SCOTTISH STATUTORY INSTRUMENTS

2011 No. 331

The Prisons and Young Offenders Institutions (Scotland) Rules 2011

PART 7

PRIVILEGES AND PRISONERS' PERSONAL PROPERTY

Privileges

45.—(1) The Governor must establish, a system of privileges for the prisoners detained in the prison.

(2) The system of privileges may contain different provision for—

(a) different categories of prisoners; and

(b) prisoners detained in specific parts of the prison.

(3) A system of privileges established under paragraph (1) may include provision in relation to—

(a) the items of property which the Governor may, in terms of rule 47, allow a prisoner to have in the prisoner's cell or room;

(b) the arrangements whereby a prisoner may purchase items within, or outwith, the prison;

(c) the use of recreational and library facilities, or the participation in recreational activities organised by virtue of rule 88;

(d) the arrangements whereby a prisoner may have tobacco in his or her possession;

(e) the circumstances in which privileges may be withdrawn from a prisoner other than as a punishment imposed under rule 114(1)(b) for a breach of discipline; and

(f) any other matter as may be specified in a direction made by the Scottish Ministers under this rule.

(4) A system of privileges established under paragraph (1) cannot—

(a) prejudice or derogate from any entitlement or right of a prisoner which is specified in any provision of these Rules, or in any direction made under these Rules,

(b) provide that any entitlement or right of a prisoner under these Rules or under a direction made under these Rules, is to be regarded as a privilege granted by virtue of this rule; or

(c) provide that any entitlement or right of a prisoner under these Rules or under a direction made under these Rules, is capable of being forfeited under rule 114(1)(b).

(5) The Governor must ensure that every prisoner is provided with information, in a manner which enables the prisoner to understand it, in relation to—

(a) the application to the prisoner of the system of privileges established under this rule; and

(b) the circumstances in which privileges may be withdrawn.

(6) The Governor must give reasons to a prisoner where the Governor takes a decision to—

(a) withdraw any privilege enjoyed by the prisoner; or

(b) refuse to grant to the prisoner a privilege which is enjoyed by any other prisoner.

Prisoners' personal property

46.—(1) For the purposes of this rule and rules 47 to 49, a prisoner's "personal property" comprises all items of property which are not prohibited articles or unauthorised property and which—

(a) belong to the prisoner and are brought to the prison by the prisoner;

(b) are sent to the prisoner at the prison;

(c) are brought to the prisoner at the prison by a visitor; or

(d) are purchased by the prisoner within prison.

(2) The prisoner's personal property must be—

(a) stored in the prisoner's cell or room in accordance with rule 47;

(b) stored in the prison storage facilities in accordance with rule 48; or

(c) disposed of by the Governor or the prisoner in accordance with rule 49.

(3) An officer must make a written note in the prisoner's record of all of the prisoner's personal property other than—

(a) property purchased by the prisoner within the prison;

(b) letters or other written communications sent to the prisoner; and

(c) any property which is perishable or edible.

(4) Where a record is prepared in terms of paragraph (3), the prisoner concerned must—

(a) be given the opportunity to check its accuracy; and

(b) thereafter, be required to sign it.

Storage of prisoners' personal property in cells or rooms

47.—(1) Every prisoner is entitled to keep in their cell or room such items of the prisoner's personal property as may be specified in a direction by the Scottish Ministers.

(2) Without prejudice to paragraph (1), the Governor may refuse to allow a prisoner to have in their possession or to keep in their cell or room any items which the Governor considers to be—

(a) prejudicial to the security or good order of the prison;

(b) prejudicial to the health and safety of any person within the prison; or

(c) incompatible with the size or furnishings of the prisoner's cell or room.

(3) Where the Governor refuses to allow a prisoner to store any item of the prisoner's personal property in their cell or room under paragraph (2)—

(a) the Governor must notify the prisoner; and

(b) the property must either—

(i) be stored in the prison storage facilities in accordance with rule 48; or

(ii) where the Governor is entitled, under rule 48(2), to refuse to store the property in the prison storage facilities, be disposed of by the Governor or the prisoner in accordance with rule 49.

