

[Legal Notice No. 17]

**CORRECTIONAL SERVICES (PAROLE) (AMENDMENT)
REGULATIONS 2020**

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CORRECTIONAL SERVICES ACT 2007

CORRECTIONAL SERVICES (PAROLE) (AMENDMENT) REGULATIONS 2020

In exercise of the powers conferred by section 75 of the *Correctional Services Act 2007 (Act No. 8 of 2007)*, the Minister for Police, National Security and Correctional Services makes the following Regulations:

1 Citation

These Regulations may be cited as the *Correctional Services (Parole) (Amendment) Regulations 2020*.

2 Commencement.

These Regulations commence on the date they are published in the *Gazette*.

3 Amendment of Correctional Services (Parole) Regulations 2014

These Regulations amend the *Correctional Services (Parole) Regulations 2014 (LN 47/14) (“Principal Regulations”)*.

4 Amendment of regulation 2 (Interpretation)

Regulation 2 of the Principal Regulations is amended by inserting in alphabetical order:

“**Parole Order**” means an order for the release of a prisoner signed and issued by the Minister under regulation 19(2) after granting the prisoner parole;”.

5 Amendment of regulation 3 (Qualifications for membership)

(1) Regulation 3(1) of the Principal Regulations is amended by deleting “Judicial and Legal Services Commission approves the appointment” and substituting “person has been nominated by the Judicial and Legal Services Commission”.

- (2) Regulation 3(2) of the Principal Regulations is amended by deleting “Medical and Dental Board confirms the person’s qualifications for appointment and approves the appointment” and substituting “person has been nominated by the Medical and Dental Board”.

6 Repeal and replacement of regulation 5

The Principal Regulations are amended by repealing regulation 5 and replacing it with:

“5 Who may apply for parole

- (1) Subject to subregulations (3) and (4), a convicted prisoner who is serving a life sentence may only apply to the Board for parole if the prisoner has served:
- (a) the minimum term of imprisonment set by the Court on sentencing the prisoner; or
 - (b) if no minimum term was set – at least 15 years of his or her effective sentence.
- (2) Subject to subregulations (3) and (4), a convicted prisoner, other than a prisoner serving a life sentence, may apply to the Board for parole if the prisoner has served:
- (a) the minimum term of imprisonment set by the Court on sentencing the prisoner; or
 - (b) if no minimum term was set – at least 8 years of his or her effective sentencing.
- (3) A prisoner convicted of an offence under Part XX of the Penal Code (Cap. 26) may only apply for parole if the Commissioner has certified that:
- (a) reconciliation has taken place between:
 - (i) the prisoner; and
 - (ii) the family and community of the victim; or
 - (b) reconciliation is not possible, but the Commissioner considers that the prisoner’s application should be considered.

- (4) A prisoner who has returned to custody following revocation of parole may only re-apply for parole if eligible to do so under regulation 24A.

5A Form of application

An application for parole must be made in the approved form.”

7 Amendment of regulation 6 (Commandant’s report)

Regulation 6(2)(b) of the Principal Regulations is amended by deleting “forward” and substituting “if the application complies with regulations 5 and 5A – forward.”

8 Amendment of regulation 7 (Listing of application)

Regulation 7 of the Principal Regulations is amended by deleting paragraph (b) and substituting:

- “(b) inform the applicant of the date of the meeting and the requirement under regulation 13(1A) that the applicant must appear before the Board at the meeting; and
- (c) inform the Commissioner of Police of the application and the date of the meeting, and invite the Commissioner of Police to make a written submission in relation to the application.”

9 Amendment of regulation 13 (Information that may be considered)

- (1) Regulation 13(1)(b) of the Principal Regulations is amended by deleting “subregulation (2)” and substituting “this regulation.”
- (2) Regulation 13 of the Principal Regulations is amended by inserting after subregulation (1):

“(1A) During the Board’s consideration of the application, the applicant:

- (a) must appear before the Board in person; and
- (b) may make an oral or written submission to the Board; and
- (c) may be questioned by the Board in relation to the application

“(1A) During the Board’s consideration of the application, the applicant:

- (a) must appear before the Board in person; and
- (b) may make an oral or written submission to the Board; and
- (c) may be questioned by the Board in relation to the application.

