

# PRISONERS' ADVICE SERVICE

THE INDEPENDENT LEGAL CHARITY PROVIDING INFORMATION AND REPRESENTATION TO PRISONERS

## Release on Temporary Licence (ROTL)

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### SELF HELP TOOLKIT

#### **What is ROTL?**

Under Prison Rule 9 (Prison Rules 1999) you can, in certain circumstances, be granted temporary release during your sentence. Prison Service Order 6300, Release on Temporary Licence, describes ROTL as:

*'the mechanism that allows prisoners to participate in activities outside the prison that directly contribute to their resettlement into the community and the development of a purposeful law-abiding life'.*

The purpose of ROTL is therefore to help you to prepare for your resettlement into the community. However, PSO 6300 also confirms that:

*'(T)he decision to allow temporary release must always be balanced by an active consideration, by means of rigorous risk assessment for maintaining public safety and the public's confidence in the judicial system'.*

As a result, there is no right to ROTL and you will not get it automatically. You must apply for it and there is no presumption that your application will be granted.

ROTL is an umbrella term. It covers four different types of temporary release on licence:

1. Resettlement Day Release (RDR)
2. Resettlement Overnight Release (ROR)
3. Childcare Resettlement Licence (CRL)
4. Special Purpose Licence (SPL).

#### **Am I eligible for ROTL?**

Eligibility and access for ROTL is now governed by a Prisons and Probation Policy Framework issued in May 2019. This replaces PSI 13/2015. A copy should be available in the prison library. It sets out new criteria and processes designed to increase eligibility and earlier access to ROTL.

All applications for ROTL are subject to a risk assessment and not every prisoner is eligible for ROTL. You are not eligible if you are:

- Category A (or Restricted Status); or
- on the escape list; or
- subject to extradition proceedings; or
- on remand or convicted but not yet sentenced; or
- sentenced but on remand in respect of further charges (or sentencing for further offences); or
- held on behalf of the International Residual Mechanism for Criminal Tribunals

In addition, you will also not be able to apply for RDR or ROR if you are Category B or if you have a history of recent or repeated escape, abscond or serious ROTL failure.

You will also be ineligible to be assessed for ROTL if you are in closed conditions and you have within the two years prior to the following:

- the date of your next recategorisation review; or
- the target date for your next parole review; or
- the first date of the proposed ROTL; or
- more than once during your current sentence:
  - i. absconded from open conditions; and/or
  - ii. failed to return from ROTL; and/or
  - iii. been convicted of a criminal offence committed on ROTL; and/or
  - iv. escaped, or attempted to escape.

UNLESS there are exceptional circumstances (see below).

There are two categories of ROTL: a Standard regime and a more stringent Restricted regime. The Framework makes the threshold for Restricted ROTL less restrictive than previously. You will be subject to Restricted ROTL if you are:

- an Indeterminate Sentence Prisoner (ISP);
- serving an Extended Determinate Sentence or other legacy extended sentence;
- serving a sentence for imposed under section 236A of the Criminal Justice Act 2003 (Offenders of Particular Concern);
- assessed by OASys as posing a high or very high risk of serious harm.

If none of the above applies, you will be eligible for Standard ROTL.

### ***What does Restricted ROTL mean?***

If you are subject to Restricted ROTL, you are subject to stricter eligibility criteria:

- if you are a man, you must be in open prison before applying and in a prison that provides Restricted ROTL\*;
- if you are a woman you must either be in open or have been assessed as suitable for open conditions;
- the decision to release you on ROTL must be made at Governor or deputy Governor level;
- the review Board must be chaired by a senior manager; and
- the Board must see an enhanced behaviour monitoring assessment (EBM);
- the police and your offender manager must be consulted;
- your offender manager must provide comments; and
- you will be subject to stricter monitoring whilst on ROTL

\*a list of prisons that provide Restricted ROTL is at Annex A of the Policy Framework.

