

2009 No. 429

PRISONS AND YOUNG OFFENDERS CENTRES

**The Prison and Young Offenders Centre (Amendment) Rules
(Northern Ireland) 2009**

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To be laid before Parliament

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The Secretary of State, in exercise of the powers conferred 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**) makes the following rules:

(**a**) 1953 c. 18 (N.I.).
 (**b**) 1968 c. 29 (N.I.).

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Prison and Young Offenders Centre (Amendment) Rules (Northern Ireland) 2009 and shall come into operation on 1st February 2010.

(2) In these Rules any reference to a rule by number is a reference to that rule so numbered in the Prison and Young Offenders Centre Rules (Northern Ireland) 1995(a).

Rule 2 (General principles)

2. In rule 2(1)(b) for “and health” substitute “, health and well-being.”

Rule 4 (Interpretation)

3.—(1) Rule 4 (interpretation) shall be amended as follows.

(2) After the definition of “the Act” insert the following—

““the 1997 Order” means the Prescription Only Medicines (Human Use) Order 1997(b);

“Assistant Director of Prison Health Care” means the officer of the relevant Health and Social Care trust with responsibility for prison health care;

“the Board” means the Regional Health and Social Care Board established under the Health and Social Care (Reform) Act (Northern Ireland) 2009(c);”.

(3) After the definition of “a governor” insert—

“Health and Social Care trust” means a Health and Social Care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(d);

“health care manager” means the officer who is in charge of the health care unit in a prison;

“health care officer” means an officer who has received specialist training in order to provide health care to prisoners;

“health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(e);

“health care unit” means the unit in a prison where health care is provided to prisoners;”.

(4) The definition of “medical officer” is omitted.

(5) For the definition of “member of the Senior Civil Service” substitute “means a member of either the Home Civil Service or of the Northern Ireland Civil Service who is classified as a member of the Senior Civil Service and who works in the Northern Ireland Prison Service;”.

(6) After the definition of “member of the Senior Civil Service” insert—

““nurse independent prescriber” has the same meaning as in article 1(2) of the 1997 Order;”.

(7) After the definition of “the Ombudsman’s staff” insert—

““pharmacist independent prescriber” has the same meaning as in article 1(2) of the 1997 Order;

“prescription only medicine” has the same meaning as in article 1(2) of the 1997 Order;”.

(8) After the definition of “public holiday” insert—

““registered general practitioner” means a registered medical practitioner whose name is included on the General Practitioner Register kept by the General Medical Council;

(a) S.R. 1995 No. 8. Relevant amendments are made by S.R. 1995 No. 264, S.R. 1997 No. 86, S.R. 2000 No. 267, S.R. 2001 No. 221, S.R. 2004 No. 4 and S.R. 2005 No. 153.

(b) S.I. 1997/1830. The “nurse independent prescriber” and “pharmacist independent prescriber” definitions were inserted by article 2(g) and (h) respectively of S.I. 2006/915.

(c) 2009 c. 1 (N.I.).

(d) S.I. 1991/194 (N.I.1).

(e) 2002 c. 17. Relevant amendments are made by section 127 of and Schedule 10 to the Health and Social Care Act 2008 (2008 c. 14). Health and Social Services trusts were renamed Health and Social Care trusts by section 1(3) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.

“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983(a) who holds a licence to practice under that Act;”.

(9) After the definition of “registered nurse” insert—

““residential manager” means an officer who is normally required by the governor to supervise a residential unit;

“residential officer” means an officer who is normally required by the governor to work in a residential unit;”.

Rule 12 (Cleanliness of the prison)

4. In rule 12(2) for “the medical officer” substitute “a registered nurse or a health care officer”.

Rule 14 (Beds and bedding)

5. In rule 14 for “health” substitute “well-being”.

Rule 17 (Prisoners’ property on reception)

6.—(1) Rule 17 (prisoners’ property on reception) shall be amended as follows.

(2) In paragraph (4) for “the medical officer” substitute “a health care professional”.

(3) For paragraph (5) substitute—

“(5) In the absence of a health care professional a health care officer may perform the duty referred to in paragraph (4).”.

Rule 20 (Baths)

7. Omit “or medical officer” and for “either” substitute “him”.

Rule 21 (Medical examination on reception)

8.—(1) Rule 21 (medical examination on reception) shall be amended as follows.

(2) In the heading for “Medical examination” substitute “Health care screening”.

(3) In paragraph (1) for “the medical officer or other approved medical practitioner” substitute “a registered nurse or a health care officer”.

(4) For paragraph (2) substitute—

“(2) Where possible an appropriate health care professional shall conduct a detailed health assessment of each prisoner within 72 hours of the examination conducted under paragraph (1).”.

(5) Paragraph (3) is omitted.

(6) In paragraph (4) for “the medical officer” substitute “a registered nurse or a health care officer” and for “the chief medical officer” substitute “a registered general practitioner, the health care manager and the Board”.

Rule 26 (Transfer)

9.—(1) Rule 26 (transfer) shall be amended as follows.

