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*Number 34 of 2003*

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**CRIMINAL JUSTICE (TEMPORARY RELEASE OF PRISONERS) ACT 2003**

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ARRANGEMENT OF SECTIONS

Section

1. Amendment of Criminal Justice Act 1960.
  2. Short title and commencement.
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[No. 34.]                      *Criminal Justice (Temporary  
Release of Prisoners) Act 2003.*                      [2003.]

Acts Referred to

Criminal Justice (Release of Prisoners) Act 1998	1998, No. 36
Criminal Justice Act 1960	1960, No. 27
Prisons Act 1970	1970, No. 11



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*Number 34 of 2003*

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**CRIMINAL JUSTICE (TEMPORARY RELEASE OF PRISONERS) ACT 2003**

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AN ACT TO PROVIDE FOR THE TEMPORARY RELEASE OF PERSONS SERVING SENTENCES OF IMPRISONMENT, OR OF DETENTION IN ST. PATRICK'S INSTITUTION, OR PERSONS BEING DETAINED IN A PLACE PROVIDED UNDER SECTION 2 OF THE PRISONS ACT 1970 AND, FOR THAT PURPOSE, TO AMEND THE CRIMINAL JUSTICE ACT 1960. [29th October, 2003]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.**—The Criminal Justice Act 1960 is hereby amended by the substitution of the following section for section 2:

Amendment of  
Criminal Justice  
Act 1960.

“2.—(1) The Minister may direct that such person as is specified in the direction (being a person who is serving a sentence of imprisonment) shall be released from prison for such temporary period, and subject to such conditions, as may be specified in the direction or rules under this section applying to that person—

(a) for the purpose of—

- (i) assessing the person's ability to reintegrate into society upon such release,
- (ii) preparing him for release upon the expiration of his sentence of imprisonment, or upon his being discharged from prison before such expiration, or
- (iii) assisting the Garda Síochána in the prevention, detection or investigation of offences, or the apprehension of a person guilty of an offence or suspected of having committed an offence,

(b) where there exist circumstances that, in the opinion of the Minister, justify his temporary release on—

- (i) grounds of health, or
- (ii) other humanitarian grounds,

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- (c) where, in the opinion of the Minister, it is necessary or expedient in order to—
- (i) ensure the good government of the prison concerned, or
  - (ii) maintain good order in, and humane and just management of, the prison concerned, or
- (d) where the Minister is of the opinion that the person has been rehabilitated and would, upon being released, be capable of reintegrating into society.

(2) The Minister shall, before giving a direction under this section, have regard to—

- (a) the nature and gravity of the offence to which the sentence of imprisonment being served by the person relates,
- (b) the sentence of imprisonment concerned and any recommendations of the court that imposed that sentence in relation thereto,
- (c) the period of the sentence of imprisonment served by the person,
- (d) the potential threat to the safety and security of members of the public (including the victim of the offence to which the sentence of imprisonment being served by the person relates) should the person be released from prison,
- (e) any offence of which the person was convicted before being convicted of the offence to which the sentence of imprisonment being served by him relates,
- (f) the risk of the person failing to return to prison upon the expiration of any period of temporary release,
- (g) the conduct of the person while in custody, while previously the subject of a direction under this section, or during a period of temporary release to which rules under this section, made before the coming into operation of the *Criminal Justice (Temporary Release of Prisoners) Act 2003*, applied,
- (h) any report of, or recommendation made by—
  - (i) the governor of, or person for the time being performing the functions of governor in relation to, the prison concerned,
  - (ii) the Garda Síochána,
  - (iii) a probation and welfare officer, or
  - (iv) any other person whom the Minister considers would be of assistance in enabling him to make a decision as to whether to give a direction under subsection (1) that relates to the person concerned,

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- (i) the risk of the person committing an offence during any period of temporary release, S.1
- (j) the risk of the person failing to comply with any conditions attaching to his temporary release, and
- (k) the likelihood that any period of temporary release might accelerate the person's reintegration into society or improve his prospects of obtaining employment.

(3) The Minister shall not give a direction under this section in respect of a person—

- (a) if he is of the opinion that, for reasons connected with any one or more of the matters referred to in subsection (2), it would not be appropriate to do,
- (b) where the release of that person from prison is prohibited by or under any enactment, whether passed before or after the passing of this Act, or
- (c) where the person has been charged with, or convicted of, an offence and is in custody pursuant to an order of a court remanding him to appear at a future sitting of a court.

(4) A direction under this section shall be given to the governor of, or person for the time being performing the functions of governor in relation to, the prison concerned.

(5) The governor of, or person for the time being performing the functions of governor in relation to, the prison concerned to whom a direction under this section is given shall comply with that direction, and shall make and keep a record in writing of that direction.

(6) Without prejudice to subsection (1), the release of a person pursuant to a direction under this section shall not confer an entitlement on that person to further such release.

(7) (a) The Minister may make rules for the purpose of enabling this section to have full effect and such rules may contain such incidental, supplementary and consequential provisions as the Minister considers to be necessary or expedient.

(b) Rules under this section may specify conditions to which all persons released pursuant to a direction under this section shall be subject or conditions to which all persons belonging to such classes of persons as are specified in the rules shall be subject.

(8) Every rule under this section shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annulling the rule is passed by either such House within the next 21 days on which that House has sat after the rule is laid before it, the rule shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

(9) This section shall not affect the operation of the Criminal Justice (Release of Prisoners) Act 1998.

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(10) In this section, 'probation and welfare officer' means a person appointed by the Minister to be—

- (a) a welfare officer,
- (b) a probation officer, or
- (c) a probation and welfare officer.

(11) In this section—

(a) references to a person who is serving a sentence of imprisonment shall be construed as including references to—

(i) a person being detained in a place provided under section 2 of the Prisons Act 1970, and

(ii) a person serving a sentence of detention in St. Patrick's Institution,

and sentence of imprisonment shall be construed accordingly,

and

(b) references to a prison shall be construed as including references to a place provided under the said section 2 and that Institution.'.

Short title and commencement.

**2.—**(1) This Act may be cited as the Criminal Justice (Temporary Release of Prisoners) Act 2003.

(2) This Act shall come into operation on such day as the Minister may, by order, appoint.