### ***What if I have absconded in the past?***

If you are in closed conditions and you have a history of repeated or recent absconding you may still be eligible for either SPL or CRL in the following exceptional circumstances:

- if you are subject to Standard ROTL, you may still be considered for SPL if you have made significant progress to reduce your risk of harm and the risk of future abscond is assessed as very unlikely; or
- if you are subject to Restricted ROTL, you may still be considered for SPL for medical treatment but only in very specific circumstances; or
- if you want CRL (whether you are subject to Standard or Restricted) you may still be eligible provided all the criteria for CRL are met and you have made significant progress to reduce your risk of harm and the risk of future abscond is assessed as very unlikely.

You will not get either RDR or ROR.

### ***Which ROTL can I have and when can I apply for it?***

If you are eligible for ROTL, it will usually only be granted towards the end of your sentence. An eligibility date will be set out with all the other key dates in the sentence calculation sheet given to you by the prison. However, when you can apply also depends on what type of ROTL you want and, of course, whether you are subject to the Restricted or Standard regime.

The Policy Framework sets out in detail the requirements of each type of ROTL and how and when each one can be applied for. In addition to that guidance, each prison must produce a leaflet setting out its individual policy on ROTL. This must be available to all offenders. It must set out the types of ROTL available at that prison, how to apply for it, how often it will be granted and how the necessary risk assessment will be conducted. You should ask for a copy of this local policy.

### **1. If you are applying for Resettlement Day Release (RDR):**

RDR allows you to spend time outside prison during the day time. It does not include an overnight stay.

You will be granted day release so that you can undertake activities linked to objectives in your sentence plan. The release should fall under one or more of the following headings::

- i. paid/unpaid work placements;
- ii. training or education;
- iii. maintenance of family ties;
- iv. Prisoner Apprenticeships Pathway;
- v. accommodation related;
- vi. outside prison activities;
- vii. other activities linked to a sentence plan.

You will be eligible for RDR either 24 months before your conditional release date or once you have served half of the custodial element of your sentence minus half the relevant remand time (whichever calculation is later).

The Policy Framework removed the requirement for a three month 'laydown' period before you can access ROTL after transfer to open conditions. Eligibility for RDR from open prisons is now at the point of entry to an open prison, or for women, at the point of assessment as suitable for open conditions. Paid work can be taken up once you are assessed as eligible for RDR and the requirement for you to spend at least one 24 hour period per week in prison has been removed.

The governor must decide the frequency and duration of any release. It will usually be limited at first. RDR to maintain family ties will begin gradually and may only take place once every 14 days.

If you are subject to Restricted RDR, you must be assessed as suitable for open conditions (and be in a prison which provides the Restricted regime) except where the Parole Board has directed release to supported accommodation (such as Approved Premises) or you have been prevented from a transfer to an open prison on health grounds.

Be aware that if you are working in the community on RDR and earning at least the minimum wage, then you will be expected to pay the costs of travel and meals, unless it would cause you undue hardship.

## **2. If you are applying for Resettlement Overnight Release (ROR):**

ROR allows you to spend a period of time, not usually more than four nights in a row, at a release address. It is to assist you to re-establish ties with your family and the community and/or to enable you to find work/training and/or to organise accommodation for your eventual release. You can usually only obtain ROR after successfully completing a period of RDRs.

If you are subject to the Standard regime and are a man in a closed prison or a woman not yet assessed as suitable for open conditions, you can apply for ROR either six months before your release date or when you have served half the custodial element of your sentence (minus half the relevant remand time), whichever is the later date. If you are a man, subject to the Standard regime and in open conditions, then you will be eligible for ROR from the point of entry into prison or if you are a woman, you will be eligible at the point of assessment as suitable for open conditions.

If you are subject to the Restricted regime, you are able to apply if you are in open conditions or assessed as suitable for open as long as you are also in a prison that provides the Restricted regime, unless the Parole Board has directed release to supported accommodation such as Approved Premises or you are prevented on health grounds from transferring to a prison that provides the Restricted regime.

ROR is usually limited to one ROR session in each period of 28 days. A Governor will decide the length of any period of ROR but it would not usually exceed four nights. The period may vary according to a prison's local policy.

### **3. If you are applying for Childcare Resettlement Licence (CRL):**

The purpose of CRL is to maintain the tie between a parent and their child (or children). There is no minimum eligibility period. You are eligible if you have primary caring responsibility for a child under 18.

