentencing the prisoner or thereafter.

(2) Notwithstanding subsection (1), the detention of a juvenile prisoner during the Court's pleasure shall be reviewed annually by the Board until the juvenile prisoner attains the age of 18 years, and thereafter that prisoner's detention shall be reviewed at such intervals as ordered by the Court.

(3) The Board shall record and forward to the Court, its findings in relation to the review of the continued detention of a prisoner sentenced to detention during the Court's pleasure.

Release of prisoners sentenced to detention during the Court's pleasure

14. (1) If requested to do so by the Court, the Board shall make a recommendation to the Court regarding the release on licence of a prisoner sentenced to detention during the Court's pleasure.

(2) Without prejudice to the generality of subsection (1), when a prisoner who committed an offence while being a juvenile, has been sentenced to detention during the Court's pleasure in relation to that offence and has been so detained for 15 years, the Court shall request that the Board make a recommendation regarding the release on licence of that prisoner.

(3) Notwithstanding subsection (1), if requested to do so by the Superintendent, the Board shall make a recommendation to the Court regarding the release on licence of an incapacitated prisoner who is sentenced to detention during the Court's pleasure or the release without conditions of a terminally ill prisoner who is sentenced to detention during the Court's pleasure.

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(4) Before making a recommendation to the Court under this section, the Board shall act in accordance with sections 7 and 8.

(5) After considering the recommendation of the Board under this section, the Court may order the release on licence of a prisoner sentenced to detention during the Court's pleasure and the provisions of sections 11(5) and (6) apply to that prisoner, save that any functions of the Board specified in those sections shall be carried out by the Court.

(6) After considering the recommendation of the Board under this section, the Court may order the release without conditions of a terminally ill prisoner sentenced to detention during the Court's pleasure.

(7) A licence granted to a prisoner sentenced to detention during the Court's pleasure shall remain in force for such period as determined by the Court, being not less than 5 years.

(8) When the Court releases on licence a prisoner sentenced to detention during the Court's pleasure who is not an Anguillian, the Court may recommend that the Governor make an expulsion order in relation to that prisoner under the Undesirable Persons Expulsion Act.

(U.K. S.I. 2019 No. 852, s. 13(c))

Revocation of licence for breach of condition

15. (1) Notwithstanding section 2(9), under this section Board means the Chairperson or the acting Chairperson and at least two other members.

(2) When the Department of Probation has reasonable grounds for believing that a prisoner released on licence is in breach of a condition of that licence, the Department shall submit to the Board, a report of the alleged breach prepared in accordance with section 9(1)(f).

(3) On receipt of a report submitted in accordance with subsection (2), the Board shall meet to determine whether the information presented in the report establishes a *prima facie* case that there has been a breach of the condition of the licence.

(4) If on review of the information presented in the report under subsection (3), the Board is not satisfied that a *prima facie* case has been established, the licence shall be allowed to continue.

(5) If on review of the information presented in the report under subsection (3), the Board is satisfied that a *prima facie* case has been established, the Board shall forward its findings to the Commissioner of Police and the Commissioner of Police shall apply to the Magistrate's Court for a warrant to arrest the prisoner.

(6) If it appears to the Magistrate on information on oath that there are reasonable grounds for believing that a prisoner has breached the conditions of his licence, the Magistrate shall issue a warrant for the arrest of the prisoner and upon his appearance, shall—

(a) inform the prisoner of the licence conditions he is alleged to have breached; and

(b) remand the prisoner to prison until the Board determines whether or not the prisoner's licence should be revoked.

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(7) A prisoner returned to prison under subsection (6) assumes the status of a remand prisoner and his licence is automatically suspended.

(8) On the return of a prisoner to prison under subsection (6), the Superintendent shall—

(a) provide the prisoner with any documentary evidence in support of the allegations of breach of the licence conditions; and

(b) inform the prisoner of his right to obtain legal representation and to present evidence and make representations before the Board.

(9) Within 8 working days of the remand of a prisoner under subsection (6), the Board shall meet to conduct a hearing to determine whether or not his licence should be revoked.

