
SCOTTISH STATUTORY INSTRUMENTS

2020 No. 122

**The Prisons and Young Offenders Institutions
(Scotland) Amendment Rules 2020**

Amendment of the Prisons and Young Offenders Institutions (Scotland) Rules 2011

2.—(1) The Prisons and Young Offenders Institutions (Scotland) Rules 2011(1) are amended as follows.

(2) In rule 2(1) (interpretation)—

(a) after the definition of “controlled drugs” insert—

““coronavirus” has the same meaning as in section 1 of the Coronavirus (Scotland) Act 2020(2),”

(b) after the definition of “film” insert—

““for the duration of a coronavirus outbreak” means the time period beginning from the commencement of the Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2020 and lasting until 30 September 2020.”

(3) After rule 19 (Assignment of supervision levels on review) insert—

“Assignment of supervision levels on review – coronavirus

19A.—(1) For the duration of a coronavirus outbreak, rule 19 has effect subject to the following modifications.

(2) In paragraph (1) for “the supervision level” substitute, “Subject to paragraph (1A), the supervision level”.

(3) In sub-paragraph 1(a) for “72 hours” substitute “7 days”.

(4) In sub-paragraph (1)(d), after “necessary” insert “, and reasonably practicable,”.

(5) (5)After paragraph (1), insert—

“(1A) Where, as a result of the effects coronavirus is having, or is likely to have on the prison, it is not possible to comply with sub-paragraphs (a) to (c) of paragraph (1) within the time periods specified, those sub-paragraphs must be complied with as soon as is reasonably practicable.””

(4) After rule 20 (Maintaining or lowering a supervision level on review) insert—

“Maintaining or lowering a supervision level on review – coronavirus

20A.—(1) For the duration of a coronavirus outbreak, rule 20 has effect subject to the following modifications.

(2) In paragraph (2)—

(1) S.S.I. 2011/331; as amended by S.S.I. 2011/356; S.S.I. 2012/26; S.S.I. 2014/26; S.S.I. 2016/131; S.S.I. 2017/393; and 2018/293.
(2) 2020 asp 7.

- (a) after “must” insert “, but only within such time as is reasonably practicable,”;
- (b) the words “in writing” are revoked.
- (3) In paragraph (3) after “rule 27,” insert “and only as far as is reasonably practicable,”.
- (5) After rule 21 (Assigning certain supervision levels on review) insert—

“Assigning certain supervision levels on review – coronavirus

21A.—(1) For the duration of a coronavirus outbreak, rule 21 has effect subject to the following modification.

(2) In paragraph (2) for the words “provide the prisoner with a written notice informing” substitute “inform”.

(3) In paragraph (3) after “rule 27,” insert “and only as far as is reasonably practicable,”.

- (6) After rule 33 (Provision of clothing to prisoners) insert—

“Provision of clothing to prisoners – coronavirus

33A.—(1) During a coronavirus outbreak, rule 33 has effect subject to the following modification.

(2) After paragraph (5), insert—

“(6) The Scottish Ministers may—

(a) on the application of the Governor made prior to the expiry of any direction made under sub-paragraph (5)(b); and

(b) where they are satisfied that it is necessary to do so due to the effects coronavirus is having, or is likely to have, on the prison,

make any number of further directions continuing the effect of a direction made under paragraph (5)(b) for successive periods of no more than one month.

(7) A direction made by the Scottish Ministers under paragraph (5)(b) or (6) may be revoked at any time, following a request by the Governor, by a further direction made by the Scottish Ministers.

(8) After the Scottish Ministers have made any direction under paragraph (5)(b), (6) or (7), the Governor must take such steps as are practicable to notify prisoners who may be affected by the direction.

(9) Any direction made by the Scottish Ministers under paragraph (5)(b), (6) or (7) must specify—

(a) the date and time when the direction is made; and

(b) (except in the case of a direction made under paragraph (7)), the date and time when the direction expires.”.

- (7) After rule 34 (Personal hygiene) insert—

“Personal hygiene - coronavirus

34A.—(1) For the duration of a coronavirus outbreak, rule 34 has effect subject to the following modification.

(2) For sub-paragraph (1)(b), substitute—

“(b) where adequate arrangements cannot be made under sub-paragraph (a), at least twice per week.”.

- (8) After rule 35 (Prisoners’ food and drink) insert—

“Prisoners’ food and drink – coronavirus

35A.—(1) For the duration of a coronavirus outbreak, rule 35 has effect subject to the following modification.

(2) After paragraph (5), insert—

“(6) The Scottish Ministers may—

- (a) on the application of the Governor made prior to the expiry of any direction made under sub-paragraph (5)(b); and
- (b) where they are satisfied that it is necessary to do so due to the effects coronavirus is having, or is likely to have, on the prison,

make any number of further directions continuing the effect of a direction made under paragraph (5)(b) for successive periods of no more than one month.

(7) A direction made by the Scottish Ministers under paragraph (5)(b) or (6) may be revoked at any time, following a request by the Governor, by a further direction made by the Scottish Ministers.

