



Number 36 of 1998

CRIMINAL JUSTICE (RELEASE OF PRISONERS) ACT, 1998

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Provisions of the Agreement Reached in the Multi-Party Talks
which appear under the heading "Prisoners".



Number 36 of 1998

CRIMINAL JUSTICE (RELEASE OF PRISONERS) ACT, 1998

AN ACT TO MAKE FURTHER PROVISION IN RELATION TO THE RELEASE OF PRISONERS OR THE REMISSION OR COMMUTATION OF THEIR SENTENCES AND, FOR THAT PURPOSE, TO ESTABLISH A BODY TO BE KNOWN AS THE RELEASE OF PRISONERS COMMISSION TO ADVISE, IN SPECIFIED CIRCUMSTANCES, WITH RESPECT TO THE EXERCISE BY THE GOVERNMENT OR THE MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM OF ANY POWER CONFERRED ON THEM OR HIM OR HER TO PROVIDE FOR SUCH RELEASE, REMISSION OR COMMUTATION.

[13th July, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act—

Interpretation.

“the Agreement Reached in the Multi-Party Talks” means the agreement set out in Annex 1 to the British-Irish Agreement done at Belfast on the 10th day of April, 1998;

“the Minister” means the Minister for Justice, Equality and Law Reform;

“power of release”, in relation to prisoners, means a power conferred on the Government or the Minister, as the case may be, by or under any enactment to provide for—

- (a) the release (including the temporary release) of prisoners from prisons or places of detention, or
- (b) the remission or commutation of any punishment imposed by a court exercising criminal jurisdiction;

“qualifying prisoners” shall be construed in accordance with *section 3(2)* of this Act;

“relevant provisions” has the meaning assigned to it by *section 3(4)* of this Act.

(2) A reference in the Act to advice being given to the Minister with respect to the exercise of any power of release in relation to prisoners shall, where the particular power of release proposed to be

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S.1 exercised in relation to the matter concerned is conferred on the Government, be construed as a reference to advice being given to the Minister with a view to its being communicated to the other members of the Government for the purposes of the Government considering whether to exercise that particular power or not.

The Commission. **2.**—(1) There shall stand established, on such day as the Minister may by order appoint, a body which shall be known as An Coimisiún um Scaoileadh Saor Príosúnach or, in the English language, the Release of Prisoners Commission (in this Act referred to as “the Commission”) to perform the function conferred on it by this Act.

(2) The Commission shall be independent in the performance of its function under this Act.

Function of the Commission. **3.**—(1) The function of the Commission shall be to advise, on being requested to do so under *subsection (2)* of this section, the Minister with respect to the exercise, by reference to the relevant provisions, of any power of release in relation to prisoners mentioned in that subsection.

(2) The Minister shall, from time to time as he or she considers appropriate, request the Commission to give advice with respect to the exercise, by reference to the relevant provisions, of any power referred to in *subsection (1)* of this section in relation to persons specified by the Minister to be qualifying prisoners for the purposes of those provisions (in this Act referred to as “qualifying prisoners”) and the Commission shall comply with such a request.

(3) The Commission may, if it considers it necessary to do so for the purpose of performing its function under this Act, request the Minister to furnish to it information specified in the request, being information that is in the possession of the Minister or may reasonably be procured by him or her, and the Minister shall comply with such a request.

(4) In this section “relevant provisions” means those provisions of the Agreement Reached in the Multi-Party Talks which appear under the heading “Prisoners” in that Agreement and which, for convenience of reference, are set out in the *Schedule* to this Act.

Exercise of power of release by reference to relevant provisions. **4.**—In considering whether to exercise, by reference to the relevant provisions, any power of release in relation to qualifying prisoners, the Minister or the Government, as the case may be, shall have regard to the relevant provisions and the advice concerned given by the Commission under *section 3* of this Act.

Membership and procedure of the Commission. **5.**—(1) Without prejudice to *subsection (4)* of this section, the Commission shall consist of a chairperson and 2 ordinary members who shall be appointed to be members of the Commission by the Minister.

(2) The chairperson of the Commission shall be a person who has practised as a barrister or solicitor for a period of 7 years prior to his or her being appointed as a member of the Commission.

(3) Of the ordinary members of the Commission—

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(a) one shall be an officer of the Minister (other than an officer referred to in *paragraph (b)* of this subsection), and

(b) one shall be a member of the Probation and Welfare Service.

(4) Notwithstanding anything in the preceding provisions of this section, the Minister may from time to time appoint a person to be a member of the Commission for the purpose of that person acting as chairperson of the Commission in respect of business falling to be transacted by the Commission, being business in relation to which the chairperson referred to in *subsection (2)* of this section is of opinion he or she should not deal with, having regard to any professional advice previously given by him or her as a barrister or solicitor.

(5) A person appointed to be a member of the Commission under *subsection (4)* of this section shall be a person who would be eligible, on the date of his or her being so appointed, for appointment to the office of chairperson referred to in *subsection (2)* of this section.

(6) The members of the Commission shall hold and vacate office upon such terms and conditions as the Minister may determine.

(7) The Minister may appoint a person to be a member of the Commission for the purpose of filling a casual vacancy that may arise among its members.

(8) The Minister may at any time remove a member of the Commission from office for stated reasons.

(9) A member of the Commission may at any time resign from office by letter addressed to the Minister.

(10) The members of the Commission may be paid such remuneration and allowances for expenses, if any, incurred by them as the Minister, with the consent of the Minister for Finance, may, from time to time, determine.

(11) The Commission shall regulate the procedure and business of the Commission.

6.—(1) Not later than 2 years after the date of its establishment under *section 2* of this Act, the Commission shall make a report in writing to the Minister of its activities during the period beginning on that date and ending on the making of that report.

Report of the Commission and provision for its dissolution.

(2) The Minister shall cause a copy of the report referred to in *subsection (1)* of this section to be laid before each House of the Oireachtas.

(3) If, on or after the expiration of the period of 2 years beginning on the date of its establishment under *section 2* of this Act, the Minister is of opinion, having regard to the relevant provisions, that it is no longer necessary for the Commission to remain in being, he or she may, by order, provide for its dissolution.

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Expenses. 7.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Short title. 8.—This Act may be cited as the Criminal Justice (Release of Prisoners) Act, 1998.

Section 3(4).

SCHEDULE

Provisions of the Agreement Reached in the Multi-Party Talks which appear under the heading “Prisoners”.

Prisoners

1. Both Governments will put in place mechanisms to provide for an accelerated programme for the release of prisoners, including transferred prisoners, convicted of scheduled offences in Northern Ireland or, in the case of those sentenced outside Northern Ireland, similar offences (referred to hereafter as qualifying prisoners). Any such arrangements will protect the rights of individual prisoners under national and international law.

2. Prisoners affiliated to organisations which have not established or are not maintaining a complete and unequivocal ceasefire will not benefit from the arrangements. The situation in this regard will be kept under review.

3. Both Governments will complete a review process within a fixed time frame and set prospective release dates for all qualifying prisoners. The review process would provide for the advance of the release dates of qualifying prisoners while allowing account to be taken of the seriousness of the offences for which the person was convicted and the need to protect the community. In addition, the intention would be that should the circumstances allow it, any qualifying prisoners who remained in custody two years after the commencement of the scheme would be released at that point.

4. The Governments will seek to enact the appropriate legislation to give effect to these arrangements by the end of June 1998.

5. The Governments continue to recognise the importance of measures to facilitate the reintegration of prisoners into the community by providing support both prior to and after release, including assistance directed towards availing of employment opportunities, re-training and/or re-skilling, and further education.