(10) At the hearing referred to in subsection (9), the Board shall receive documentary and oral evidence and shall give the prisoner or his attorney-at-law an opportunity to show cause why his licence should not be revoked.

(11) If the Board is satisfied that the evidence presented under subsection (9) proves on a balance of probabilities that the prisoner is in breach of the conditions of the licence, the Board may do one of the following—

(a) revoke the licence;

(b) order the release of the prisoner subject to the imposition of additional licence conditions;

(c) if the prisoner was sentenced to a term of imprisonment for life, recommend that the Governor take action under paragraph (a) or (b); or

(d) if the prisoner was sentenced to detention during the Court's pleasure, recommend that the Court take action under paragraph (a) or (b).

(12) On the revocation of the licence of a prisoner under this section, he resumes the status of a convicted prisoner and shall continue to serve the unexpired portion of his sentence.

(13) If the Board is not satisfied that the evidence proves on a balance of probabilities that that prisoner is in breach of the conditions of the licence, the Board shall—

(a) recommend that the Governor release the prisoner, if the prisoner was sentenced to a term of imprisonment for life;

(b) recommend that the Court release the prisoner, if the prisoner was sentenced to detention during the Court's pleasure; or

(c) in any other case, release the prisoner on licence;

and upon release, the licence of the prisoner shall continue unless or until it has expired or unless it is subsequently revoked in accordance with this Act.

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(14) When a recommendation is made by the Board under this section—

(a) to the Governor, he shall act in accordance with that recommendation; or

(b) to the Court, the Court may act in accordance with that recommendation.

Revocation of licence for commission of further offence

16. (1) When a police officer has reasonable grounds for believing that a prisoner released on licence has committed an offence during the period of release, the police officer shall arrest the prisoner without a warrant and as soon as practicable after his arrest, bring him before the Magistrate's Court to be dealt with according to law.

(2) On the appearance of the prisoner before the Magistrate's Court, the Magistrate shall remand the prisoner.

(3) Notwithstanding anything to the contrary in any other law, a prisoner released on licence who is charged with committing an offence during the period of release, shall not be admitted to bail by any court.

(4) A prisoner remanded in accordance with subsection (2) assumes the status of a remand prisoner and his licence is automatically suspended.

(5) The Board shall revoke the licence of a prisoner who is convicted of an offence committed during the period of release on licence, and that prisoner shall continue to serve the unexpired portion of his sentence for the original offence, in addition to any new sentence of imprisonment imposed by the relevant court in relation to the offence committed during the period of release on licence, unless that court directs otherwise.

(6) Subject to subsection (7), if a prisoner charged with an offence allegedly committed during the period of release on licence is not convicted, the prisoner may be released and if so released his licence shall continue until it has expired or unless it is subsequently revoked in accordance with this Act.

(7) The Board may revoke or vary the conditions of a licence granted to a prisoner who was not convicted of a criminal offence if the Board considers that the circumstances leading to the trial and the evidence led at the trial are such that it is in the public interest to do so.

(8) If a prisoner to whom this section applies was originally sentenced to a term of imprisonment for life, then the functions of the Board under this section shall be carried out by the Governor after consultation with the Board.

(Act 7/2012, s. 7(a))

(9) If a prisoner to whom this section applies was originally sentenced to detention during the Court's pleasure, then the functions of the Board under this section shall be carried out by the Court after consultation with the Board.

(Act 7/2012, s. 7(b))

Revocation of licence of incapacitated prisoner

17. (1) Where an incapacitated prisoner is released on licence and the Superintendent reasonably believes based on medical and any other reliable reports that the prisoner's medical condition has

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improved to the extent that he is no longer an incapacitated prisoner, the Superintendent shall request that the Board make a decision or recommendation regarding the revocation of the licence of the prisoner.

(2) In making a decision or recommendation as requested in subsection (1), the Board shall be entitled to—

(a) examine any medical reports and any other reliable reports in relation to the prisoner;

(b) request that the prisoner undergoes, such medical examination as the Board may direct;

(Act 7/2012, s. 8)

(c) request and review an assessment of risk prepared by the Department of Probation.

