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SCOTTISH STATUTORY INSTRUMENTS

2011 No. 356

PRISONS

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

<i>Made</i>	- - - -	<i>11th October 2011</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>13th October 2011</i>
<i>Coming into force</i>	- -	<i>1st November 2011</i>

The Scottish Ministers make the following Rules in exercise of the powers conferred by section 52 of the Court Martial Appeals Act 1968(1), sections 33A and 39 of the Prisons (Scotland) Act 1989(2), sections 104(6) and 114(3) of the Criminal Justice and Public Order Act 1994(3) and all other powers enabling them to do so.

Citation and commencement

1. These Rules may be cited as the Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2011 and come into force on 1st November 2011.

Amendment of the Prison Rules

2.—(1) The Prisons and Young Offenders Institutions (Scotland) Rules 2011(4) are amended as follows.

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- (1) 1968 c.20; section 52 was amended by the Prisons (Scotland) Act 1989 (c.45), section 45(1) and Schedule 2, paragraph 10; the short title of the Act was changed by the Armed Forces Act 2006 (c.52), Schedule 8, paragraph 53.
- (2) 1989 c.45; section 33A was inserted by the Criminal Justice and Public Order Act 1994 (c.33) (“the 1994 Act”), section 116(3). Section 39 was amended by the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9) (“the 1993 Act”), sections 24 and 25, Schedule 5, paragraph 6(6)(b) and Schedule 7, paragraph 1; the 1994 Act, section 116(4); the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), Schedule 4, paragraph 75(4)(a) and by the Crime and Disorder Act 1998 (c.37), Schedule 8, paragraph 71 and Schedule 10, paragraph 1. Section 39 is to be read with the following sections: 19 (as amended by the 1993 Act, Schedule 5, paragraph 6(4)), 20A (which was inserted by the 1993 Act, section 23); 41(2B) (which was inserted by the 1994 Act, section 153(3) and amended by the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 34(1)); 41B(1) (which was inserted by the 1994 Act, section 151(2) and amended by the Management of Offenders etc. (Scotland) Act 2005 (asp 14), section 16); and 41C(1) (which was inserted by the Crime and Punishment (Scotland) Act 1997 (c.48), section 42). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
- (3) 1994 c.33.
- (4) S.S.I. 2011/331.

- (2) In the definition of “appellant” in rule 2(1)—
 - (a) for “Courts-Martial (Appeals) Act 1968” substitute “Court Martial Appeals Act 1968”; and
 - (b) for “Courts-Martial Appeal Court” substitute “Court Martial Appeal Court”.
- (3) For rule 2(3)(e), substitute—

“(e) in the case of an appeal as mentioned in sub-paragraph (d) of that definition, from the time the prisoner lodges the appeal;”.
- (4) In rule 3(3)(j), for “Courts-Martial (Appeals) Act 1968” substitute “Court Martial Appeals Act 1968”.
- (5) For rule 4(1)(f) substitute—

“(f) rules 106(8), 108(8), 141(b) and (c) and 142(7) do not apply;”.
- (6) In rule 26(d), for “35” substitute “25”.
- (7) For rule 60 substitute—

“**60.**—(1) Any person who does not want to receive any communication from a prisoner may make a request to the Governor to prevent or restrict that prisoner from communicating with that person.

(2) Where the Governor receives a request under paragraph (1), the Governor may take such reasonable steps as the Governor considers appropriate to prevent or restrict communication from that prisoner to that person.

(3) The Scottish Ministers may make provision in a direction made under rule 55(5) in relation to the operation of this Rule.

(4) For the purposes of this rule “communication” includes written correspondence and telephone calls.”.
- (8) In rule 85—
 - (a) in paragraph (1), after “educational class” insert “or counselling”; and
 - (b) in paragraph (2), after “undertakes work” insert “, an educational class or counselling”.
- (9) In rule 86(b), after “rule 84” insert “or 85”.
- (10) In rule 95(10), for “or other official” substitute “, employee or any other person who ordinarily works at the prison but is not employed by the Scottish Ministers”.
- (11) In rule 105(5), for “paragraph (2)” substitute “paragraph (4)”.
- (12) In rule 125(2)(d), for “SPSO” substitute “Scottish Public Services Ombudsman”.
- (13) In the definition of “temporary release for work” in rule 136—
 - (a) after paragraph (a) insert “or”;
 - (b) in paragraph (b) for “class; or” substitute “class;”; and
 - (c) omit paragraph (c).

St Andrew’s House,
Edinburgh
11th October 2011

KENNY MACASKILL
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Prisons and Young Offenders Institutions (Scotland) Rules 2011 (“the Prison Rules”). Rule 2(8) of these Rules replaces rule 60 of the Prison Rules in order to allow Governors a discretion to take reasonable steps to prevent or restrict correspondence following a request made under rule 60(1). The new rule 60 also allows the Scottish Ministers to make provision in a direction about its operation. The remaining rules are technical amendments designed to clarify minor points in the Prison Rules.