(2) Paragraph (2) is omitted.

(3) In paragraph (3) for “the medical officer” substitute “a health care professional” and for “of that” to the end substitute “of that opinion and shall make a record of that opinion”.

Rule 27 (Temporary release)

10. In paragraph (2) for “medical treatment” substitute “health care”.

(a) 1983 c. 54. Relevant amendments are made by S.I. 2002/3135.

Rule 28 (Discharge)

11. Paragraph (2) is omitted.

Rule 29 (Death or serious illness of prisoner)

12. In paragraph (3) for “the medical officer” where it first appears substitute “the health care manager” and for “the chief medical officer” substitute “the Assistant Director of Prison Health Care” and for “the medical officer” where it next appears substitute “a registered general practitioner” and in sub-paragraph (c) for “disease” substitute “illness”.

Rule 32 (Restriction of association)

- 13.—(1) Rule 32 (restriction of association) shall be amended as follows.

(2) In paragraph (1) after “discipline,” insert “or to ensure the safety of officers, prisoners or any other person”.

- (3) After paragraph (1) insert—

“(1A) Where a prisoner’s association is restricted to ensure the safety of officers, prisoners or any other person, the prisoner may be accommodated in a cell equipped to aid the retrieval of any unauthorised or prohibited article which he may have in his possession.”.

- (4) In paragraph (2) for “48” substitute “72”.

(5) In paragraph (4) for “such a prisoner” to the end substitute “a prisoner who is subject to restriction of association to resume full or increased association with other prisoners at any time, and in exercising that discretion the governor shall fully consider any recommendation that the prisoner resumes full or increased association on health and well-being grounds made by a registered general practitioner or a registered nurse or a health care officer”.

Rule 36 (Inquiry into charge)

14. In paragraph (7) for “officer” substitute “governor”.

Rule 38 (Offences against prison discipline)

- 15.—(1) Rule 38 (offences against prison discipline) shall be amended as follows.

- (2) After paragraph (19) insert—

“(19A) is found with any substance in a sample taken under rule 48B which demonstrates that he has alcohol in his body (but subject to rule 39A);

(19B) is found with any substance in a sample taken under rule 48C which demonstrates that a drug has, whether in prison or while on temporary release under rule 27, been administered to him by himself or by another person (but subject to rule 39B);

(19C) refuses to provide a sample under either rule 48B or rule 48C;”.

Rule 39 (Governor’s awards)

16. In rule 39(4) (governor’s awards) omit the words “forfeiture of remission” to “in the case of”.

Defences to alcohol and drugs offences

17. After rule 39 (offences against prison discipline) insert the following rules—

“Defences to rule 39(19A)

39A. It shall be a defence for a prisoner charged with an offence under rule 38(19A) to show that—

- (a) the alcohol was consumed by him in circumstances in which he did not know and had no reason to suspect that he was consuming alcohol;

- (b) the alcohol was consumed by him without his consent in circumstances where it was not reasonable for him to have resisted.

Defences to rule 39(19B)

39B. It shall be a defence for a prisoner charged with an offence under rule 38(19B) to show that—

- (a) the drug had been, prior to its administration, lawfully in his possession for his use or was administered to him in the course of a lawful supply of the drug to him by another person;
- (b) the drug was administered by or to him in circumstances in which he did not know and had no reason to suspect that such a drug was being administered; or
- (c) the drug was administered by or to him under duress or to him without his consent in circumstances where it was not reasonable for him to have resisted.”.

Rule 41 (Provisions in relation to particular awards)

18. In paragraph (2) for “the medical officer” substitute “an appropriate health care professional”.

Rule 45 (Petition against awards)

19. Rule 45 (petition against awards) is omitted.

Rule 47 (Temporary confinement)

20.—(1) Rule 47 (temporary confinement) shall be amended as follows.

(2) At the end of the heading insert “for refractory or violent prisoners”.

(3) In paragraph (1) for “protected room” substitute “observation cell.”.

(4) In paragraph (2) for “the medical officer” in each place where it appears substitute “an appropriate health care professional” and for “protected room” substitute “observation cell”.

(5) After paragraph (2) insert the following —

“(2A) The governor shall consult with a registered general practitioner or the health care manager in relation to the intended removal of any prisoner to an observation cell.”.

(6) Paragraph (3) is omitted.

(7) In paragraph (5) for “protected room” substitute “observation cell” and for “the medical officer” substitute “an appropriate health care professional”.

Rule 48 (Restraints)

21.—(1) Rule 48 (restraints) shall be amended as follows.

(2) In paragraph (2) for “the medical officer” substitute “the Assistant Director of Prison Health Care”.

(3) In paragraph (3) for “the medical officer” in each place where it appears substitute “the Assistant Director of Prison Health Care”.

(4) In paragraph (4) for “medical grounds” substitute “health care grounds” and for “the medical officer” substitute “a registered general practitioner”.

(5) In paragraph (7) for “the medical officer” substitute “a registered general practitioner”.