It is up to you to provide the documents to persuade the ROTL Board that you are the primary carer. You will need documents from, for example, school, nursery, GP, social services. The prison will also consider evidence of your relationship based on contact with your child during the current period of custody and information from probation.

When considering your application, Governors must balance the interests of a child with their duty to maintain public confidence. Where it has been agreed that your release is in the child's best interests that will be the primary consideration but it does not override other considerations. Local Authorities must also be consulted before any CRL is authorised.

If you are subject to the Restricted regime, you must be assessed as suitable for open conditions and also in a prison that can provide Restricted ROTL before you can apply.

The frequency of release on CRL is up to the Governor. It is likely that the first release will be a short day release. CRL can be taken no more than once per week. This includes one period of overnight release in every 28 days period, which cannot exceed four nights away from the prison.

If you are eligible for both CRL and RDR/ROR, you can apply for both.

You cannot apply for CRL if your child has turned 18. However if you are already having CRL and your child turns 18, it may continue.

### **4. If you are applying for Special Purpose Licence (SPL):**

SPL will be granted for short periods of temporary release. It is often applied for at short notice. It allows you to respond to exceptional personal circumstances. These will usually be specific and will not require temporary release on a regular basis. The grounds on which you may be granted SPL will include:

- **Compassionate grounds.** These can be funerals, visiting dying relatives or other tragic personal circumstances or emergency situations. This can include situations where you have children under 18 whose care needed to be sorted out when you come into custody or where you need to deal with crises involving vulnerable or elderly family members for whom you have caring responsibilities.

The definition of family will include a spouse/life partner, parent, child, siblings (including stepsiblings), a fiancé/fiancée or a person, who has been in *loco parentis* to you. Extended family members can also be considered but it will be up to you to establish the closeness of the relationship.

- **Medical grounds.** This could be if you have a hospital appointment or a medical emergency. In some cases, if you are in open conditions and the need is immediate and there is no time to conduct a full ROTL Board, then exceptionally SPL might be authorised by a duty Governor. However, you must then be accompanied by staff.
- **Marriage or civil partnership.** You can be granted SPL for this purpose although you can also use RDR or ROR, if you are eligible.
- **Inter-prison transfers.** Transfers can take place under SPL if transferring from closed to open prisons (for Standard ROTL) or if transferring from one open prison to another (for Restricted ROTL).
- **Court proceedings.** This is when your presence is required and where it is in your interests to attend. It would include proceedings such as tribunals or family matters in civil courts. If your application does not pass the risk assessment, then such outings will be escorted or by video-link rather than under SPL.
- **Conferences with legal advisors.** SPL for this will only be exceptional.

You will be eligible for SPL (unless you are excluded from ROTL altogether) even if you are subject to the Restricted regime. However, if you are subject to the Restricted regime, you must either be in, or assessed a suitable for, open conditions (and in a prison that offers Restricted ROTL) before being considered for SPL except in the following exceptional circumstances:

- you need urgent medical treatment in the community; and
- a ROTL Board has sat that is chaired by a senior manager; and
- the Governor (or deputy Governor) has agreed SPL is appropriate in the circumstances including, in particular, that you have complied with accompanying officer's' instructions and there is no evidence to suggest you might use the opportunity to attempt to escape and your physical condition makes such escape very unlikely.

If all these criteria are met, you may be granted SPL.

There is no minimum eligibility period for SPL but all applications will be subject to the usual risk assessment although this may have to be accelerated in emergency situations. Where urgency means it is not possible to complete the full risk assessment and you are a man in a closed prison or a woman not yet assessed as suitable for open conditions, then your application for SPL is not likely to be granted. Your temporary release will then require a secure escort. If you are a man in an open prison or a woman assessed as suitable for open conditions then and there is no time for the full assessment, you must be accompanied out of the prison by an officer.

SPL is granted for specific events and will not therefore be regular. It will not normally be granted for more than a few hours at a time but can be longer. The Governor has a discretion to allow overnight absences. However, the maximum duration should not normally be more than four nights in every 28 days, although exceptionally the Governor can agree to grant back-to-back licences.

### ***How do I apply for ROTL?***

If you are eligible for ROTL, you make an application for ROTL using specific application forms (ROTL-APP) except where the application is for SPL in an emergency. The procedure for ROTL starts before an application. A potential ROTL programme should be agreed with your offender supervisor at sentence planning sessions.