(8) After the Scottish Ministers have made any direction under paragraph (5)(b), (6) or (7), the Governor must take such steps as are practicable to notify prisoners who are subject to the order of the effect of the direction.

(9) Any direction made by the Scottish Ministers under paragraph (5)(b), (6) or (7) must specify—

- (a) the date and time when the direction is made;
- (b) (except in the case of a direction made under paragraph (7)), the date and time when the direction expires.””.

(9) After rule 40 insert—

“Recommendations by healthcare professionals – coronavirus

40A.—(1) For the duration of a coronavirus outbreak, paragraph (2) applies where the Governor receives, a recommendation from a healthcare professional that, in response to the effects coronavirus is having, or is likely to have on or in relation to the prison, all prisoners in the prison, prisoners in a specified part of the prison or specified prisoners—

- (a) should be confined to their cell until further notice, or for specified periods until further notice; or
- (b) should not participate in specified activities until further notice, or for specified periods until further notice.

(2) Where this paragraph applies, the Governor must—

- (a) give effect to the recommendation from the healthcare professional without delay; and
- (b) notify the Scottish Ministers of the recommendation and the action being taken under sub-paragraph (a).

(3) Subject to paragraphs (5), (6), and (7) a recommendation made under paragraph (1) ceases to apply on the earlier of—

- (a) the expiry of the period of 14 days after the recommendation was received by the Governor, or
- (a) that date that the recommendation is withdrawn by the healthcare professional.

(4) On the expiry or withdrawal of a recommendation under paragraph (1), the Governor must cease the action taken under paragraph (2)(a) without delay.

(5) Prior to the expiry of a recommendation made under paragraph (1), the Governor may, on the advice of the healthcare professional that it is necessary in response to the effects coronavirus is having, or is likely to have on or in relation to the prison, make an application to the Scottish Ministers to extend the period specified in paragraph (3)(a) for a further period of no more than 14 days.

(6) The Scottish Ministers may, following receipt of an application made under paragraph (5), where they are satisfied that it is necessary in response to the effects coronavirus is having, or is likely to have on or in relation to the prison, extend the period specified in paragraph (3)(a) for a period of no more than 14 days.

(7) Where the period specified in sub-paragraph (3)(a) has been extended by the Scottish Ministers under paragraph (6), the period of extension is to be taken as the period specified under paragraph (3) and may be further extended by the Scottish Ministers for periods of no more than 14 days at a time on receipt of a further application by the Governor under paragraph (5).”

(10) After rule 41 (Accommodation in specified conditions) insert—

“Accommodation in specified conditions – coronavirus

41A.—(1) For the duration of a coronavirus outbreak, rule 41 has effect subject to the following modifications.

(2) In sub-paragraph (3)(c), for “72 hours” substitute “14 days”.

(3) In sub-paragraph (12)(a), for “72 hours” substitute “14 days”.”.

(11) After rule 43 (Prisoners’ welfare) insert—

“Prisoners’ welfare - coronavirus

43A.—(1) For the duration of a coronavirus outbreak, rule 43 has effect subject to the following modification.

(2) For “ensure” insert “, so far as it is reasonably practicable to do so, provide”.”.

(12) After rule 52 (Supplies of books, newspapers, etc to prisoners) insert—

“Supplies of books, newspapers, etc to prisoners – coronavirus

52A.—(1) For the duration of a coronavirus outbreak, rule 52 has effect subject to the following modification.

(2) After “Subject to rules 46 to 50,” insert, “and to such arrangements as the Governor considers safe and reasonably practicable”.”.

(13) After rule 63 insert—

“Visits to prisoners – coronavirus

63A.—(1) For the duration of a coronavirus outbreak rules 63 to 76 are subject to this rule.

(2) Where the Governor considers it necessary and proportionate in response to the effects coronavirus is having, or is likely to have on or in relation to the prison, the Governor may suspend visits.

(3) In suspending visits under paragraph (2), the Governor may make different provision for different purposes including by reference to—

(a) different types of prisoners, and

(b) different types of visits under rules 63 to 76.

(4) The Governor must regularly review any suspension of visits ordered under this rule to assess whether it remains necessary and proportionate in response to the effects coronavirus is having, or is likely to have on or in relation to the prison.”.

(14) After rule 81 (Arrangements for work, education and counselling) insert—

“Arrangements for work, education and counselling – coronavirus

81A.—(1) For the duration of a coronavirus outbreak, rule 81 has effect subject to the following modifications.

(2) In paragraph (1), for “must” substitute “may”.

(3) In paragraph (2), for “must” substitute “may”.

(4) After paragraph (2) insert—

“(3) Where the Governor considers it necessary and proportionate in response to the effects coronavirus is having, or is likely to have on or in relation to the prison, the Governor may suspend programmes of work, educational activities and counselling determined under paragraph (2).

(4) The Governor must regularly review any suspension of programmes of work, educational activities or counselling ordered under paragraph (3) to assess whether it remains necessary and proportionate in response to the effects coronavirus is having, or is likely to have on or in relation to the prison.”.