(6) In paragraph (8) for “the medical officer” substitute “a registered general practitioner”.

Testing prisoners for alcohol or drugs

22. After rule 48A (observation of prisoners by means of an overt closed circuit television system) insert—

“Compulsory testing for alcohol

48B.—(1) This rule applies where an officer, acting under the powers conferred by section 19A of the Act^(a) (testing prisoners for alcohol) requires a prisoner to provide a sample for the purpose of ascertaining whether he has alcohol in his body.

(2) In this rule “sample” means a sample of urine or any other description of sample specified in the authorisation by the Secretary of State for the purposes of section 19A of the Act.

(3) When requiring a prisoner to provide a sample an officer shall, so far as is reasonably practicable, inform the prisoner—

(a) that he is being required to provide a sample in accordance with section 19A of the Act; and

(b) that a refusal to provide a sample may lead to a disciplinary charge being laid against him.

(4) An officer requiring a sample shall make such arrangements and give the prisoner such instructions for its provision as may be reasonably necessary in order to prevent or detect its adulteration or falsification.

(5) Subject to paragraph (6), a prisoner who is required to provide a sample may be kept apart from other prisoners for a period not exceeding one hour to enable arrangements to be made for the provision of the sample.

(6) A prisoner who is unable to provide a sample of urine when required to do so may be kept apart from other prisoners until he has provided the required sample, except that a prisoner may not be kept apart under this paragraph for a period of more than 5 hours.

(7) A prisoner required to provide a sample of urine shall be afforded such degree of privacy for the purposes of providing the sample as may be compatible with the need to prevent or detect any adulteration or falsification of the sample; in particular, a prisoner shall not be required to provide such a sample in the sight of a person of the opposite sex.

Compulsory testing for drugs

48C.—(1) This rule applies where an officer, acting under the powers conferred by section 19B of the Act^(b) (testing prisoners for drugs), requires a prisoner to provide a sample for the purpose of ascertaining whether he has any drug in his body.

(2) In this rule “sample” means a sample of urine or any other description of sample specified in the authorisation by the Secretary of State for the purposes of section 19B of the Act.

(3) When requiring a prisoner to provide a sample, an officer shall, so far as is reasonably practicable, inform the prisoner—

(a) that he is being required to provide a sample in accordance with section 19B of the Act; and

(b) that a refusal to provide a sample may lead to a disciplinary charge being laid against him.

(4) An officer requiring a sample shall make such arrangements and give the prisoner such instructions for its provision as may be reasonably necessary in order to prevent or detect its adulteration or falsification.

(5) A prisoner who is required to provide a sample may be kept apart from other prisoners for a period not exceeding one hour to enable arrangements to be made for the provision of the sample.

(6) A prisoner who is unable to provide a sample of urine when required to do so may be kept apart from other prisoners until he has provided the required sample, save that a prisoner may not be kept apart under this paragraph for a period of more than 5 hours.

(7) A prisoner required to provide a sample of urine shall be afforded such degree of privacy for the purposes of providing the sample as may be compatible with the need to prevent or detect any adulteration or falsification of the sample; in particular a prisoner shall not be required to provide such a sample in the sight of a person of the opposite sex.”.

(a) Section 19A was inserted by Article 5 of the Prison (Amendment) (Northern Ireland) Order 2004 (S.I. 2004/704 (N.I. 5)).

(b) Section 19B was inserted by Article 6 of the Prison (Amendment) (Northern Ireland) Order 2004 (S.I. 2004/704 (N.I. 5)).

Rule 51 (Work)

23.—(1) Rule 51 (work) shall be amended as follows.

(2) In paragraph (2) for “the medical officer” to the end substitute “a registered nurse or a health care officer on health care grounds”.

(3) In paragraph (3) for “the medical officer” substitute “a registered nurse or a health care officer”.

(4) In paragraph (8) omit “unnecessarily”.

Rule 55 (Exercise and association)

24.—(1) Rule 55 (exercise and association) shall be amended as follows.

(2) In paragraph (3) for “The medical officer” substitute “A registered nurse or a health care officer” and for “medical grounds” substitute “health care grounds”.

(3) In paragraph (4) for “the medical officer” substitute “a health care professional”.

Rule 68A (Interception of communications)

25.—(1) Rule 68A (Interception of communications) shall be amended as follows.

(2) In paragraph (2) after “officer” insert “or a person employed in the prison authorised by the governor for the purposes of this rule (referred to in this rule as an “authorised employee”)”.

(3) In paragraph (3) after “officer” insert “or an authorised employee”.

Rule 69 (Police interviews)

26.—(1) Rule 69 (police interviews) shall be amended as follows:

(2) In the heading after “police” insert “and other law enforcement agency”.

(3) In paragraph (1) for “Royal Ulster Constabulary” substitute “Police Service of Northern Ireland”.

(4) After paragraph (1) insert—

“(1A) A member of the Serious Organised Crime Agency’s staff designated under section 43 of the Serious Organised Crime and Police Act 2005(a), an officer of Her Majesty’s Revenue and Customs, or a member of the Security Service may, on production of an authorisation issued by or on behalf of a person specified in paragraph (1B), interview any prisoner willing to see him.

