
STATUTORY INSTRUMENTS

1994 No. 1931

**The Prisons and Young Offenders
Institutions (Scotland) Rules 1994**

PART 1

GENERAL

Interpretation

3.—(1) In these Rules, unless the context otherwise requires, the following expressions shall have the meanings ascribed to them:—

“the Act” means the Prisons (Scotland) Act 1989;

“the 1993 Act” means the Prisoners and Criminal Proceedings (Scotland) Act 1993(1);

“1952 Rules” means the Prison (Scotland) Rules 1952(2);

“1965 Rules” means the Young Offenders (Scotland) Rules 1965(3);

“appellant” means a prisoner—

- (a) who appeals under section 228 or 442 of the Criminal Procedure (Scotland) Act 1975(4) against his conviction or sentence, or both his conviction and sentence;
- (b) whose case has been referred to the High Court of Justiciary by the Secretary of State pursuant to section 263(1) of the said Act of 1975(5);
- (c) who appeals by way of bill of suspension against his conviction or sentence, or both conviction and sentence, in summary proceedings;
- (d) who appeals under section 8 of the Courts-Martial (Appeals) Act 1968(6) against his conviction or sentence, or both conviction and sentence, or who appeals under section 39(1) of that Act from any decision of the Courts-Martial Appeal Court on an appeal under section 8 of that Act; or
- (e) who is subject to a supervised release order under section 212A of the said Act of 1975(7) and who appeals under section 19 of the 1993 Act,

and for the purpose of this definition a prisoner shall be deemed to be an appellant from the time—

(1) 1993 c. 9.

(2) S.I.1952/565, amended by S.I. 1954/240, 1956/671, 1966/1552, 1970/2013, 1976/1889, 1979/1630, 1981/1222, 1984/2058, 1987/2231, 1988/537 and 1993/2227.

(3) S.I. 1965/195, amended by S.I. 1966/1551, 1981/1223 and 1993/2228.

(4) Sections 228 and 442 were substituted by the Criminal Justice (Scotland) Act 1980 (c. 62), Schedule 2, paragraph 1 and Schedule 3, paragraph 1 respectively; section 442 was amended by the 1993 Act, section 42 and Schedule 5, paragraph 1(33).

(5) Section 263(1) was amended by the Criminal Justice (Scotland) Act 1980 (c. 62), Schedule 2, paragraph 22 and Schedule 8.

(6) 1968 c. 20; section 8 was amended by the Armed Forces Act 1971 (c. 33), section 73(2) and Schedule 2, paragraph 1(2), by the Armed Forces Act 1976 (c. 52), section 22(5) and Schedule 9, paragraph 16 and by the Armed Forces Act 1991 (c. 62), Schedule 3.

(7) Section 212A was inserted by the 1993 Act, section 14(1).

- (i) in the case of an appeal as referred to in sub-paragraph (a), he lodges a written intimation of intention to appeal or a note of appeal in terms of section 231(1) or 233(1) of the said Act of 1975⁽⁸⁾ or an application for a stated case or a note of appeal in terms of section 444(1) or 453B(1) of that Act⁽⁹⁾;
- (ii) in the case of a reference as referred to in sub-paragraph (b), the Secretary of State refers the case to the High Court of Justiciary;
- (iii) in the case of an appeal as referred to in sub-paragraph (c), he lodges the bill of suspension;
- (iv) in the case of an appeal as referred to in sub-paragraph (d), he presents a petition in terms of section 8(2) of the Courts-Martial (Appeals) Act 1968⁽¹⁰⁾; or
- (v) in the case of an appeal as referred to in sub-paragraph (e), he lodges a note of appeal, until the appeal or, as the case may be, the reference is finally disposed of or abandoned in its entirety;

“chaplain” means the person who is appointed pursuant to section 3(2) of the Act as the chaplain to a prison;

“chaplaincy team” consists of the chaplain and any prison minister and any visiting minister;

