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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 331**

**The Prisons and Young Offenders  
Institutions (Scotland) Rules 2011**

**PART 15**

**TEMPORARY RELEASE**

**Eligibility of prisoners for temporary release**

**134.**—(1) In this Part “temporary release” means any of the forms of temporary release defined in rule 136.

(2) In this Part “eligible prisoner” means a prisoner who—

- (a) is assigned low supervision level; and
- (b) is not disqualified from obtaining temporary release for any reason specified in paragraph (3) or (4).

(3) A prisoner is disqualified from obtaining temporary release if, for the time being, the prisoner is—

- (a) subject to proceedings under the Extradition Act 2003;
- (b) in the written opinion of a healthcare professional, not fit enough to be granted temporary release.

(4) Subject to paragraph (5), a life prisoner is disqualified from obtaining temporary release unless the Governor has obtained the prior consent of the Scottish Ministers.

(5) Any consent granted by the Scottish Ministers under paragraph (4)—

- (a) will apply to the first grant of temporary release and any further grants of temporary release; but
- (b) will cease to have effect if the prisoner is subsequently assigned a supervision level other than low supervision level.

**Applications for, and grant of, temporary release**

**135.**—(1) This rule applies in relation to all forms of temporary release except where otherwise expressly indicated.

(2) Where a prisoner seeks to make an application for unescorted day release or unescorted day release for compassionate reasons, both as defined in rule 136, that application must be made in writing by the prisoner to the Governor.

(3) Subject to any direction made by the Scottish Ministers under rule 138, the Governor may grant temporary release to an eligible prisoner if the Governor is of the opinion that it is appropriate to do so.

(4) In considering whether it is appropriate to grant temporary release to an eligible prisoner under this Part, the Governor must assess the risk that the prisoner may—

- (a) abscond; or
- (b) pose a danger, or cause harm, to the public.

(5) Where the Governor refuses to grant temporary release, the Governor must inform the prisoner in writing of the decision and the reasons for the decision.

(6) The Governor may make such arrangements as the Governor considers appropriate for the transport to and from prison of prisoners who have been granted temporary release.

### **Forms of temporary release**

**136.** For the purposes of this Part—

“home leave” means the unescorted temporary release from prison of an eligible prisoner for the purpose of enabling the prisoner to visit his or her home or other approved place for a period not exceeding 7 nights excluding travelling time;

“unescorted day release” means the unescorted temporary release from prison of an eligible prisoner for a period not exceeding one day, including travelling time, for the purposes of enabling the prisoner, in preparation for eventual release—

- (a) to develop further, or to re-establish, links with his or her family or community; or
- (b) to develop educational or employment opportunities;

“unescorted day release for compassionate reasons” means the unescorted temporary release from prison of an eligible prisoner for a period not exceeding one day, excluding travelling time, for the purposes of enabling the prisoner—

- (a) to visit any relative who it appears to the Governor is dangerously ill;
- (b) to attend the funeral of a near relative;
- (c) to visit a parent who is either too old or too ill to travel to the prison;
- (d) to visit the prisoner’s spouse, civil partner or co-habiting partner who, for whatever reason, is unable to travel to the prison;
- (e) to visit a child for whom they have parental responsibility and who, for whatever reason, is unable to travel to the prison; or
- (f) to attend at any place for any other reason where the Governor is of the opinion that the circumstances warrant it;

“temporary release for work” means the unescorted temporary release from prison of an eligible prisoner for a period not exceeding one day, excluding travelling time, for the purposes of enabling the prisoner—

- (a) to undertake a work placement outside prison in terms of rule 84;
- (b) to attend a college, university or other educational establishment in order to participate in vocational training or an educational class; or
- (c) to undertake voluntary work outside the prison in terms of rule 84;

“unescorted day release for health reasons” means the unescorted temporary release from prison of an eligible prisoner for a period not exceeding one day, excluding travelling time, for the purposes of enabling the prisoner—

- (a) to attend for treatment at a medical facility outwith the prison; or
- (b) to attend counselling outwith the prison.

### **Recall of prisoners granted temporary release**

**137.**—(1) The Governor may recall to prison any prisoner who has been granted temporary release, whether or not the conditions upon which the prisoner has been granted such release have been broken.

(2) Where the Governor recalls to prison a prisoner who has been granted temporary release, the Governor must inform the prisoner in writing of the reasons for that decision.

### **Direction with respect to temporary release**

**138.**—(1) For the purposes of temporary release, the Scottish Ministers may specify in a direction—

- (a) the forms of temporary release available to prisoners accommodated in particular prisons, halls or parts of prisons;
- (b) the manner in which the Governor must consider an application for any form of temporary release;
- (c) the manner in which the Governor must assess the risk that the prisoner may abscond or pose a danger to the public;
- (d) the relevant criteria about which the Governor must be satisfied before granting any form of temporary release;
- (e) the conditions which may be imposed in relation to any approval of an application for temporary release;
- (f) the timing and duration of any form of temporary release and the frequency with which it may be granted to an eligible prisoner; and
- (g) the persons who are to be treated as a near relative of the prisoner.

(2) Directions under this rule may make different provision for different forms of temporary release.