(3) If the Board is satisfied based on the information obtained under subsection (2) that the prisoner is no longer an incapacitated prisoner, the Board shall—

(a) recommend that the Governor revoke the licence, if the prisoner was sentenced to a term of imprisonment for life;

(b) recommend that the Court revoke the licence, if the prisoner was sentenced to detention during the Court's pleasure; or

(c) in any other case, revoke the licence of the prisoner.

(4) When a recommendation is made by the Board under this section—

(a) to the Governor, he shall act in accordance with that recommendation; or

(b) to the Court, the Court may act in accordance with that recommendation.

(5) Where the Board, the Governor or the Court as the case may be, revokes the licence of a prisoner whom they believe is no longer an incapacitated prisoner, the prisoner shall—

(a) be served personally with a notice of such revocation;

(b) be returned to prison by a police officer appointed for that purpose; and

(c) continue to serve the unexpired portion of his sentence;

but the return of the prisoner to prison does not affect his eligibility for parole, if applicable.

Emergency recall procedure

18. (1) Notwithstanding sections 15, 16 and 17, the Chairperson of the Board may, on receipt of information from the Chief Probation Officer and after consultation with a Board member and the Commissioner of Police, revoke the licence of a prisoner.

(2) The Commissioner of Police shall instruct a police officer to arrest the prisoner whose licence has been revoked under subsection (1) and that person shall be returned to prison to await the emergency hearing procedure.

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(3) Within 3 working days of the remand of a prisoner under subsection (2), the Board shall meet to conduct a hearing to determine whether or not his licence should continue to be revoked.
(Act 7/2012, s. 9)

(4) The hearing of the Board under this section shall be conducted in accordance with section 15(10), (11), (12) and (13).

Reports of the Board

19. (1) When a prisoner is released on licence, a licence is revoked, or a terminally ill prisoner is released without conditions prior to the expiration of his sentence, the Board shall forward to the Governor a report of its decision to release the prisoner or revoke the licence.

(2) The Board shall, within 3 months after the end of each calendar year forward to the Governor an annual report of the operation of the Board during that calendar year.

(3) The annual report referred to in subsection (2) shall specify any requests made by the Court under section 14(1) or the Superintendent under section 14(3).

(4) The Governor shall as soon as possible after receiving the annual report, cause copies of the annual report to be laid before the House of Assembly by the Minister.

Expenses of the Board

20. Members of the Board shall receive such remuneration or allowance as may be prescribed by the Governor in Council and the cost thereof and any other expenses of the Board shall be defrayed out of money authorised for that purpose by the House of Assembly.

Regulations

21. The Governor in Council may make regulations for carrying out the purposes of this Act.

Citation

22. This Act may be cited as the Parole of Prisoners Act, Revised Statutes of Anguilla Chapter P3.

Transitional provisions[1]

23. (1) Subject to subsection (2), this Act applies to a prisoner serving a sentence of imprisonment which began before, on or after 3 October 2014.

(2) Section 12(2)(a) does not apply to a prisoner sentenced to a term of imprisonment for life before 3 October 2014.

(3) Where before 3 October 2014 a prisoner is sentenced to detention during Her Majesty's pleasure, that prisoner is deemed to have been sentenced to detention during the Court's pleasure for the purposes of this Act and may apply to the Court for an order under section 13.

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[1] The Parole of Prisoners (Validation) Act (Act 1 of 2015) is omitted from the Revised Act since it is spent. That Act validates appointments to the Parole Board made before the commencement of Act 8/2011, decisions made by the Parole Board whose members were so appointed and other things done by persons or institutions exercising power under the Act before the commencement of that Act.