“civil prisoner” means a person who is committed to prison—

- (a) by virtue of non-compliance with an order under section 45 of the Court of Session Act 1988⁽¹¹⁾;
- (b) under section 4 or 6 of the Civil Imprisonment (Scotland) Act 1882⁽¹²⁾;
- (c) by virtue of a warrant granted under section 1(1) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1940⁽¹³⁾;
- (d) for contempt of court or for non-payment of a fine imposed for contempt of court; or
- (e) for breach of interdict;

“closed visiting facilities” means visiting facilities which adopt special security features including physical barriers between prisoner and visitor;

“clothing” includes footwear, jewellery and other objects worn for personal adornment;

“constable” has the same meaning as in section 51(1) of the Police (Scotland) Act 1967⁽¹⁴⁾;

“employee” means an employee (not being an officer of a prison) appointed by the Secretary of State under section 2(1) of the Act;

“film” has the same meaning as in Part I of the Copyright, Designs and Patents Act 1988⁽¹⁵⁾;

“Governor” means—

- (a) in rule 78 and in any rule in Part 11 (other than rules 102 and 103), the officer who is appointed under section 3 of the Act as the Governor in charge of the prison;

⁽⁸⁾ Sections 231 and 233 were substituted by the Criminal Justice (Scotland) Act 1980, Schedule 2, paragraphs 3 and 5 respectively; section 231(1) was amended by the Criminal Justice (Scotland) Act 1987 (c. 41), section 45(6)(a); section 233(1) was amended by the 1993 Act, Schedule 5, paragraph 1(9).

⁽⁹⁾ Section 444(1) was substituted by the Criminal Justice (Scotland) Act 1980 (c. 62), Schedule 3, paragraph 3(a); section 453B(1) was inserted by the said Act of 1980, Schedule 3, paragraph 13 and amended by the 1993 Act, Schedule 5, paragraph 36(a).

⁽¹⁰⁾ Section 8(2) was amended by the Armed Forces Act 1971 (c. 33), Schedule 2, paragraph 1(2).

⁽¹¹⁾ 1988 c. 36.

⁽¹²⁾ 1882 c. 42; sections 4 and 6 were amended by the Sheriff Courts (Scotland) Act 1971 (c. 58), section 4.

⁽¹³⁾ 1940 c. 42.

⁽¹⁴⁾ 1967 c. 77.

⁽¹⁵⁾ 1988 c. 48.

(b) in rules 4, 5, 11, 21 and 67 and in any rule in Parts 7, 9, 10 and 13 to 16, any officer of a governor grade or, where there is no such officer present for the time being in the prison, the most senior officer who is present in prison at that time; and

(c) in any other provision in these Rules, any officer;

“legal adviser” means a person who is entitled to practise—

(a) as a solicitor, an advocate or a barrister in any part of the United Kingdom; or

(b) as a member of the corresponding profession of solicitor, advocate or barrister in any Member State of the European Community,

and includes the authorised clerk or employee of such a person;

“letter” includes any communication in written form which—

(a) is directed to a specific person or address; and

(b) relates to the personal, private or business affairs of, or the business affairs of the employer of, either correspondent,

and includes an envelope containing any such communication;

“life prisoner” means a person serving a sentence of imprisonment for life;

“long-term prisoner” shall be construed in accordance with Part I of the 1993 Act;

“medical officer” means an officer of a prison who is appointed by the Secretary of State under section 3(1) of the Act to be a medical officer of that prison;

“officer” means an officer of the prison appointed by the Secretary of State and includes the Governor;

“photograph” has the same meaning as in Part I of the Copyright, Designs and Patents Act 1988;

“prison minister” means a person who is appointed by the Secretary of State pursuant to section 9(1) of the Act as a minister to a prison;

“prohibited article” means—

(a) any drug which is a controlled drug for the purposes of the Misuse of Drugs Act 1971⁽¹⁶⁾;

