

Prisoners (Disclosure of Information About Victims) Act 2020

2020 CHAPTER 19

An Act 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. [4th November 2020]

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, manslaughter or indecent images: prisoner’s non-disclosure

(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—
 - (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
 - (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”).
- (2) When making the public protection decision about the life prisoner, the Parole Board must take into account—

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- (a) the prisoner’s non-disclosure; and
 - (b) the reasons, in the Parole Board’s view, for the prisoner’s non-disclosure.
- (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.

28B Indecent images: 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—
- (a) the prisoner’s life 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;
 - (b) the Parole Board does not know the identity of the child who is the subject of the relevant indecent image; and
 - (c) the Parole 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 Parole Board (“the prisoner’s non-disclosure”).

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- (2) When making the public protection decision about the 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.
- (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), 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.
- (5) For the purposes of this section, an offence is an “offence of taking an indecent photograph of a child” if it is—
- (a) an offence of taking an indecent photograph of a child under section 1(1)(a) of the Protection of Children Act 1978 (the “England and Wales offence”), or
 - (b) an offence of taking an indecent photograph of a child under the law of Scotland, Northern Ireland, any of the Channel Islands, the Isle of Man or any other country or territory that corresponds to the England and Wales offence.
- (6) For the purposes of this section, an offence is a “relevant offence of making an indecent pseudo-photograph of a child” if—
- (a) it is—
 - (i) an offence under section 1(1)(a) of the Protection of Children Act 1978 of making an indecent pseudo-photograph of a child (the “England and Wales offence”), or
 - (ii) an offence of making an indecent pseudo-photograph of a child under the law of Scotland, Northern Ireland, any of the Channel Islands, the Isle of Man or any other country or territory that corresponds to the England and Wales offence, and
 - (b) the Parole 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.
- (7) In this section—
- “public protection decision”, in relation to a prisoner, 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;
- “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.”.

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- (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) Sections 28A and 28B contain 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

- (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
 - (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.
- (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;
- “victim” means the victim of the offence for which the prisoner’s 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.

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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—
 - (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;
 - (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”).
- (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.
- (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.
- (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—

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- (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—

“38 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.
- (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),
 - (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),
 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;
- and a reference to the victim’s remains being disposed of includes the remains being left at the location where the victim died.

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39 *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—
- (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;
 - (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”).
- (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.
- (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 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 an offence of making an indecent pseudo-photograph of a child, the references in subparagraph (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—
- “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
 - (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;

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“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.”

(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.”;

(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.”;

(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.”

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.