
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 39

The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015

Incidental, transitional and saving provisions

5.—(1) Notwithstanding the amendments made by articles 2 and 4—

- (a) all visiting committees continue to exist until the relevant date for the purposes of paragraphs (2) to (8) of this article;
- (b) all visiting committees and their members may, until the relevant date, continue to exercise the powers contained in Part 17 of the Prison Rules in order to comply with paragraphs (2) to (8) of this article;
- (c) each of the members of those visiting committees appointed in accordance with rule 146 or 155 remains in office until the relevant date unless, prior to the relevant date, he or she ceases to hold office in accordance with rule 146(7); and
- (d) the appointment of the chairman and the deputy chairman of, and the clerk to, each of those visiting committees continues until the relevant date unless he or she ceases to hold office in accordance with rule 146(7).

(2) Where, before the discontinuance date, the Scottish Ministers have requested any visiting committee to inquire into and report upon any matter under rule 149(1) but the visiting committee has not—

- (a) concluded that inquiry; or
- (b) reported to the Scottish Ministers in relation to that inquiry,

the visiting committee must conclude that inquiry and report to the Scottish Ministers in relation to that inquiry by the relevant date.

(3) Where, before the discontinuance date, any visiting committee has, in accordance with rule 149(2)(a) notified—

- (a) the governor of a prison of any circumstances relating to the administration of the prison or the condition of any prisoner detained in the prison; or
- (b) the constable who is in charge of a legalised police cell of any circumstances relating to the administration of the legalised police cell or the condition of any prisoner detained in the legalised police cell,

and that matter has not been remedied by the governor or the constable before the discontinuance date, the visiting committee must bring those circumstances to the attention of the Scottish Ministers before the relevant date.

(4) Where, before the discontinuance date, any visiting committee has undertaken an inquiry or inspection in terms of rule 149(3) but has not—

- (a) concluded that inquiry or inspection; or
- (b) reported to the Scottish Ministers in relation to that inquiry or inspection,

the visiting committee must conclude that inquiry or inspection and report to the Scottish Ministers in relation to that inquiry or inspection by the relevant date.

(5) Where, before the discontinuance date, any visiting committee or member of a visiting committee has received a complaint from a prisoner but has not—

- (a) concluded a hearing and investigation of the complaint in accordance with rule 150(1); or
- (b) complied with the requirements of rule 150(3),

the visiting committee or the member of the visiting committee must comply with rule 150(1) and (3) by the relevant date.

(6) The Chairman of each visiting committee constituted under rule 146 must ensure that the minute book and any other documents held by or on behalf of the visiting committee are delivered to HM Chief Inspector of Prisons for Scotland before the relevant date.

(7) The Chairman of each visiting committee constituted under rule 155 must ensure that the minute book and any other documents held by or on behalf of the visiting committee are delivered to an independent custody visitor appointed under arrangements made under section 94 of the Police and Fire Reform (Scotland) Act 2012⁽¹⁾.

(8) Before the relevant date, each visiting committee must, where they have not done so by the discontinuance date, finalise their annual report in respect of the period of 12 months ending on 31st March 2015 and deliver that report to the Scottish Ministers.

(9) All visiting committees cease to exist on the relevant date and the appointment of the members of all visiting committees terminates on the relevant date.

(10) In this article—

“the discontinuance date” means 31st August 2015;

“the Prison Rules” means the Prisons and Young Offenders Institutions (Scotland) Rules 2011;

“the relevant date” means 30th November 2015;

“visiting committees” means the visiting committees constituted for prisons or young offenders institutions in accordance with—

(a) sections 8, 14(8) and 19(3) of the Prisons (Scotland) Act 1989⁽²⁾; and

(b) rules 146 and 155 of, and Schedules 2 and 3 to, the Prison Rules.

(11) In this article, any reference to a rule is a reference to the rule in the Prison Rules bearing that number.

(1) 2012 asp 8.

(2) 1989 c.45.