The forms require you to put in details of why you want ROTL, what for and the details of the planned activity, including such things as your travel arrangements and the time it will take you to travel to your destination and back. You should ensure your application fits with the criteria for the type of ROTL for which you are applying. In particular, you need to show how the planned ROTL activity fits with your sentence plan/resettlement goals.

You may be able to get help with your application from your personal officer if you have one, or your offender supervisor. Special arrangements should be made if you find the form (or process) difficult to understand. Since your offender manager will be involved in the risk assessment, s/he may also assist you.

### ***What happens next? Who decides?***

Once the prison has received your application, it must carry out a risk assessment. This will involve consulting other agencies including probation, the police or where relevant, the Home Office. The prison will compile a ROTL dossier with this information. This will also include information from OASys, NOMIS and, if you are subject to the Restricted regime, your EBM reviews.

The decision to grant ROTL is legally the responsibility of the Secretary of State but a Governor acts on his or her behalf. Prison Rule 9(4) says that “*an offender shall not be released if the Secretary of State is of the opinion that the release of the offender would be likely to undermine public confidence in the administration of justice*’ and not ‘*...unless the Secretary of State is satisfied that there would not be an unacceptable risk of his committing offences whilst released or otherwise failing to comply with any condition upon which is he released.*’ For this reason the risk assessment conducted in respect of any application for ROTL is rigorous.

The actual risk assessment is done by a ROTL Board on the basis of the information in the dossier. That Board will include a manager, a personal officer or other prison officer with knowledge of your case, and an offender supervisor or offender manager.

All the information on which the Board makes its decision must be disclosed to you on request unless there are national security interests or information relevant to prison security involved or it is considered in the interest you or another’s health and welfare.

The Board will consider your suitability for all types of ROTL. Having done the risk assessment, the Board will make a written recommendation. If ROTL is recommended, the Board will also put forward appropriate licence conditions. The recommendation is then considered by the Governor, who will make the final decision as to whether a licence should be granted. The Board can limit the scope of any decision in specific cases and all decisions can be reviewed if there any significant changes in circumstances. Otherwise the decision is valid for six months. The Board must reconvene every 6 months to review the currency of a ROTL authority, even where there has been no significant change in circumstance.

Once the Governor has made his or her decision, you will be notified in writing through the ROTL-DEC form. This must include reasons for the decision.

***If my application is successful what happens?***

If the Board grants your application for ROTL, the prison will draw up a licence, which must be signed by you before you are released. In addition to standard licence conditions, there will be conditions that are relevant to your particular application. These must be justified by the particular circumstances.

You will be expected are required to bear some costs that are associated with the ROTL activity such as travel costs or meals except if you are on SPL. If you are working in the community and earning at least the minimum wage when on ROTL, you will be expected to pay travel costs and for any meals. However there is

funding available to assist, at the Governor's discretion, if it would cause you undue hardship to pay for such things. If you are released to a hostel or B&B, the prison will meet the reasonable cost of such accommodation.

You will be issued with a detailed timetable with which you will have to comply. This will specify the time it will take to travel to your destination and how long the agreed activity will take. You must always take the agreed route and mode of transport. This will generally be the most direct, unless a different route is preferable for reasons of travel cost or known disruption, or where a further condition (i.e. an exclusion zone) conflicts.

If you are on SPL, funding will be available where the grounds for the ROTL are compassionate, medical, helping the police or attending court if attendance is required. It will not be available if the grounds are marriage, attending court voluntarily or for private healthcare appointments.

The prison will monitor your progress whilst you are on ROTL or shortly after. The level of monitoring will depend on whether you are subject to the Restricted or Standard regimes. You may be asked to fill in a feedback form after each ROTL.

### ***What if my application is refused?***

If your application is refused, the reasons for the refusal must be provided to you in writing in the ROTL-DEC form.

There is no formal appeal against a refusal to grant you ROTL but you can use the standard complaints procedure. You must submit a COMP1 form addressed to the Governor. If you are dissatisfied with the response you can then submit a COMP1A form. If you remain dissatisfied, you can appeal to the Prisons and Probation Ombudsman.