(15) After rule 84 (Purposeful activities) insert—

“Purposeful activities – coronavirus

84A.—(1) For the duration of a coronavirus outbreak, rule 84 has effect subject to the following modifications.

(2) In paragraph (1), for “The Governor” substitute “Subject to paragraph (5), the Governor”.

(3) After paragraph (4), insert—

“(5) Where the Governor considers it necessary and proportionate in response to the effects coronavirus is having, or is likely to have on or in relation to the prison, the Governor may—

(a) suspend all purposeful activity within the prison; or

(b) suspend some purposeful activities within the prison.

(6) The Governor must regularly review any suspension of purposeful activity ordered under paragraph (5) to assess whether it remains necessary and proportionate in response to the effects coronavirus is having, or is likely to have on or in relation to the prison.

(7) Where work has been suspended by the Governor under paragraph (5), rule 82 has no effect.”.

(16) After rule 88 (Recreation) insert—

“Recreation – coronavirus

88A.—(1) For the duration of a coronavirus outbreak, rule 88 has effect subject to the following modifications.

(2) In paragraph (1), for “The Governor” substitute “Subject to paragraph (4), the Governor”.

(3) After paragraph (3), insert—

“(4) Where the Governor considers it necessary and proportionate in response to the effects coronavirus is having, or is likely to have, on or in relation to the prison, the Governor may—

- (a) suspend all recreational activity within the prison; or
- (b) suspend some recreational activities within the prison.

(5) The Governor must regularly review any suspension of recreational activity ordered under paragraph (4) to assess whether it remains necessary and proportionate in response to the effects coronavirus is having, or is likely to have, on or in relation to the prison.”.”.

(17) After rule 111(Reporting breaches of discipline) insert—

“Reporting breaches of discipline – coronavirus

111A.—(1) For the duration of a coronavirus outbreak, rule 111 has effect subject to the following modification.

- (2) For “immediately” substitute “as soon as reasonably practicable”.”.

(18) After rule 116 (Breaches of discipline committed in another prison or during transfer) insert—

“Breaches of discipline committed in another prison or during transfer – coronavirus

116A.—(1) For the duration of a coronavirus outbreak, rule 116 has effect subject to the following modification.

- (2) In sub-paragraph (2)(a), for “3”, substitute “14”.”.

(19) After rule 118 (Disciplinary appeals) insert—

“Disciplinary appeals – coronavirus

118A.—(1) For the duration of a coronavirus outbreak, rule 118 has effect subject to the following modifications.

- (2) In sub-paragraph (6)(b), before “provide” insert “subject to paragraph (6A),”.
- (3) After paragraph (6) insert—

“(6A) Where the Scottish Ministers are unable to provide a written decision to the prisoner within the time period specified in paragraph (6)(b), a written decision must be provided to the prisoner as soon as reasonably practicable after that period.”.”.

(20) After rule 120 (Requests to speak to certain persons) insert—

“Requests to speak to certain persons – coronavirus

120A.—(1) For the duration of a coronavirus outbreak, rule 120 has effect subject to the following modifications.

- (2) In paragraph (2), for “without delay”, substitute “as soon as reasonably practicable”.
- (3) In paragraph (3)(b), for “without delay”, substitute “as soon as reasonably practicable”.”.

(21) After rule 122 (Complaints to the residential first line manager) insert—

“Complaints to the residential first line manager - coronavirus

122A.—(1) For the duration of a coronavirus outbreak, rule 122 has effect subject to the following modifications.

(2) In paragraph (3), for “within 48 hours of”, substitute “as soon as reasonably practicable after”.

(3) In sub-paragraph (5)(b), for “no later than 5 days”, substitute “as soon as reasonably practicable”.

(22) After rule 123 (Referral of complaints to the Internal Complaints Committee) insert—

“Referral of complaints to the Internal Complaints Committee – coronavirus

123A.—(1) For the duration of a coronavirus outbreak, rule 123 has effect subject to the following modifications.

(2) In paragraph (9), for the words from “Within” to “must”, substitute “Subject to paragraph (9A), the Governor must, within 20 days of a complaint being referred to the ICC under paragraph (1)”.

(3) After paragraph (9), insert—

“(9A) Where the Governor is unable to inform the prisoner in accordance with paragraph (9) within 20 days, the Governor must inform the prisoner as soon as reasonably practicable after that period.”.

(23) After rule 131 (Healthcare assessment prior to transfer) insert—

“Healthcare assessment prior to transfer – coronavirus

131A.—(1) For the duration of a coronavirus outbreak, rule 131 has effect subject to the following modification.

(2) In sub-paragraph (a), before “seek” insert “where appropriate to do so in the circumstances”.

(24) After rule 136A (Extension of certain periods of temporary release) insert—

“Extension of certain periods of temporary release – coronavirus

136B.—(1) For the duration of a coronavirus outbreak, rule 136A has effect subject to the following modifications.

(2) In paragraph (2), for “seven” substitute “14”.

(3) In paragraph (4), after “means” insert “home leave or”.