

Prisoners (Disclosure of Information About Victims) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Ministry of Justice, are published separately as ...

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Robert Buckland has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Prisoners (Disclosure of Information About Victims) Bill are compatible with the Convention rights.

Prisoners (Disclosure of Information About Victims) Bill

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TO

Require the Parole Board to take into account any failure by a prisoner serving a sentence for unlawful killing or for taking or making an indecent image of a child to disclose information about the victim.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Release of prisoners under Crime (Sentences) Act 1997

1 Murder or manslaughter: prisoner’s non-disclosure of information

(1) After section 28 of the Crime (Sentences) Act 1997 insert—

“28A Murder or manslaughter: prisoner’s non-disclosure of information

- (1) The Parole Board must comply with this section when making a public protection decision about a life prisoner if— 5
- (a) the prisoner’s life sentence was passed for murder or manslaughter;
 - (b) the Parole Board does not know where and how the victim’s remains were disposed of; and 10
 - (c) the Parole Board believes that the prisoner has information about where, or how, the victim’s remains were disposed of (whether the information relates to the actions of the prisoner or any other individual) which the prisoner has not disclosed to the Parole Board (“the prisoner’s non-disclosure”). 15
- (2) When making the public protection decision about the life prisoner, the Parole Board must take into account—
- (a) the prisoner’s non-disclosure; and
 - (b) the reasons, in the Parole Board’s view, for the prisoner’s non-disclosure. 20
- (3) This section does not limit the matters which the Parole Board must or may take into account when making a public protection decision.

- (4) In subsection (1)(a) –
- (a) the reference to a life sentence includes a life sentence passed before the coming into force of section 1 of the Prisoners (Disclosure of Information About Victims) Act 2020;
 - (b) the reference to murder includes –
 - (i) murder under the law of Scotland, Northern Ireland, any of the Channel Islands or the Isle of Man, and
 - (ii) any offence under the law of any other country or territory that corresponds to murder under the law of England and Wales;
 - (c) the reference to manslaughter includes –
 - (i) culpable homicide under the law of Scotland,
 - (ii) manslaughter under the law of Northern Ireland, any of the Channel Islands or the Isle of Man, and
 - (iii) any offence under the law of any other country or territory that corresponds to manslaughter under the law of England and Wales.
- (5) In this section, in relation to a life prisoner –
- “public protection decision” means the decision, made under section 28(6)(b) for the purposes of section 28(5), as to whether the Parole Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;
 - “victim” means the victim of the offence for which the prisoner’s life sentence was passed;
- and a reference to the victim’s remains being disposed of includes the remains being left at the location where the victim died.”
- (2) In consequence of the amendment made by subsection (1), in section 28 of the Crime (Sentences) Act 1997 (duty to release certain life prisoners), after subsection (6) insert –
- “(6A) Section 28A contains provision that relates to the Parole Board’s function of giving directions under subsection (5) for the release of life prisoners.”

Release of prisoners under Criminal Justice Act 2003

2 Manslaughter or indecent images: prisoner’s non-disclosure of information

- (1) The Criminal Justice Act 2003 is amended in accordance with this section.
- (2) After section 246A insert –
- “246B Manslaughter: prisoner’s non-disclosure of information**
- (1) The Board must comply with this section when making a public protection decision about a prisoner if –
- (a) the prisoner’s sentence was passed for manslaughter;
 - (b) the Board does not know where and how the victim’s remains were disposed of; and
 - (c) the Board believes that the prisoner has information about where, or how, the victim’s remains were disposed of (whether the information relates to the actions of the prisoner or any

- other individual) which the prisoner has not disclosed to the Board (“the prisoner’s non-disclosure”).
- (2) When making the public protection decision about the prisoner, the Board must take into account—
- (a) the prisoner’s non-disclosure; and 5
 - (b) the reasons, in the Board’s view, for the prisoner’s non-disclosure.
- (3) This section does not limit the matters which the Board must or may take into account when making a public protection decision.
- (4) In subsection (1)(a) the reference to a sentence includes a sentence passed before the coming into force of section 2 of the Prisoners (Disclosure of Information About Victims) Act 2020. 10
- (5) In this section, in relation to a prisoner—
- “public protection decision” means the decision, made under section 246A(6)(b) for the purposes of section 246A(5), as to whether the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined; 15
 - “victim” means the victim of the offence for which the prisoner’s sentence was passed; 20
- and a reference to the victim’s remains being disposed of includes the remains being left at the location where the victim died.