### ***What if I am a foreign national?***

If you are a foreign national, you are not excluded from ROTL. However, the prison must confirm your deportation status with the department of Home Office Immigration Enforcement (HOIE) before considering any application for ROTL unless there is already confirmation that a decision not to seek your removal has been taken. If you have exhausted your appeal rights and are subject to a deportation order, you cannot be considered for ROTL. You are statutorily excluded unless, which is very unlikely, you are in open conditions.

If you have been granted ROTL or are on ROTL when a decision to deportation has been made and your appeal rights have been exhausted then the Governor is obliged to revoke your licence.

***What if I am subject to a confiscation proceeding or detained in default of a confiscation order?***

You may still be eligible for ROTL. The Policy Framework says that when your risk is being assessed special attention is to be paid to the risk of absconding in light of impending proceedings or the presence of an unpaid confiscation order. Of course if you are to serve a consecutive sentence in default of a confiscation order, your eligibility date will be recalculated on the basis of the overall sentence.

***What if I am a civil prisoner, imprisoned for contempt or a fine defaulter?***

You can still be considered for ROTL. There must be a legitimate purpose for any release that cannot be met in prison. You must be assessed as not posing an unacceptable risk of harm, re-offending or non-compliance.

***What if I am appealing against my conviction or sentence?***

You can still be eligible. Governors must take into account the need for you to attend hearings of your appeal where the court requires it.

***What if I have been recalled?***

If you have been recalled you are generally immediately eligible for RDR (or ROR if you are within six months of your release date or parole review date). If you have been given an additional prison sentence your ROTL eligibility dates will have to be recalculated depending on whether the release date of the new sentence is before or after the sentence end date of the original sentence.

***What effect will a knockback by the Parole Board have?***

If the Parole Board has considered your case and has either refused to recommend your release or your transfer to open conditions, the prison is obliged to immediately suspend any ROTL plan. A manager will assess the Parole Board's decision together with your offender manager to decide, within 3 working days whether you should remain suspended or a fresh ROTL Board is required. You may still be granted further ROTLs.

***What effect will a successful Parole Board hearing have?***

If the Parole Board has directed your release to an Approved Premises but you have not yet been released from prison, then if you apply for ROTL in the meantime, the Governor must allow you to take ROTL to that Approved Premises.

***Can I be recalled from ROTL and what are the consequences?***

You can be recalled from ROTL even if you have not breached your licence conditions. The Governor is required to have in place a system to monitor ROTL.

S/he can also require that you are accompanied by a member of staff whilst on ROTL to monitor your behaviour. The Governor must recall you if s/he does not consider it safe or appropriate for you to remain on licence. If you are arrested, you must be recalled. Once you are recalled from ROTL, the Governor must ask the police to take you into custody. And you will then be returned to the nearest appropriate closed prison.

If recalled from ROTL, on return to custody, you will be placed on report and your ROTL will be suspended. Any breach of licence whilst on ROTL must be reviewed. This review must take place within 24 hours. If the review decides the breach was acceptable, you may be allowed ROTL again.

PAS offers free legal advice and information to prisoners throughout England and Wales regarding their rights, conditions of imprisonment and the application of the Prison Rules.

We pursue prisoners' complaints about their treatment in prison by providing advice and information and, where appropriate, taking legal action.

Examples of issues we can advise on include: parole, temporary release, indeterminate sentences, categorisation, adjudications, sentence calculation, licence and recall, discrimination, resettlement and healthcare matters. We also provide advice on Family Law to female prisoners and on Immigration Law to prisoners with issues relating to detention or deportation.

If you have something that you'd like to discuss with one of our Caseworkers, you can:

Write to us at  
Prisoners' Advice Service  
PO Box 46199  
London EC1M 4XA  
(Mark your envelope Legal Mail Rule 39 in all correspondence with PAS)

Call us Monday, Wednesday or Friday  
between 10am and 12.30pm or 2pm and 4.30pm,  
or Tuesday evening between 4.30pm and 7pm  
on  
**020 7253 3323**

We produce the Prisoners' Legal Rights Bulletin, three times a year. This shares information about key cases and changes in Prison Law.  
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