(b) any firearm or any ammunition within the meaning of the Firearms Act 1968⁽¹⁷⁾;

(c) any offensive weapon within the meaning of the Prevention of Crime Act 1953⁽¹⁸⁾;

(d) any article to which section 1 of the Carrying of Knives etc. (Scotland) Act 1993⁽¹⁹⁾ applies; or

(e) alcoholic liquor;

“reception”, in relation to a prisoner committed to prison means the process of receiving a prisoner into prison—

(a) on his removal to prison from court, or any other place, in implementation of the warrant, order or certificate ordering or authorising his detention in custody; or

(b) on his transfer to any prison from any other prison, or from any remand centre, young offenders institution or other place where he was liable to be detained in custody,

and cognate expressions shall be construed accordingly;

“refugee” means—

⁽¹⁶⁾ 1971 c. 38.

⁽¹⁷⁾ 1968 c. 27.

⁽¹⁸⁾ 1953 c. 14.

⁽¹⁹⁾ 1993 c. 13.

- (a) a person who is recognised by Her Majesty’s Government as a refugee within the meaning of the UN Convention relating to the Status of Refugees done at Geneva on 28th July 1951(20) as extended by the Protocol thereto which entered into force on 4th October 1987(21) or, as the case may be, the Protocol relating to the status of refugees done at New York on 31st January 1967(22); or
- (b) a person who enjoys asylum in the United Kingdom in pursuance of a decision of Her Majesty’s Government though not yet recognised;

“residential officer” means an officer who is required by the Governor to supervise a specific area of living accommodation for prisoners;

“residential unit manager” means an officer who is required by the Governor to manage a number of areas of living accommodation for prisoners;

“security category” means a category assigned in accordance with rule 12;

“short-term prisoner” shall be construed in accordance with Part I of the 1993 Act;

“sound recording” has the same meaning as in Part I of the Copyright, Designs and Patents Act 1988;

“special cell” means a room or cell which is adapted for the temporary accommodation of refractory or violent prisoners and whose features may include special sound-proofing, strengthened fixtures and fittings or the absence of any window;

“stateless person” has the meaning assigned to it in article 1 of the Convention relating to the Status of Stateless Persons 1954(23);

“training for freedom hostel” means that part of a prison, so designated by the Governor, used for custody of prisoners prior to release who are involved in work and other activities approved by the Governor outwith the prison;

“untried prisoner” means a person who is committed to prison—

- (a) for examination or trial on any criminal charge;
- (b) by virtue of remand in custody under the Extradition Act 1989(24); or
- (c) by virtue of detention under Schedule 2 or 3 to the Immigration Act 1971(25),

but does not include any such person who is for the time being serving a sentence of imprisonment;

“visiting minister” means a minister who is allowed to visit prisoners of his denomination in terms of section 9(3) of the Act;

“young prisoner” means a prisoner who is under 16 years of age.

(2) Unless the context otherwise requires, any reference in these Rules to a numbered rule is a reference to the rule in these Rules bearing that number; any reference to a numbered Schedule is a reference to the Schedule to these Rules bearing that number and any reference in a rule to a numbered paragraph is a reference to the paragraph bearing that number in that rule.

(3) For the purposes of any reference in these Rules to the term of imprisonment or other detention to which a person has been sentenced, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term.

(20) Treaty Series No. 39 (1954), Cmnd 9171.

(21) Treaty Series No. 50 (1987), Cmnd 222 (out of print: photocopies are available free of charge from the Scottish Prison Service, Calton House, 5 Redheughs Rigg, Edinburgh).

(22) Treaty Series No. 15 (1969), Cmnd 3906 (out of print: photocopies are available free of charge from the Scottish Prison Service, Calton House, 5 Redheughs Rigg, Edinburgh).

(23) Cmnd 1098 of 1960.

(24) 1989 c. 33.

(25) 1971 c. 77.

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