246C Indecent images: prisoner’s non-disclosure of information

- (1) The Board must comply with this section when making a public protection decision about a prisoner if— 25
- (a) the prisoner’s sentence was passed for—
 - (i) an offence of taking an indecent photograph of a child, or
 - (ii) a relevant offence of making an indecent pseudo-photograph of a child; 30
 - (b) the Board does not know the identity of the child who is the subject of the relevant indecent image; and
 - (c) the Board believes that the prisoner has information about the identity of the child who is the subject of the relevant indecent image which the prisoner has not disclosed to the Board (“the prisoner’s non-disclosure”). 35
- (2) When making the public protection decision about the prisoner, the Board must take into account—
- (a) the prisoner’s non-disclosure; and
 - (b) the reasons, in the Board’s view, for the prisoner’s non-disclosure. 40
- (3) This section does not limit the matters which the Board must or may take into account when making a public protection decision.
- (4) In subsection (1)(a), the reference to a sentence includes a sentence passed before the coming into force of section 2 of the Prisoners (Disclosure of Information About Victims) Act 2020. 45

- (5) For the purposes of this section, an offence is –
- (a) an “offence of taking an indecent photograph of a child” if it is an offence under section 1(1)(a) of the Protection of Children Act 1978 of taking an indecent photograph of a child;
 - (b) a “relevant offence of making an indecent pseudo-photograph of a child” if –
 - (i) it is an offence under section 1(1)(a) of the Protection of Children Act 1978 of making an indecent pseudo-photograph of a child, and
 - (ii) the Board believes that an image of a real child was or may have been used in the making of the pseudo-photograph;
 and, in the application of this section to a relevant offence of making an indecent pseudo-photograph of a child, the references in subsection (1)(b) and (c) to the child who is the subject of the relevant indecent image are references to the real child.
- (6) In this section –
- “public protection decision”, in relation to a prisoner, means the decision, made under section 246A(6)(b) for the purposes of section 246A(5), as to whether the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;
 - “relevant indecent image” means –
 - (a) the photograph to which an offence of taking an indecent photograph of a child relates, or
 - (b) the pseudo-photograph to which a relevant offence of making an indecent pseudo-photograph of a child relates.”
- (3) In consequence of the amendment made by subsection (2), in section 246A (release on licence of prisoners serving extended sentence under section 226A or 226B), after subsection (6) insert –
- “(6A) Sections 246B and 246C contain provision that relates to the Board’s function of giving directions under subsection (5) for the release of P.”
- (4) In Schedule 20B (modifications of Chapter 6 of Part 12 in certain transitional cases), in Part 4 (provisions applying generally), after paragraph 37 insert –
- “Manslaughter: prisoner’s non disclosure of information*
- 38 (1) The Board must comply with this paragraph when making a public protection decision about a prisoner if –
- (a) the prisoner’s sentence was passed for manslaughter;
 - (b) the Board does not know where and how the victim’s remains were disposed of; and
 - (c) the Board believes that the prisoner has information about where, or how, the victim’s remains were disposed of (whether the information relates to the actions of the prisoner or any other individual) which the prisoner has not disclosed to the Board (“the prisoner’s non-disclosure”).

- (2) When making the public protection decision about the prisoner, the Board must take into account—
- (a) the prisoner’s non-disclosure; and
 - (b) the reasons, in the Board’s view, for the prisoner’s non-disclosure. 5
- (3) This paragraph does not limit the matters which the Board must or may take into account when making a public protection decision.
- (4) In this paragraph, in relation to a prisoner—
- “public protection decision” means the decision made—
 - (a) under paragraph 6(2) for the purposes of paragraph 6(1), 10
 - (b) under paragraph 15(4) for the purposes of paragraph 15(3), or
 - (c) under paragraph 25(3) for the purposes of paragraph 25(2), 15
- as to whether the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;
- “victim” means the victim of the offence for which the prisoner’s sentence was passed; 20
- and a reference to the victim’s remains being disposed of includes the remains being left at the location where the victim died.

