



# Prisons (Scotland) Act 1989

## 1989 CHAPTER 45

### *Confinement and treatment of prisoners*

#### **10 Place of confinement of prisoners**

Prisoners shall be committed to such prison as may be appointed by rules under this Act, and a convicted criminal prisoner may be removed by the Secretary of State from any one prison to any other prison for the purpose of undergoing any part of his sentence.

#### **11 Removal of prisoners for judicial and other purposes**

- (1) Rules under section 39 of this Act may provide in what manner an appellant within the meaning of section 279 of the 1975 Act, when in custody, is to be taken to, kept in custody at, and brought back from, any place at which he is entitled to be present for the purposes of that Act, or any place to which the High Court of Justiciary or any judge thereof, may order him to be taken for the purposes of any proceedings of that court.
- (2) The Secretary of State may, if he is satisfied that a person detained in Scotland in a prison requires medical or surgical treatment of any description, direct him to be taken to a hospital or other suitable place for the purpose of the treatment.
- (3) Where any person is directed under the last foregoing subsection to be taken to any place he shall, unless the Secretary of State otherwise directs, be kept in custody while being so taken, while at that place, and while being taken back to the prison in which he is required in accordance with law to be detained.
- (4) The governor or any officer of a prison may execute any warrant issued by the High Court of Justiciary for the removal of a prisoner in that prison to any other prison for the purpose of trial before that court.
- (5) The Secretary of State may make regulations as to the mode in which and the officers by whom warrants issued under the last foregoing subsection shall be executed.

## 12 Photographing and measuring of prisoners

The Secretary of State may make regulations as to the measuring and photographing of prisoners and such regulations may prescribe the time or times at which, and the manner and dress in which prisoners shall be measured and photographed, and the number of copies of the measurements and photographs of each prisoner which shall be made and the persons to whom they shall be sent.

## 13 Legal custody of prisoner

A person shall be deemed to be in legal custody—

- (a) while he is confined in or being taken to or from any prison in which he may be lawfully confined; or
- (b) while he is working or is, for any other reason, outside the prison in the custody or under the control of an officer of the prison; or
- (c) while he is being taken to any place to which he is required or authorised by or under this Act to be taken; or
- (d) while he is kept in custody in pursuance of such requirement or authorisation.

## 14 Legalised police cells

- (1) The Secretary of State, on the application of a police authority, may from time to time by rules under this Act declare that any police cells or other premises in the possession of the police authority shall be a legal prison for the detention of prisoners before, during or after trial for any period not exceeding 30 days. Any such police cells or other premises are hereinafter referred to as legalised police cells.
- (2) Any person charged with or convicted of any crime or offence committed within any region or islands area who might have been lawfully confined in a prison situated therein may be lawfully confined in any legalised police cells situated in that region or islands area for such period as aforesaid.
- (3) The maintenance of prisoners confined in any legalised police cells shall be deemed to be the maintenance of prisoners under this Act:  

Provided that the police authority shall not be entitled to any payment for the use of the legalised police cells or for services rendered by any of their officers in connection with the detention or removal of the prisoners so confined.
- (4) The police authority, notwithstanding anything in this section, shall at all times have a prior claim to the uninterrupted use of any legalised police cells in their area.
- (5) For the purposes of this section the police authority of any region or islands area in which there are any legalised police cells and all persons in their employment shall be subject to the provisions of this Act and any rules made thereunder.
- (6) It shall be the duty of the Secretary of State to make any arrangements required for the removal of any prisoners confined in legalised police cells in the islands area of Orkney or of Shetland.
- (7) In this section the expression “police authority” means the council of a region or islands area, except that where there is an amalgamation scheme in force under the Police (Scotland) Act 1967 it means a joint police committee.

- (8) For the purposes of sections 8 and 39 of this Act, legalised police cells shall be deemed to be prisons.

**15 Right of sheriff or justice to visit prison**

- (1) A sheriff or justice of the peace may visit any prison within his jurisdiction or in which a prisoner is confined for any offence committed within his jurisdiction, and may examine the condition of the prison and of the prisoners therein and enter in the visitors book to be kept by the governor of the prison any observations on the condition of the prison or on any abuses therein.
- (2) Nothing in the foregoing subsection shall authorise a sheriff or justice of the peace to communicate with any prisoner except on the subject of his treatment in the prison nor to visit any prisoner under sentence of death.
- (3) It shall be the duty of the governor of a prison to draw the attention of the visiting committee at their next visit to any entry in the visitors book made in pursuance of this section.