(1B) Those persons are—

(a) the Director General of the Serious Organised Crime Agency;

(b) the Commissioners of Her Majesty’s Revenue and Customs;

(c) the Director General of the Security Service.”.

Rule 73 (Control of visitors to prisoners)

27. In paragraph (8) for “Secretary of State” in each place where it appears substitute “governor”.

Rule 75 (Complaints by prisoners: subject matter of complaints)

28.—(1) Rule 75 (complaints by prisoners: subject matter of complaints) shall be amended as follows.

(2) In paragraph (1)(a) omit “health and”.

(3) In paragraph (2) omit from “the prisoner’s class officer” to “the completed complaint form” and substitute “the residential manager referred to in rule 76(2) shall write to the prisoner within seven days of the complaint having been recorded under rule 76(1A)”.

(a) 2005 c. 15.

Rule 76 (Complaints by prisoners: first stage)

29.—(1) Rule 76 (complaints by prisoners: first stage) shall be amended as follows.

(2) For paragraph (1) substitute—

“(1) A prisoner makes a complaint by putting a completed complaint form into a box provided for complaints (referred to in these Rules as a “complaints post box”) or by submitting it to a residential officer who shall put it into a complaints post box.

(1A) The contents of the complaints post box shall be recorded on a daily basis.”.

(3) For paragraph (2) substitute—

“(2) The complaint shall be passed to a residential manager who shall interview the prisoner within 24 hours of the complaint having been recorded under paragraph (1A).

(2A) The residential manager referred to in paragraph (2) shall pass the complaint to an appropriate person within three days of the complaint having been recorded under paragraph (1A).”.

(4) In paragraph (3) for “must” substitute “shall”, for “seven” substitute “ten” and for “completed complaint form” substitute “complaint”.

(5) For paragraph (4) substitute—

“(4) The appropriate person shall pass the response to a residential manager who shall return it to the prisoner within 24 hours of receiving it.”.

(6) For paragraph (5) substitute—

“(5) In this rule “an appropriate person” means an officer or an employee of the Northern Ireland Prison Service with supervisory or managerial responsibility for the subject matter of the complaint.”.

(7) Omit paragraph (6).

Rule 77 (Complaints by prisoners: second stage)

30.—(1) Rule 77 (complaints by prisoners: second stage) shall be amended as follows.

(2) For paragraph (1) substitute—

“(1) If a prisoner is not satisfied with the response of the appropriate person, or, he has not received a response within 14 days of his complaint having been recorded under rule 76(1A) he may make the complaint a second time.”.

(3) For paragraph (2) substitute—

“(2) The complaint shall be passed to a residential manager who shall pass it to an appropriate person within three days of the complaint having been recorded under rule 76(1A) for the second time.”.

(4) In paragraph (3) for “the appropriate person’s line manager must” substitute “the appropriate person shall”, for “seven” substitute “ten” and for “completed complaint form” substitute “complaint”.

(5) For paragraph (4) substitute—

“(4) The appropriate person shall pass the response to a residential manager who shall return it to the prisoner within 24 hours of receiving it.”.

(6) For paragraph (5) substitute—

“(5) In this rule “an appropriate person” means an officer or an employee of the Northern Ireland Prison Service with supervisory or managerial responsibility for the subject matter of the complaint and who is senior to the appropriate person referred to in rule 76(2).”.

Rule 78 (Complaints by prisoners: third stage)

31. Rule 78 (complaints by prisoners: third stage) is omitted.

Rule 79 (Complaints by prisoners: failure of class officer)

32.—(1) Rule 79 (complaints by prisoners: failure of class officer) shall be amended as follows.

(2) In the heading for “class officer” substitute “residential manager”.

(3) In paragraph (1) for “class officer” substitute “residential manager to whom the complaint was submitted”, for “78” substitute “77” and for “the class officer’s” substitute “the residential manager’s”.

(4) For paragraph (2) substitute—

“(2) If a matter is referred under this rule to the line manager referred to in paragraph (1) that line manager shall perform the functions of the residential manager set out in rules 75 to 77.”.

Rule 79A (Complaints by prisoners: time limits)

33.—(1) Rule 79A (complaints by prisoners: time limits) shall be amended as follows.

(2) In paragraph (a) for “completed complaint form” substitute “complaint”.

(3) For paragraph (b) substitute—

“(b) his complaint under rule 77(1) within ten days of the response being passed to him under rule 76(4) or, as the case may be, within 14 days of not receiving a response under the procedure set out in rule 76 or 77.”.

(4) Omit paragraph (c).

Rule 79B (Complaints by prisoners: treatment of vexatious etc. complaints)

34.—(1) Rule 79B (complaints by prisoners: treatment of vexatious etc. complaints) shall be amended as follows.

(2) In paragraph (1) for “, the appropriate person’s line manager or the line manager of the appropriate person’s line manager” substitute “under rule 76 or 77 or the line manager of either”.

