

PRISONERS (DISCLOSURE OF INFORMATION ABOUT VICTIMS) BILL DELEGATED POWERS MEMORANDUM

Introduction

1. This memorandum has been prepared for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Prisoners (Disclosure of Information about Victims) Bill (“the Bill”). The Bill will be introduced in the House of Commons on 8 January 2020. This memorandum identifies the provisions of the Bill that confer powers to make delegated legislation. It explains in each case why the power has been taken and explains the nature of, and the reason for, the procedure selected.

Background and purpose of the Bill

2. The Bill will give effect to the previous Secretary of State, David Gauke’s, commitment to deliver a ‘Helen’s Law’. The ‘Helen’s Law’ campaign has been led by Marie McCourt whose daughter Helen disappeared in 1988. Her body was never found and the offender convicted of her murder – Ian Simms - has not disclosed the whereabouts of her remains. The Parole Board took a decision to release Ian Simms in November 2019. The Secretary of State, Robert Buckland QC MP, has subsequently made an application for a reconsideration of the release decision and the outcome is awaited.
3. The Bill will provide that, when applying what is known as the ‘release test’ for prisoners serving a life sentence for murder or manslaughter, or an extended determinate sentence for manslaughter, who are eligible for release on licence, and the offender has not disclosed the location of the victim’s remains, the Parole Board must take that into account in determining that prisoner’s suitability for release.
4. The Bill also provides that when applying the same release test for prisoners serving an extended determinate sentence for the offence of taking or making indecent images of children, where the offender has not disclosed the identity of the child who is the subject of the image, the Parole Board must take that into account in determining that prisoner’s suitability for release.

Overview of the delegated powers

5. The Bill includes one standard regulation-making power relating to commencement.

Clause 3(3): Commencement power

Power conferred on:

Secretary of State

Power exercisable by:

Regulations made by statutory instrument

Parliamentary procedure:

None

Context and purpose

6. Clause 3(3) contains a standard power for the Secretary of State to bring provisions of the Bill into force by commencement regulations.

Justification for the power

7. Leaving provisions in the Bill to be brought into force by regulations will provide the necessary flexibility to commence the provisions of the Bill at the appropriate time, having regard to the need to put the necessary systems and procedures in place for impact of the Bill.

Justification for the procedure

8. As is usual with commencement powers, regulations made under clause 3 are not subject to any parliamentary procedure, as Parliament has approved the provisions to be commenced by enacting them. Commencement by regulations merely enables the provisions to be brought into force at a convenient time.

**Ministry of Justice
January 2019**