
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 331

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

PART 9

WORK, EDUCATION, EARNINGS AND RECREATION

Application of Part 9

80. Subject to rule 85, rules 81 to 84 do not apply to untried and civil prisoners.

Arrangements for work, education and counselling

81.—(1) The Governor must obtain reports about a prisoner's particular needs and wishes concerning work and education as soon as practicable after that prisoner is received into prison.

(2) The Governor must, following receipt of the reports referred to in paragraph (1), and in consultation with the prisoner, determine a programme of work, educational activities and counselling for the prisoner with the objectives of improving—

- (a) the prospects for the prisoner's successful resettlement in the community; and
- (b) the prisoner's morale, attitude and self respect.

Prisoners' work

82.—(1) Subject to the following provisions of this Part, every prisoner is required to work in prison.

(2) No prisoner may be required to work, or to do work which is of a particular class, at any time when they are—

- (a) excused from working, or from doing any particular class of work by the Governor, acting on the advice of a healthcare professional, on health grounds;
- (b) excused from working, or from doing any particular class of work by the Governor on any other ground;
- (c) undertaking an educational class arranged in terms of rule 84; or
- (d) undertaking counselling provided in terms of rule 84.

(3) A prisoner may only work in the service of another prisoner or of an officer where the Governor has given his or her express authority for such work to be done.

Conditions of work

83.—(1) No prisoner is required to work, or take part in an educational class arranged in terms of rule 84 in lieu of work, for more than 40 hours a week (excluding meal breaks).

(2) Every prisoner is entitled to a minimum of one day each week as a rest day on which he or she will not be required to work or take part in an educational class in lieu of work.

(3) A prisoner who has declared himself or herself to belong to a particular religion or religious denomination is entitled, as far as reasonably practicable—

- (a) to take the weekly rest day specified in paragraph (2) on any recognised weekly day of religious observance; and
- (b) to be excused from work or from undertaking an educational class or counselling, arranged in terms of rule 84, on such other days in a year as are recognised days of religious observance and are specified in a direction made by the Scottish Ministers.

(4) A prisoner is entitled to work in association with other prisoners except where—

- (a) an order has been made under rule 95 removing him or her from association with other prisoners either generally or during any period the prisoner is undertaking work;
- (b) the prisoner is subject to cellular confinement imposed under rule 114(1)(d).

Purposeful activities

84.—(1) The Governor must provide a range of purposeful activities for prisoners which, so far as reasonably practicable, takes into account—

- (a) the interests and need of prisoners to obtain skills and experience which will be of use to them after their release; and
- (b) the requirements of the operation and maintenance of the prison.

(2) “Purposeful activities” include—

- (a) work;
- (b) education of any kind, including physical education;
- (c) counselling and other rehabilitative programmes;
- (d) vocational training; and
- (e) work placements outside the prison.

(3) The Scottish Ministers may, in relation to work placements outside the prison provided under paragraph (2)(e), specify in a direction—

- (a) the groups or categories of prisoners who may be allowed to undertake such placements;
- (b) the circumstances in which, and the conditions subject to which, such placements may be provided to prisoners; and
- (c) the conditions which will apply to any prisoner or group or category of prisoners undertaking such placements.

(4) In carrying out the duty under paragraph (1) the Governor—

- (a) must arrange, so far as reasonably practicable, a programme of educational classes to provide prisoners with an opportunity to pursue their interests and needs; and
- (b) may arrange the provision of counselling (including group work activity) which is appropriate to the needs of prisoners.

Work undertaken by untried and civil prisoners

85.—(1) An untried prisoner or a civil prisoner is not required to work in prison but may, if the prisoner so chooses and with the agreement of the Governor, undertake work or an educational class arranged in terms of rule 84.

(2) An untried prisoner or a civil prisoner who undertakes work, will be entitled to be paid earnings in accordance with rule 86.

(3) An untried prisoner or a civil prisoner may only work in the service of another prisoner or of an officer where—

- (a) the prisoner consents to do such work; and
- (b) the Governor has given his or her express authority for such work to be done.

Earnings

86. A prisoner is entitled to be paid earnings at such rates and in accordance with such conditions as may be specified in a direction by the Scottish Ministers, where the prisoner undertakes—

- (a) work in terms of rules 82 or 85; or
- (b) an educational class or counselling arranged in terms of rule 84.