(3) In paragraph (3) for “rule 79C” to “(e)” substitute “paragraph (2)(a) to (e) and setting out why”.

(4) In paragraph (4) after “paragraph (1)” insert “setting out the reasons for his decision”.

Rule 79C (Complaints by prisoners: interpretation etc.)

35.—(1) Rule 79C (complaints by prisoners: interpretation etc.) shall be amended as follows.

(2) In paragraph (1) for “or the appropriate person’s line manager” substitute “under rule 76 or 77”.

(3) Omit paragraphs (2) to (4).

Rule 79E (Complaints by former prisoners: subject matter of complaints)

36. In paragraph (1)(a) omit “health and”.

Rule 79F (Complaints by former prisoners: procedure)

37. For paragraph (7) substitute—

“(7) In this rule “the appropriate person” is an officer or an employee of the Northern Ireland Prison Service with supervisory or managerial responsibility for the subject matter of the complaint.”.

Rule 79G (Complaints by former prisoners: treatment of vexatious etc complaints)

38. In paragraph (2) for “either Rule 79G” to the end substitute “paragraph (1)(a) to (e), and why, and that as a consequence it will not be dealt with any further”.

Complaints by visitors

39. After rule 79H (complaints by former prisoners: records of complaints) insert—

“Complaints by visitors: subject matter of complaints

79HA.—(1) A visitor may complain, using the procedure set out in rules 79HB to 79HE about the following matters:

- (a) his treatment by any person employed in the Northern Ireland Prison Service and treatment includes an omission;
- (b) the facilities available to him at the prison; and
- (c) the cleanliness and adequacy of prison premises.

(2) If a visitor submits a complaint which does not deal with a matter set out in paragraph (1) the visits manager referred to in rule 79HB(1) shall write to the visitor, within seven days of receiving the complaint, informing him that his complaint is not appropriate to be dealt with under the procedure set out in rules 79HB to 79HE.

(3) A complaint under paragraph (1) is only appropriate to be dealt with under the procedure set out in rules 79HB to 79HE if it deals with a matter which is the responsibility of the Northern Ireland Prison Service.

(4) In this Part “visitor” means a person who is visiting or has visited a prisoner or former prisoner.

Complaints by visitors

79HB.—(1) On receipt of a complaint by a visitor the visits manager or the governor, as the case may be, shall pass it to the appropriate person within five days.

(2) Subject to rule 79HE (complaints by visitors: treatment of vexatious etc. complaints), the appropriate person shall consider the complaint and provide a response to the complaint as soon as possible and in any event no more than ten days after receiving the complaint.

(3) The appropriate person shall respond to the complaint by writing to the visits manager.

(4) On receiving a response under paragraph (3) the visits manager shall forward the response to a governor with responsibility for the subject matter of the complaint who shall return it to the visitor within seven days.

(5) In this rule “the appropriate person” means an officer or an employee of the Northern Ireland Prison Service with supervisory or managerial responsibility for the subject matter of the complaint.

Complaints by visitors: failure of the visits manager

79HC. If at any stage the visits manager to whom the complaint was submitted fails to perform any of his functions under rules 79HA to 79HB the visitor may refer the matter to the governor or the Ombudsman.

Complaints by visitors: time limits

79HD. A visitor must submit his written complaint under rule 79HB(1) within 21 days of the act, omission or other matter which forms the subject matter of the complaint.

Complaints by visitors: treatment of vexatious etc. complaints

79HE.—(1) If the appropriate person under rule 79HB or his line manager is of the view that a complaint:

- (a) is vexatious;
- (b) is repetitive;
- (c) is frivolous;
- (d) raises no substantial issue; or
- (e) either on its own or taken together with other complaints, is intended to seriously hamper the proper operation of the complaints procedure set out in this Part of the rules;

he shall refer the complaint to the governor or, if he does not work under a governor, to a member of the Senior Civil Service.

(2) If the governor or, as the case may be, a member of the Senior Civil Service receives a referral under paragraph (1) he shall decide if he considers the complaint that is the subject of the referral:

- (a) to be vexatious;
- (b) to be repetitive;
- (c) to be frivolous;
- (d) raises no substantial issue; or
- (e) either on its own or taken together with other complaints, is intended to seriously hamper the proper operation of the complaints procedure set out in this Part of the rules.

(3) If the governor or the member of the Senior Civil Service considers the complaint to be of one or more of the descriptions set out in paragraph (2)(a) to (e) he shall write to the visitor who submitted the complaint informing him that he considers it to be a complaint of a description set out in paragraph (2)(a) to (e) and setting out why and as a consequence it will not be dealt with any further.

(4) If the governor or the member of the Senior Civil Service does not consider the complaint to be of one of the descriptions set out in paragraph (2)(a) to (e) he shall refer it back to the person that made the referral under paragraph (1), setting out the reasons for his decision, and inform him in writing to process the complaint in accordance with the procedure set out in rules 79HB to 79HD.

