

2004 No. 4

PRISON AND YOUNG OFFENDERS CENTRES

**The Prison and Young Offenders Centre (Amendment) Rules
(Northern Ireland) 2004**

<i>Made</i>	- - - - -	<i>7th January 2004</i>
<i>Coming into operation</i>		<i>1st February 2004</i>
<i>Laid before Parliament</i>		<i>9th January 2004</i>

The Secretary of State in exercise of the powers conferred on him by section 13(1) of the Prison Act (Northern Ireland) 1953(a), as extended by section 2 of the Treatment of Offenders Act (Northern Ireland) 1968(b), hereby makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Prison and Young Offenders Centre (Amendment) Rules (Northern Ireland) 2004 and shall come into operation on 1st February 2004.

(2) In these Rules “the principal rules” means the Prison and Young Offenders Centre Rules (Northern Ireland) 1995(c).

Application of the principal rules to separated prisoners

2. After paragraph (5) of rule 3 of the principal rules insert –

“(6) These Rules shall apply to separated prisoners, subject to Part XIII.A.”.

Interpretation in the principal rules

3. In rule 4 of the principal rules insert the following at the appropriate places:

“ “Commissioner” means a Commissioner appointed under section 2(2) of the Act, for the purpose of hearing referrals under rule 109B;”(d)

“ “separated prisoner” means a prisoner who has applied to be accommodated in separated conditions, whom the Secretary of State considers should be held in those conditions for reasons of security, safety, good order or discipline and who is so held;”.

Amendment of rule 30 of the principal rules

4. Rule 30(3) and (4) of the principal rules are omitted.

(a) 1953 c. 18 (N.I.) as amended by S.I. 1973/2163
(b) 1968 c. 29 (N.I.) as amended by S.I. 1973/2163
(c) S.R. 1995/8 as amended by S.I. 1995/264, S.I. 1997/86, S.R. 2000/26 and S.R. 2001/221
(d) Rule 109B is inserted below by rule 8 of these Rules

Offences against prison discipline

5. After paragraph (23) of rule 38 of the principal rules insert –

“(23A) Wears an item of clothing, or wears, carries or displays an article in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or a supporter of a proscribed organisation within the meaning of section 3 of the Terrorism Act 2000(a);

(23B) without reasonable excuse wears any hood, mask, or other article made, adapted or used for concealing his identity or features;”.

Increase in level of governor’s awards

6.—(1) Rule 39 of the principal rules is amended as follows –

- (a) paragraph (1)(b) is omitted;
- (b) in paragraph (1)(c) for “28” substitute “56”;
- (c) in paragraph (1)(d) for “28” substitute “42”;
- (d) in paragraph (1)(f) for “3” substitute “14”.

(2) Rule 95 of the principal rules is amended as follows –

- (a) paragraph (2)(b) is omitted;
- (b) in paragraph (2)(c) for “14” substitute “28”;
- (c) in paragraph (2)(f) for “3” substitute “7”.

(3) The amendments made by paragraph (1)(b), (c) and (d) and paragraph (2)(b) and (c) of this rule apply only in respect of offences against prison discipline committed after the coming into force of this rule.

Revocation of rule 42 of the principal rules

7. Rule 42 of the principal rules is omitted.

New Part XIII A: Separated prisoners

8. After Part XIII of the principal rules insert –

“PART XIII A

SEPARATED PRISONERS

Rules not applying to separated prisoners

109A. The following rules shall not apply to separated prisoners:

- (a) rule 2(d) and (e);
- (b) rule 51(1) and (5);
- (c) rule 52(4);
- (d) rule 99(1);
- (e) rule 103(2); and
- (f) rule 103(3) from the word “work”, to the end.

Loss of remission

109B.—(1) Where a separated prisoner is charged with an offence under rule 38 for which, in the view of the governor, loss of remission may be the appropriate award if the prisoner is found guilty, the governor shall, unless he dismisses the charge, refer the charge to the Commissioner.

(2) The Commissioner shall inquire into any charge referred to him under paragraph (1) and any other charges arising out of the same incident within 28 days, unless it is not reasonably practicable to do so.

(a) 2000 c. 11

(3) If, after inquiring into any charge, the Commissioner is satisfied that the offence has been committed, he may make one or more of the following awards -

- (a) any of the awards mentioned in rule 39;
- (b) loss of remission for a period not exceeding 180 days.

(4) If a separated prisoner is found to have committed more than one offence the Commissioner may impose more than one period of loss of remission to run consecutively.

The Commissioner's procedure

109C.—(1) Subject to this rule and rule 109D the Commissioner when inquiring into any charge referred to him under rule 109B shall adopt such procedure as he thinks fit.

- (2) The Commissioner shall hold an oral hearing.
- (3) The Commissioner's decision shall be made public.

Rights of a separated prisoner referred to the Commissioner

109D.—(1) A separated prisoner charged with an offence referred to the Commissioner is entitled to be present at the oral hearing.

- (2) A separated prisoner is entitled to be legally represented at the oral hearing.

Prospective loss of remission for separated prisoners

109E.—(1) In the case of an offence against prison discipline committed by a separated prisoner who is detained only on remand or to await trial or sentence, an award of loss of remission may be made as provided in rule 109B notwithstanding that the separated prisoner has not (or had not at the time of the offence) been sentenced to imprisonment or ordered to be detained in a young offenders centre.

(2) An award under paragraph (1) shall have effect only where the sentence of imprisonment or term of detention in a young offenders centre being imposed is reduced by section 26(2) of the Treatment of Offenders Act (Northern Ireland) 1968 by a period which includes the time when the offence against discipline was committed.”

Northern Ireland Office
7th January 2004

Paul Murphy
One of Her Majesty's Principal Secretaries of State

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Prison and Young Offenders Centre Rules (Northern Ireland) 1995 (“the principal rules”).

They make amendments to the principal rules to make arrangements in relation to separated prisoners. A definition of separated prisoner is inserted into rule 4 of the principal rules by rule 3. Rule 8 inserts a new part into the principal rules which makes provision specifically in relation to separated prisoners. Under that new part rules 2(d) and (e), 51(1) and (5), 52(4), 99(1), 103(2) and part of 103(3) of the principal rules will not apply to separated prisoners (new rule 109A). Under that new part it will also be possible for separated prisoners to be awarded loss of remission for committing offences against prison discipline (new rules 109B to 109E). The part provides that loss of remission may only be awarded after a referral of an offence, by a prison governor, to a Commissioner. The Commissioner is appointed under section 2(2) of the Prison Act (Northern Ireland) 1953 for the purpose of hearing referrals under new rule 109B of the principal rules. The new part makes provision in relation to the procedure of the Commissioner and the rights of separated prisoners referred to the Commissioner.

The principal rules which relate to the power of a prison governor to award loss of remission are revoked by rule 4 and rule 7 of the Rules because that power is incompatible with Article 6 of the European Convention on Human Rights.

In relation to all prisoners rule 5 of the Rules provides for two new offences against prison discipline. The offences relate to the wearing of clothing or articles such as to arouse a suspicion of support or membership of a proscribed organisation and the concealing of identity using hoods and other items.

The level of the awards which a prison governor can make, in relation to those sentenced to imprisonment and those ordered to be detained in a young offenders centre, is increased by rule 6.

© Crown Copyright 2004

Published and printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print the Acts of the Northern Ireland Assembly

Dd. N1342. Cl. 1/04. Gp. 130. 14567.

£1.75

ISBN 0-337-95364-3



9 780337 953644