Exercise and time in the open air

87.—(1) Subject to paragraphs (3) to (8), every prisoner must be given the opportunity to take exercise or, where the weather permits, to spend time in the open air for not less than one hour every day.

(2) Subject to paragraphs (3) to (8), every young offender must, where the weather permits, be given the opportunity on a regular basis to participate in physical recreation, activities and pursuits which are consistent with maintaining good health and physical wellbeing.

(3) Where the Governor receives advice from a healthcare professional that a prisoner or young offender is not fit to participate in any of the activities mentioned in paragraph (1) or (2), the Governor may order that the prisoner or young offender must not participate in the relevant activities.

(4) Where a prisoner or young offender wishes to participate in any of the activities mentioned in paragraphs (1) or (2), he or she must be allowed to do so in association with other prisoners or, as the case may be young offenders, except where—

- (a) an order has been made under rule 95 removing him or her from association with other prisoners or, as the case may be young offenders, either generally or during any period he or she is participating in any of the activities mentioned in paragraphs (1) or (2); or
- (b) he or she is subject to cellular confinement imposed under rule 114(1)(d).

(5) The Governor may order that the activities specified in paragraphs (1) and (2) be ceased or restricted in any way where the Governor considers it necessary to do so due to exceptional circumstances pertaining in the prison or young offenders institution, or in any other prison or young offenders institution.

(6) An order made by the Governor in terms of paragraph (5) must not take effect for a period longer than 48 hours unless the Scottish Ministers specify in a direction made before the expiry of that period that the order will continue to have effect.

(7) The Scottish Ministers may—

- (a) on the application of the Governor made prior to the expiry of any direction made under paragraph (6) or this paragraph; and
- (b) where they are satisfied that it is necessary to do so due to exceptional circumstances pertaining in that prison or young offenders institution, or in any other prison or young offenders institution

make any number of further directions continuing the effect of an order made by the Governor under paragraph (5) for successive periods of no more than one month.

(8) A direction made by the Scottish Ministers under paragraphs (6) or (7) may be revoked at any time, following a request by the Governor, by a further direction made by the Scottish Ministers.

(9) An order made in terms of paragraph (5)—

- (a) may be directed at all prisoners or young offenders in the prison or young offenders institution or at such groups or categories of prisoners or young offenders as the Governor deems appropriate; and
- (b) must specify the reasons why the Governor is making the order and record the date and time it is made.

(10) After making an order under paragraph (5) the Governor must—

- (a) take such steps as are practicable to notify prisoners or, as the case may be young offenders who are subject to the order of the effect of the order; and
- (b) provide a copy of the order to the Scottish Ministers.

(11) Any direction made by the Scottish Ministers under paragraph (6) or (7) must specify—

- (a) the reasons why the Scottish Ministers are making the direction;
- (b) the date and time when the direction is made; and
- (c) the date and time when the direction expires.

(12) After the Scottish Ministers have made any direction under paragraph (6) or (7), the Governor must take such steps as are practicable to notify prisoners or, as the case may be, young offenders who are subject to the order of the effect of the direction.

Recreation

88.—(1) The Governor must provide reasonable facilities and opportunities to enable prisoners to participate in recreational activities outwith normal working hours.

(2) The Governor must make arrangements for lending library services for the use of prisoners which take into account, so far as reasonably practicable, the prisoner's educational, informational and recreational interests.

(3) The extent to which any prisoner or group or category of prisoners may at any time be permitted to use facilities provided, or to participate in recreational activities organised, by virtue of this rule must be determined in accordance with the system of privileges established under rule 45.

Prohibition on prisoners carrying on any trade, profession or vocation from prison

89.—(1) Subject to paragraph (2), no prisoner is permitted to—

- (a) carry on any trade, profession or vocation from the prison; or
- (b) retain any monies generated from the sale of any items produced by the prisoner either in the course of the prisoner's work in the prison or in the prisoner's spare time.

(2) Nothing in paragraph (1) is to be construed as preventing a prisoner from—

- (a) taking such steps as are necessary to protect the value of any interest the prisoner has in any property or business but any such steps must be compatible with these Rules or any direction made under these Rules and the prison regime in general; or
- (b) writing articles or books in a professional or vocational capacity which are intended for publication but any such activity must be compatible with these Rules or any direction made under these Rules and the prison regime in general.