(5) The governor or the member of the Senior Civil Service shall write to the visitor or, as the case may be, provide a response to the person who made the referral under paragraph (1) within seven days of receiving the referral under paragraph (1).

(6) If a person receives a referral under paragraph (4) he shall process that complaint in accordance with the procedure set out in rules 79HB to 79HD and he shall not refer the complaint in question a second time under paragraph (1).

Complaints by visitors: interpretation etc.

79HF. If the governor or a member of the Senior Civil Service is the appropriate person under rule 79HB the procedure in rules 79HB to 79HD shall be at an end and shall be exhausted for the purposes of rule 79I(1) (complaints to the Ombudsman: exhaustion of internal procedure) once the complaint has been considered by the governor or a member of the Senior Civil Service and a response has been provided to the visitor.

Complaints by visitors: records of complaints

79HG. All those who deal with a complaint under the procedure in rules 79HA to 79HE must keep an appropriate record of the written complaint, the response to the complaint and the investigation of the complaint.”.

Rule 79I (Complaints to the Ombudsman: exhaustion of internal procedure)

40.—(1) Rule 79I (complaints to the Ombudsman: exhaustion of internal procedure) shall be amended as follows.

(2) After paragraph (2) insert—

“(2A) If a visitor has exhausted the procedure set out in rules 79HB to 79HE he may submit a complaint to the Ombudsman.”.

(3) In paragraph (4)(a) for “78(5)” substitute “77(5)”.

(4) In paragraph (4)(b) for “78(5)” substitute “77(5)”, for “11” substitute “14” and for “78(1)” substitute “77(1)”.

(5) In paragraph (4)(c) for “either” to the end substitute “rule 76(5)”.

(6) In paragraph (4)(d) for “11” substitute “14” and for “either” to the end substitute “rule 76(1)”.

(7) After paragraph (4)(h) insert—

“(i) a visitor has received a response to his complaint under rule 79HB(5);

- (j) a visitor has not received a response to his complaint under rule 79HB(5) and 22 days have passed since he submitted his complaint under rule 79HB(1);
- (k) rule 79HF applies to the visitor's complaint and he has received a response from the governor or the member of the Senior Civil Service under rule 79HB(5);
- (l) rule 79HF applies to the visitor's complaint and 22 working days have passed since the visitor submitted his written complaint under rule 79HB(1);
- (m) a visitor has received a response to his complaint under rule 79HE(3).".

Rule 79J (Complaints to the Ombudsman: subject matter of the complaint)

41.—(1) Rule 79J (Complaints to the Ombudsman: subject matter of the complaint) shall be amended as follows.

(2) In paragraph (1) for “or former prisoner” substitute “, former prisoner or visitor” and in paragraph (1)(a) omit the words “health and”.

(3) In paragraph (2) for “or former prisoner” in each place where it appears substitute “,former prisoner or visitor”.

(4) After paragraph (2) insert—

“(3) In the case of a visitor a complaint under paragraph (1) is only appropriate to be dealt with by the Ombudsman if it deals with a matter which is the responsibility of the Northern Ireland Prison Service.”.

Rule 79K (Complaints to the Ombudsman: submission of complaints)

42.—(1) Rule 79K (Complaints to the Ombudsman: submission of complaints) shall be amended as follows.

(2) In paragraph (1) after “complaint to him” insert “orally or”.

(3) In paragraph (4) after “complaint to him” insert “orally or”.

(4) After paragraph (6) insert—

“(7) A visitor submits a complaint to the Ombudsman by submitting a complaint to him orally or in writing.

(8) A visitor shall submit his complaint to the Ombudsman no more than 30 days after he has exhausted the procedure set out in rules 79HB to 79HE.

(9) If a visitor does not comply with paragraph (8) the Ombudsman may accept a complaint out of time if he is satisfied that it was not reasonably practicable for the visitor to comply with paragraph (8).”.

Rule 79L (Ombudsman's procedure)

43.—(1) Rule 79L (Ombudsman's procedure) shall be amended as follows.

(2) In paragraph (1)(c) for “or former prisoner” substitute “, former prisoner or visitor”.

(3) In paragraph (4) for “or former prisoner” substitute “, former prisoner or visitor”.

Rule 79M (Ombudsman's powers)

44.—(1) Rule 79M (Ombudsman's powers) shall be amended as follows.

(2) In paragraph (1) for “or former prisoner” substitute “, former prisoner or visitor”.

(3) In paragraph (4) omit “written”, “other” the first time it appears, and “, any person employed in the Northern Ireland Prison Service”.

(4) In paragraph (5) for “assist” substitute “, subject to any legal constraints, co-operate fully with”.

Rule 79N (Treatment by Ombudsman of vexatious etc complaints)

45. In paragraph (2) for “or former prisoner” substitute “, former prisoner or visitor”.

Rule 80 (Medical provision)

46.—(1) Rule 80 (medical provision) shall be amended as follows.

(2) In the heading for “Medical” substitute “Health care”.

(3) For “medical” substitute “health”.