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SCHEDULE

(Sections 2(10)(a) and 7(5)(a))

OFFENCES

Where the matter being considered by the Board concerns a prisoner serving a sentence of imprisonment for one of the following offences, the entire Board must be present to constitute a quorum and the decision or recommendation of the Board must be unanimous:

Offences under the Criminal Code—

Section 53	Treason
Section 54	Concealment of treason
Section 55	Treason felony
Section 57	Incitement to mutiny
Section 60	Piracy *Iure Gentium*
Section 74(1)	Unlawful oath to commit serious offences
Section 125(1)(a)	Rescue from lawful custody
Section 143	Sexual intercourse with person under 14 years of age
Section 144	Sexual intercourse with person between 14 and 16 years of age
Section 145	Sexual intercourse with minor suffering from mental disorder
Section 146	Sexual intercourse with dependent child
Section 147	Indecent assault on minor
Section 148	Procuration of minor
Section 149	Living on earnings of prostitution of minor
Section 150	Failure to disclose HIV infection prior to sexual intercourse with person between 16 and 18 years of age
Section 151	Causing or encouraging prostitution of minor
Section 152	Householder, etc., permitting defilement of minor on his premises
Section 153	Forcible taking or detention of minor with intent to have sexual intercourse
Section 154	Unlawful detention of minor with intent to have sexual intercourse

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Section 155	Abduction of unmarried person under 16 years of age
Section 156	Abduction of unmarried person between 16 and 18 years of age
Section 159	Sexual harassment of minor
Section 162	Rape
Section 163	Sodomy and bestiality
Section 164	Incest
Section 165	Unlawful sexual intercourse with a woman suffering from mental disorder
Section 166	Sexual assault by husband
Section 167	Attempted buggery, and indecent assault, on a man
Section 168	Indecent assault on a woman
Section 169	Abduction or kidnapping of woman with intent to marry, etc.
Section 170	Causing prostitution of woman
Section 171	Procuring woman by threats or false pretences
Section 172	Administering drugs to facilitate sexual intercourse
Section 173	Detention of woman in brothel, etc.
Section 186	Child destruction
Sections 187 and 189	Murder
Section 191	Attempted murder
Section 192	Manslaughter
Section 194	Infanticide
Section 195	Threats to murder
Section 196	Conspiracy to murder
Section 197	Aiding, abetting, etc., suicide
Section 204	Wounding or causing grievous bodily harm with intent
Section 205	Wounding or inflicting grievous bodily harm

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Section 207	Attempting to choke in order to commit an offence
Section 208	Using anaesthetic to commit an offence
Section 209	Administering poison so as to endanger life or inflict grievous bodily harm
Section 210	Administering poison with intent to injure, etc.
Section 211	Causing grievous bodily harm by corrosive or explosive substance
Section 212	Using explosive or corrosive substance with intent to do grievous bodily harm
Section 213	Placing explosive near building, etc., with intent to cause bodily harm
Section 214	Causing explosion likely to endanger life or property
Section 215	Setting traps, etc., with intent to inflict grievous bodily harm
Section 216	Unlawful use of firearms
Section 223	Assault causing actual bodily harm
Section 224	Assault on person protecting wreck
Section 226	Assaults on female or male under 14 years of age
Section 229	Impeding escape from shipwreck
Section 230	Neglecting apprentice or servant
Section 231	Failure to supply necessaries
Section 232	Abandoning or exposing child under 2 years of age
Section 233	Cruelty to children
Section 235	Kidnapping
Section 236	Abduction
Section 240	Child stealing
Section 258	Robbery
Section 259	Burglary
Section 260	Aggravated burglary

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Section 311(3) and (4)	Damaging or destroying property by fire
Section 317	Acts tending to the destruction of aircraft and ships
Section 318(1)	Casting away ships, etc.

Attempting, aiding, abetting, counselling or procuring, the commission of any of the above offences and conspiring to commit, and being an accessory after the fact with respect to, any of the above offences.

Offences under the Firearms Act—

Section 23	Restrictions relating to the discharge of firearms and ammunition
Section 24	Possessing firearm with intention to injure
Section 25	Use or possession of firearm or imitation firearm in certain circumstances

Attempting, aiding, abetting, counselling or procuring, the commission of any of the above offences and conspiring to commit, and being an accessory after the fact with respect to, any of the above offences.

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