
STATUTORY INSTRUMENTS

1997 No. 2007 (S. 145)

**PRISONS
YOUNG OFFENDERS
INSTITUTIONS, SCOTLAND**

The Prisons and Young Offenders Institutions
(Scotland) Amendment Rules 1997

Made - - - - *13th August 1997*
Laid before Parliament *20th August 1997*
Coming into force - - *10th September 1997*

The Secretary of State, in exercise of the powers conferred on him by section 39 of the Prisons (Scotland) Act 1989(1) and of all other powers enabling him in that behalf, hereby makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Prisons and Young Offenders Institutions (Scotland) Amendment Rules 1997 and shall come into force on 10th September 1997.

(2) In these Rules, “the principal Rules” means the Prisons and Young Offenders Institutions (Scotland) Rules 1994(2).

Amendment of rule 3 of the principal Rules

2.—(1) Rule 3 of the principal Rules (interpretation) is amended in accordance with paragraph (2) of this rule.

(2) In paragraph (1), in the definition of “Governor”, in paragraph (a) of that definition, for the words “rules 102 and” there is substituted “rule”.

(1) 1989 c. 45; section 39 was amended by the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9) “1993 Act”, sections 24 and 25, Schedule 5, paragraph 6(6) and Schedule 7 and by the Criminal Justice and Public Order Act 1994 (c. 33) “1994 Act”, sections 116(4) and 130(4); section 39 is to be read with sections 8(1) and (2), 11(1), 12 (as amended by the 1993 Act, Schedule 5, paragraph 6(2)), 14(1) (as amended by the 1993 Act, Schedule 5, paragraph 6(3)), 19(3) and (4) (as amended by the 1993 Act, Schedule 5, paragraph 6(4)), 24 (which was repealed by the 1993 Act, Schedule 7 but was saved by Schedule 6 to that Act in relation to any “existing prisoner” within the meaning specified in paragraph 1 of Schedule 6) and 41 (as amended by the 1994 Act, section 153); section 39 was extended by the Courts-Martial (Appeals) Act 1968 (c. 20), section 52 (as amended by the 1989 Act, Schedule 2, paragraph 10).

(2) S.I.1994/1931, amended by S.I. 1996/32.

Amendment of rule 97 of the principal Rules

3.—(1) Rule 97 of the principal Rules (inquiry into disciplinary charges) is amended in accordance with the paragraph (2) of this rule.

- (2) At the beginning of sub-paragraph (c) of rule 97(4) there are inserted the words—
“subject to rule 98(2A),”.

Amendment of rule 98 of the principal Rules

4.—(1) Rule 98 of the principal Rules (adjudication of charges) is amended in accordance with the following paragraphs of this rule.

- (2) At the beginning of paragraph (2) there are inserted the words—
“Subject to paragraph (2A),”.

- (3) After paragraph (2), there is inserted the following paragraph:—

“(2A) In any inquiry into a charge of a breach of discipline contrary to paragraph (x) of Schedule 3, the Governor may take into account written evidence of any person (other than an officer or employee) relating to an analysis of a sample required to be provided in accordance with rule 88A which was carried out by that person, without requiring the attendance of that person, if—

- (a) notwithstanding an objection by the prisoner, he has afforded the prisoner the opportunity to make representations why the person should give oral evidence; and
- (b) having heard the prisoner, he is satisfied that it is appropriate to admit the evidence and that there is no sufficient reason why the person need give oral evidence.”.

Substitution of rule 102 of the principal Rules

5. For rule 102 of the principal Rules (requests to speak to an officer of the Secretary of State, a member of the visiting committee, a sheriff or a justice of the peace) there is substituted the following rule:—

“Requests to speak to an officer of the Secretary of State, a member of the visiting committee, a sheriff or a justice of the peace

102. Where a prisoner makes a request to speak to—

- (a) an officer of the Secretary of State;
- (b) a member of the visiting committee; or
- (c) a sheriff or a justice of the peace visiting the prison in terms of section 15 of the Act,

the officer to whom the request is made shall, without delay, record the request in writing and shall arrange for the request to be brought to the attention of the person with whom the prisoner wishes to speak.”.

St Andrew’s House,
Edinburgh
13th August 1997

Henry B McLeish
Minister of State, Scottish Office

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules further amend the Prisons and Young Offenders Institutions (Scotland) Rules 1994 (“the principal Rules”).

Rules 3 and 4 of these Rules amend rules 97 and 98 of the principal Rules in relation to inquiries into charges of a contravention of paragraph (x) of Schedule 3 to the principal Rules (which makes it a breach of discipline for a prisoner to administer a controlled drug to himself or fail to prevent the administration of a controlled drug to him by another person). The purpose of the amendments is to confer a discretion on the Governor inquiring into the charge to admit the written evidence of a person who has carried out an analysis of a sample provided by the prisoner for testing purposes where it is appropriate to do so without hearing oral evidence.

Rule 5 of these Rules substitutes rule 102 of the principal Rules which relates to requests by prisoners to speak to an officer of the Secretary of State, a member of the visiting committee, a sheriff or a justice of the peace. The effect of the substitution is to provide that the officer receiving the request must record it in writing and arrange for the request to be notified to the person with whom the prisoner wishes to speak. Rule 2 of these Rules makes a consequential amendment to rule 3 of the principal Rules.