Rule 81 (Hygiene)

47.—(1) Rule 81 (hygiene) shall be amended as follows.

(2) In paragraph (2) for “medical officer” substitute “a registered nurse or a health care officer”.

(3) In paragraph (4) for “the medical officer” substitute “a registered nurse or a health care officer”.

Rule 82 (Food)

48.—(1) Rule 82 (food) shall be amended as follows.

(2) In paragraph (2) for “the medical officer” substitute “a registered general practitioner, a registered nurse or a health care officer”.

(3) Paragraph (5) is omitted.

Rule 83 (Alcohol, drugs and tobacco)

49.—(1) Rule 83 (alcohol, drugs and tobacco) shall be amended as follows.

(2) In paragraph (1) omit “except under a written order” to the end.

(3) After paragraph (1) insert—

“(1A) A prisoner shall not be given or allowed to have any prescription only medicine except where that medicine is prescribed by a registered general practitioner, a nurse independent prescriber or a pharmacist independent prescriber.”.

Smoking

50. After rule 83 (Alcohol, drugs and tobacco) insert—

“Smoking

83A. No prisoner shall smoke in a prison except—

(a) in a cell or room in which that prisoner is accommodated and which the governor designates in writing as being a cell or room in which smoking is permitted.

(b) in open air areas designated by the governor in writing.”.

Rule 85 (Medical officer)

51. Rule 85 (medical officer) is omitted.

Rule 86 (Duties of a medical officer)

52. Rule 86 (duties of a medical officer) is omitted.

Rule 87 (Medical records and statistics)

53.—(1) Rule 87 (medical records and statistics) shall be amended as follows.

(2) In the heading for “Medical” substitute “Health care”.

(3) In paragraph (1) for “The medical officer” substitute “A health care professional” and for “disease” substitute “illness”.

(4) In paragraph (2) for “The medical officer” substitute “A health care professional” and for “a medical officer” substitute “a health care professional”.

(5) Paragraph (3) is omitted.

Rule 88 (Special medical reports)

54.—(1) Rule 88 (special medical reports) shall be amended as follows.

(2) In paragraph (1) for “the medical officer” substitute “a registered general practitioner or the health care manager” and omit “and to the chief medical officer” and at the end insert “and to the Board”.

(3) In paragraph (2) for “The medical officer” substitute “A registered general practitioner or the health care manager”.

(4) Paragraphs (3) and (4) are omitted.

Prisoners at risk of suicide or self-harm

55. After rule 88 (special medical reports) insert the following—

“Prisoners at risk of suicide or self-harm

88A.—(1) A governor may require that a prisoner whom he considers to be at risk of suicide or self-harm be accommodated in a cell or room designated for the management of that prisoner’s risk of suicide or self-harm.

(2) Where the cell or room designated under paragraph (1) is an observation cell the prisoner shall be accommodated in that cell for such period as is consistent with the management of his risk of suicide or self-harm.”.

Rule 92 (Pregnancy, confinement and babies)

56. In paragraph (1) for “the medical officer” substitute “a registered general practitioner”.

Inquiry into charge: minor offences

57. After rule 94 (initial transfer to centre) insert—

“Inquiry into charge: minor offences

94A.—(1) Without prejudice to rule 36 an officer designated by the Secretary of State (referred to in this rule as a “designated officer”) may hold an inquiry into a charge that an inmate has committed any of the offences against prison discipline listed in paragraphs (7), (9), (15), (16), (21), (22), (23) or (25) of rule 38.

(2) The designated officer shall first inquire into any charge not later, save in exceptional circumstances, than the next day after the laying of the charge unless that day is a day of religious observance for the inmate in accordance with his religious denomination as recorded under rule 57.

(3) The designated officer may adjourn the inquiry but must give reasons for doing so which shall be recorded in the record made under rule 37; any adjournment must not unfairly prejudice the interests of the inmate.

(4) At any inquiry into a charge against an inmate the designated officer shall satisfy himself that the inmate has had sufficient time to prepare his defence; the inmate shall be given a full opportunity of hearing what is alleged against him and of presenting his own case.”.

Rule 96 (Recreation)

58. In paragraph (3) for “The medical officer” substitute “A health care professional” and for “medical grounds” substitute “health care grounds”.

Rule 105 (Appearance and health)

59.—(1) Rule 105 (appearance and health) shall be amended as follows.

(2) In paragraph (2) for “the medical officer” substitute “a registered nurse or a health care officer”.

(3) In paragraph (3) for “the medical officer” substitute “a registered general practitioner”.

Rule 119 (Duties in relation to medical officer)

60.—(1) Rule 119 (duties in relation to medical officer) shall be amended as follows.

(2) In the heading for “medical officer” substitute “health care”.

(3) In paragraphs (a) to (d) for “the medical officer” in each case where it appears substitute “a registered nurse or a health care officer” and in paragraph (e) for “the medical officer in his care” substitute “health care professionals in their care” and for “the medical officer” substitute “a health care professional”.