Indecent images: prisoner’s non-disclosure of information

- 39 (1) The Board must comply with this paragraph when making a public protection decision about a prisoner if— 25
- (a) the prisoner’s sentence was passed for—
 - (i) an offence of taking an indecent photograph of a child, or
 - (ii) a relevant offence of making an indecent pseudo-photograph of a child; 30
 - (b) the Board does not know the identity of the child who is the subject of the relevant indecent image; and
 - (c) the Board believes that the prisoner has information about the identity of the child who is the subject of the relevant indecent image which the prisoner has not disclosed to the Board (“the prisoner’s non-disclosure”). 35
- (2) When making the public protection decision about the prisoner, the Board must take into account—
- (a) the prisoner’s non-disclosure; and
 - (b) the reasons, in the Board’s view, for the prisoner’s non-disclosure. 40
- (3) This paragraph does not limit the matters which the Board must or may take into account when making a public protection decision.
- (4) For the purposes of this paragraph an offence is—
- (a) an “offence of taking an indecent photograph of a child” if it is an offence under section 1(1)(a) of the Protection of 45

- Children Act 1978 of taking an indecent photograph of a child;
- (b) a “relevant offence of making an indecent pseudo-photograph of a child” if—
- (i) it is an offence under section 1(1)(a) of the Protection of Children Act 1978 of making an indecent pseudo-photograph of a child, and 5
- (ii) the Board believes that an image of a real child was or may have been used in the making of the pseudo-photograph; 10
- and, in the application of this section to an offence of making an indecent pseudo-photograph of a child, the references in sub-paragraph (1)(b) and (c) to the child who is the subject of the relevant indecent image are references to the actual child.
- (5) In this paragraph— 15
- “public protection decision”, in relation to a prisoner, means the decision made—
- (a) under paragraph 6(2) for the purposes of paragraph 6(1),
- (b) under paragraph 15(4) for the purposes of paragraph 15(3), or 20
- (c) under paragraph 25(3) for the purposes of paragraph 25(2),
- as to whether the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined; 25
- “relevant indecent image” means—
- (a) the photograph to which an offence of taking an indecent photograph of a child relates, or
- (b) the pseudo-photograph to which a relevant offence of making an indecent pseudo-photograph of a child relates.” 30
- (5) In consequence of the amendments made by subsection (4), in Schedule 20B—
- (a) in paragraph 6, after sub-paragraph (4) insert—
- “(5) Paragraphs 38 and 39 contain provision that relates to the Board’s function of giving directions under sub-paragraph (2) for the release of a person.”; 35
- (b) in paragraph 15, after sub-paragraph (5) insert—
- “(6) Paragraphs 38 and 39 contain provision that relates to the Board’s function of giving directions under sub-paragraph (4) for the release of a person.”; 40
- (c) in paragraph 25, after sub-paragraph (4) insert—
- “(5) Paragraphs 38 and 39 contain provision that relates to the Board’s function of giving directions under sub-paragraph (3) for the release of a person.” 45

Final provisions

3 Extent, commencement and short title

- (1) This Act extends to England and Wales only.
- (2) Sections 1 and 2 come into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.
- (3) Different days may be appointed for different purposes.
- (4) This section comes into force on the day on which this Act is passed.
- (5) This Act may be cited as the Prisoners (Disclosure of Information About Victims) Act 2020.

Prisoners (Disclosure of Information About Victims) Bill

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To require the Parole Board to take into account any failure by a prisoner serving a sentence for unlawful killing or for taking or making an indecent image of a child to disclose information about the victim.

*Secretary Robert Buckland
supported by*

*Ordered, by The House of Commons,
to be Printed, XXth Month 200X.*

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