(4) The Governor may, where practicable, provide secure lockers within a prisoner's cell or room to enable the prisoner to store medication and personal property.

Storage of prisoners' personal property in prison storage facilities

48.—(1) The Governor must make arrangements for the safe storage of the prisoner's personal property within the prison storage facilities, except for—

(a) items which a prisoner is allowed to keep in his or her cell or room;

(b) items which a prisoner is allowed to keep on his or her person; and

(c) items specified in paragraph (2).

(2) The Governor may refuse to store in the prison storage facilities any items which the Governor considers to be—

(a) prejudicial to the security or good order of the prison;

(b) prejudicial to the health and safety of any person within the prison;

(c) incompatible with the size of the storage facilities; or

(d) in excess of the share of the prison storage facilities that should reasonably be allocated to the prisoner.

(3) Where the Governor refuses to store any items of a prisoner's personal property under paragraph (2)—

(a) the Governor must notify the prisoner; and

(b) the property must be disposed of by the Governor or the prisoner in accordance with rule 49.

Disposal of prisoner's personal property

49.—(1) This rule applies to any items of a prisoner's personal property which the Governor has refused—

(a) to allow a prisoner to store in his or her cell or room under rule 47(2); or

(b) to store in the prison storage facilities under rule 48(2).

(2) The prisoner must arrange for the disposal of any item to which this rule applies, his or her own expense, within 2 months of receiving notification from the Governor under rule 47(3) or 48(3).

(3) Where the prisoner fails to make arrangements for the disposal of any item under paragraph (2), the Governor may—

(a) arrange for the disposal or destruction of the item in accordance with the prisoner's wishes;

(b) where the Governor has a return address for the item, return the item to the person who sent it to the prisoner; or

(c) store the item in the prison storage facilities until alternative arrangements can be made for the disposal of the item.

Unclaimed property

50. Any items of a prisoner's personal property may be disposed of by the Governor in any manner the Governor deems appropriate where the items—

(a) are held in the prison storage facilities; and

(b) remain unclaimed by the prisoner for a period of more than 12 months after the prisoner is released from prison other than on temporary release.

Prisoners' money

51.—(1) The Governor may specify in relation to any prisoner or any category of prisoner, whether the prisoner or any prisoner in that category—

(a) may have cash in his or her possession; and

(b) if so, the maximum amount of, or the denominations of, cash which the prisoner may possess.

(2) Any other money belonging to a prisoner which—

(a) represents earnings paid by virtue of rule 86; or

(b) has been received in the prison and which does not exceed any restrictions as to the amount of money which a prisoner may receive as may be prescribed in a direction made under rule 55(5),

must be paid into an account under the control of the Governor.

(3) Subject to paragraph (4), a prisoner may withdraw money held in an account under paragraph (2) by authorising the Governor to deduct such sums as are required for the purpose of—

(a) making specific payments to persons outwith the prison; or

(b) purchasing any article in prison or arranging for any article to be delivered to the prison.

(4) The Governor may specify in relation to any prisoner, or any category of prisoner, the maximum amount which may be withdrawn by that prisoner or that category of prisoners—

(a) during any specified period; and

(b) for the purposes of purchasing any article in prison or any article to be delivered to prison.

(5) The Governor must, in respect of each prisoner—

(a) keep a record of all money deposited in an account controlled by the Governor under paragraph (2);

(b) keep a record of all money withdrawn in an account controlled by the Governor under paragraph (2); and

(c) make such arrangements as the Governor considers appropriate for all monies held in an account controlled by the Governor under paragraph (2) to be paid to the prisoner on release from prison other than on temporary release.

(6) Nothing in this rule is to be interpreted as preventing a prisoner from opening or maintaining an account with a bank or a building society but the use of such an account will be subject to the other provisions of these Rules.

Supplies of books, newspapers, etc to prisoners

52. Subject to rules 46 to 50, a prisoner is entitled to arrange, at his or her own expense, or at the expense of a person outwith the prison, the delivery to the prison of such books, newspapers, writing materials and other means of occupation as the prisoner may wish to use.