Rule 120 (Duties in relation to medical welfare of prisoners and to inquests)

61.—(1) Rule 120 (duties in relation to medical welfare of prisoners and to inquests) shall be amended as follows.

(2) In the heading for “medical welfare” substitute “health and well-being”.

(3) In paragraph (1) for “the medical officer” in each place where it appears substitute “a registered general practitioner or the health care manager”.

(4) In paragraph (4) for “the medical officer” substitute “the health care manager”.

Independent monitoring boards

62.—(1) In rule 4(1) omit the definitions of “board of visitors” and “visiting committee” and insert the following at the appropriate place—

““independent monitoring board” means a group of independent monitors appointed for a prison, young offenders centre or remand centre under section 10 of the Act;”

(2) In rules 29(2), 32(2A) to (2K), 47(4), 48(3A) to (3K), 74(1), 82(6), 122(2), and 124(1) (wherever they appear) for “board of visitors” substitute “independent monitoring board.”

(3) In the heading to Part 16 for “boards of visitors” substitute “independent monitoring boards”.

(4) In rules 122(1), (4) and (5) for “a board of visitors” (wherever they appear) substitute “an independent monitoring board” and in rule 122(7) for “members” substitute “monitors”.

(5) Rule 93(c) is omitted.

Northern Ireland Office
30th December 2009

Paul Goggins
Minister 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”). The Rules come into operation on 1st February 2010.

Rule 3 amends rule 4 (interpretation) of the principal rules.

Rules 4, 5, 6, 7, 8, 9, 10, 11, 12, 18, 20, 21, 23, 24, 46, 47, 48, 49, 51, 52, 53, 54, 55, 56, 58, 59, 60 and 61 make changes in relation to the health care aspects of the principal rules as a result of health care becoming the responsibility of the Department of Health, Social Services and Public Safety.

Rule 13 amends rule 32 (restriction of association) of the principal rules which governs the restriction of the association of a prisoner. The amendments mean that association can be restricted to ensure the safety of officers, prisoners and any other person and that when association is so restricted the prisoner can be housed in a cell equipped to aid the retrieval of any unauthorised or prohibited article. Rule 32 (2) is amended to enable association to be restricted for up to 72 hours without the agreement of the Secretary of State.

Rule 14 corrects a drafting error in rule 36 (7) (inquiry into charge).

Rule 15 creates 3 new offences against prison discipline arising from the introduction of compulsory testing for alcohol and controlled drugs.

Rule 16 amends rule 39(4) (governor’s awards) of the principal rules to remove the reference to loss of remission as the power of a prison governor to award loss of remission was revoked as it was incompatible with Article 6 of the European Convention on Human Rights.

Rule 17 introduces defences to the new offences created by rule 15.

Rule 19 revokes rule 45 (petition against awards) of the principal rules to remove the right of a prisoner to petition the Secretary of State in respect of an award made by a governor.

Rule 22 inserts new rules 48B and 48C which establish the procedure which is to apply when a prison officer requires a prisoner to provide a sample under section 19A or 19B of the Prison Act (Northern Ireland) 1953 for testing for alcohol or controlled drugs.

Rule 25 enables prisoners’ communications to be intercepted by authorised employees, as well as by prison officers.

Rule 26 enables interviews of prisoners to be conducted by the Serious Organised Crime Agency, Her Majesty’s Revenue and Customs and the Security Service.

Rule 27 enables the Governor of a prison, rather than the Secretary of State, to control visitors to prisons.

Rule 28 amends rule 75 (complaints by prisoners: subject matter of complaints) to exclude health from the matters in respect of which a prisoner may complain.

Rules 29 to 35 amend rules 76 to 79C (complaints by prisoners) and omit rule 78 to change the three-tier complaints system to a two-tier system.

Rule 36 excludes health from the matters in respect of which a former prisoner may complain.

Rule 37 substitutes a definition of “the appropriate person” in rule 79F (complaints by former prisoners: procedure).

Rule 39 introduces a complaints system for visitors.

Rules 40 to 45 amend rules 79I to 79N which deal with complaints to the Prisoner Ombudsman for Northern Ireland. Rule 41(2) excludes health from the matters in respect of which a complaint can be made to the Ombudsman. Health care complaints are now the responsibility of the Northern Ireland Commissioner for Complaints.

Rule 49 amends rule 83 (alcohol, drugs and tobacco) to prohibit a prisoner being given or having prescription only medicine without a prescription.

Rule 50 prohibits smoking by prisoners other than in their own cells or rooms which have been designated as cells or rooms in which smoking is permitted or in designated open air areas.

Rule 55 enables a prison governor to require a prisoner whom he considers to be at risk of suicide or self-harm to be accommodated in a cell or room designated for the management of that risk.

Rule 57 enables inquiries in a young offenders centre into minor disciplinary offences to be conducted by a designated officer.

Rule 62 substitutes references to independent monitoring boards for references to boards of visitors following their re-naming by the Criminal Justice (Northern Ireland) Order 2005 and omits references to visiting committees.

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The Prison and Young Offenders Centre (Amendment) Rules
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