
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Prisons and Young Offenders Institutions (Scotland) Rules 2011 (“the Prison Rules”).

Rule 2(4) and (6) makes provision about the religion, belief or non-belief of prisoners. Paragraph (4) replaces rule 13 of the Prison Rules so that it only provides for the recording of data about a prisoner’s religion, belief or non-belief. Paragraph (6) incorporates the remaining provisions of what was previously rule 13 into a new rule (rule 44A) which provides for the declaration of religion, belief or non-belief by prisoners. These provisions are considered to be more appropriately situated in Part 6 of the Prison Rules.

Rule 2(5) replaces rule 39 of the Prison Rules to clarify the arrangements which a Governor is required to make on receipt of a recommendation from a healthcare professional that a prisoner requires medical advice or treatment. Under the new rule 39, the Governor must either grant unescorted temporary release to the prisoner (in accordance with rules 134 and 135 of the Prison Rules) or arrange for the prisoner to be escorted to the medical practitioner, specialist or medical facility as appropriate.

Rule 2(7), (8) and (10) makes changes which are consequential upon the changes being made in rule 2(9).

Rule 2(9) replaces rules 55 to 59 of the Prison Rules with new rules 55 to 57. New rule 55 clarifies when general correspondence (correspondence other than confidential correspondence) can be opened and read. New rule 56 merges the provisions of previous rules 56 to 59 into one rule thereby clarifying the arrangements by which confidential correspondence (court, legal, medical or other privileged correspondence) can be opened and read. New rule 56 only applies to letters and packages which can be clearly identified from the outer face of the envelope or packaging as confidential correspondence.

New rule 57 is added to the Prison Rules to cater for the situation where correspondence cannot be clearly identified from the outer face of the envelope or packaging as confidential correspondence. New rule 57 ensures that this correspondence is treated as confidential from the moment it is identified as such by an officer or employee. The restrictions on reading this correspondence in rule 57(3) and (4) reflect the restrictions in rule 56 on reading confidential correspondence that can be clearly identified as such.

Rule 2(11) amends rule 68 of the Prison Rules to ensure that the use of the term “constable” accords with the defined term “constable” in rule 2 and to enable a chief inspector to authorise a constable to visit a prisoner under that rule.

Rule 2(12) amends rule 84 of the Prison Rules so as to add further description of activity to the definition of “purposeful activity”.

Rule 2(13), (15), (16) and (20) amends provisions in the Prison Rules on searching prisoners (rule 92), visitors (rule 106), specified persons (rule 108) and officers and employees (rule 142) so as to provide that certain searches of a person can be carried out by an officer of a different gender to that of the person being searched where the search is conducted by a stationary body scanner or sniffer dogs.

Rule 2(14) amends rule 96 of the Prison Rules to provide that a back-board may be used as a form of restraint under that rule.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Rule 2(17) amends rule 134 of the Prison Rules to provide that prisoners subject to a deportation order are prevented from obtaining temporary release unless they have been granted temporary release in the three months prior to the order being made.

Rule 2(18) removes the definition of “unescorted day release for health reasons” from rule 136 of the Prison Rules and replaces it with a definition of “unescorted release for health reasons” which is granted for the same reasons but can last for seven days rather than just one day.

Rule 2(19) inserts new rule 136A into the Prison Rules to enable the Scottish Ministers to extend a period of unescorted release for health reasons for additional periods of seven days at a time on the application of the Governor.

Rule 2(21) amends paragraph 30 of Schedule 1 to the Prison Rules to make it a disciplinary offence to fail to comply with a condition of special escorted leave granted under rule 100.