(1B) If the applicant does not appear, the Board:

- (a) must cease considering the application; and
- (b) must not prepare the report under regulation 14.”

(3) Regulation 13(2)(a) of the Principal Regulations is amended by deleting “applicant” and substituting “Commissioner of Police”.

(4) Regulation 13 of the Principal Regulations is amended by inserting after subregulation (2):

“(2A) To avoid doubt, a victim of the offence is not compelled to make a written submission or appear before the Board.”

10 Amendment of regulation 21 (Conditions of parole)

Regulation 21(2) is amended by deleting “may” and substituting “may, on the recommendation of the Board,”

11 Repeal and replacement of regulation 22

The Principal Regulations are amended by repealing regulation 22 and replacing it with:

“22 Automatic revocation

- (1) This regulation applies if:
 - (a) a parolee is convicted of a criminal offence in Solomon Islands during the parole period; or
 - (b) a parolee fails to appear before the Board when required under regulation 23(1A) and the Board determines that the parolee does not have a reasonable excuse for failing to appear.
- (2) On the parolee being convicted of the offence or failing to appear before the Board:
 - (a) the parolee’s parole is automatically revoked; and
 - (b) the Secretary must prepare and send a Revocation of Parole Order in Form 2 in Schedule 1 to the Minister as soon as practicable.”

12 Amendment of regulation 23 (Revocation of Parole Order)

- (1) Regulation 23(1)(a) of the Principal Regulations is amended by deleting “Parolee Order” and substituting “Parole Order”.
- (2) Regulation 23 of the Principal Regulations is amended by inserting after subregulation (1):

“(1A) Before making a recommendation, the Board must direct in writing the parolee to appear before it.”
- (3) Regulation 23 of the Principal Regulations is amended by inserting after subregulation (2):

- “(3) If a police officer charges a parolee with an offence, the officer must inform the Board of the charge so that the Board can consider whether the circumstances of the charge may justify recommending revocation of the parole’s parole under subregulation (1).”

13 New regulation 24A

The Principal Regulations are amended by inserting after regulation 24:

“24A Eligibility to re-apply for parole

- (1) This section applies to a convicted prisoner whose parole has been revoked.
- (2) If the prisoner was serving a life sentence and parole was revoked because the prisoner committed an offence involving violence, the prisoner may re-apply for parole on the later of:
 - (a) the expiry of the minimum term of imprisonment set by the Court on sentencing the prisoner for the additional offence;
or
 - (b) if no minimum term was set – 5 years after returning to custody.
- (3) If the prisoner was serving a life sentence and parole was revoked for any other reason, the prisoner may re-apply for parole 2 years after returning to custody.
- (4) If the prisoner was serving a sentence other than a life sentence, the prisoner:
 - (a) is not eligible to re-apply for parole; and
 - (b) must serve the longer of the following sentences:
 - (i) the prisoner’s new effective sentence (if any);
 - (ii) the balance of the prisoner’s previous sentence.”

14 Amendment of Part 8

- (1) Part 8 of the Principal Regulations is amended by inserting after the heading to that Part:

“Division 1 Transitional matters and consequential amendments for Correctional Services (Parole) Regulations 2014”.

- (2) Part 8 of the Principal Regulations is amended by inserting after regulation 28:

“Division 2 Transitional matters for Correctional Services (Parole) (Amendment) Regulations 2020

29 Definition

In this Division, “*commencement date*” means the date the *Correctional Services (Parole) (Amendment) Regulations 2020* commence.

30 Pending applications

An application for parole made, but not decided, before the commencement date must be decided under the Principal Regulations as in force on the commencement date.

31 Existing parole and Parole Orders are subject to amended Regulations

To avoid doubt, any parole and any Parole Orders in effect before the commencement date continue on and from that date to have effect in accordance with their terms and conditions as if the parole were granted, and the Parole Orders were made and issued, under and subject to the Principal Regulations as in force on the commencement date.”.

Made on this twenty-first day of February, 2020.

HON. ANTHONY KAMUTULAKA VEKE
Minister for Police, National Security
and Correctional Services