
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules replace the Prison (Scotland) Rules 1952 and the Young Offenders (Scotland) Rules 1965 as respectively amended.

Part 1 of the Rules (rules 1 to 5) makes provision for citation, commencement, application and interpretation. It also provides for certain duties of the Governor in relation to elimination of discrimination and the making available of a copy of the Rules and of any directions to officers and prisoners. Rule 2 provides that the Rules apply to young offenders institutions and to young offenders as they apply to prisons and prisoners subject to the modifications set out in Schedule 1.

Part 2 (rules 6 to 14) deals with matters relating to reception of prisoners, prisoner records, classification of prisoners and location of prisoners within prisons. In relation to reception, there are provisions as to the manner in which a prisoner is to be dealt with including the information he must be given (rules 7 to 9). Rule 10 deals with registration and records of prisoners. Rules 11 and 12 relate to classification and security categories. Every prisoner requires to be given one of the specified security categories in Schedule 2.

Part 3 (rules 15 to 22) regulates matters affecting the physical and personal environment in which prisoners are confined. Rules 15 to 17 specify conditions relating to cellular accommodation. Rules 18 to 20 make provision for requirements in relation to clothing. Subject to certain conditions, prisoners are allowed to wear their own clothes unless the provisions of rule 18(1) are disapplied in relation to their prison by virtue of a direction. Rules 21 and 22 set out requirements in relation to the provision of food and prisoners' hygiene.

Part 4 (rules 23 to 34) makes provision in relation to the health and welfare of prisoners. The duties of medical officers are specified in rules 23, 25, 27 to 29, 31 and 32. Rule 33 requires the governor to provide assistance and facilities to assist prisoners to maintain relationships with family, friends and agencies who may offer them assistance. Special provision is made for visits to untried and civil prisoners by their own doctors and dentists (rule 34).

Part 5 (rules 35 to 39) makes provision in relation to religious practice by a prisoner. Rule 36 enables the Chaplain, any prison minister appointed under section 9(1) of the Prisons (Scotland) Act 1989 “the Act”, and any other minister (“visiting minister”) allowed to visit prisoners in terms of section 9(3) of the Act to visit prisoners and conduct religious services or meetings for prisoners. Rule 37 requires the Governor to make arrangements for visits by visiting ministers. Rule 38 permits prisoners to attend services or meetings of their religious denomination and makes provision in relation to visits by the Chaplain or other minister.

Part 6 (rules 40 to 46) makes provision for privileges and the regulation of property belonging to prisoners which is received or kept at the prison. Rule 40 requires governors to establish a system of privileges in the prison. Such a system shall not affect any entitlement of a prisoner as specified in the rules and any such entitlement is not to be regarded as a privilege for the purposes of disciplinary punishment which may provide for forfeiture of privileges. The handling of prisoners' property in general and money in particular is dealt with in rules 42 to 44 and 45 respectively.

Part 7 (rules 47 to 65) deals with various matters relating to arrangements enabling prisoners to communicate with persons outwith the prison. Correspondence is dealt with in rules 48 to 53. Special provisions relating to the correspondence between prisoners and courts and legal advisers are contained in rules 49 and 50. Other correspondence is regulated by rules 48 and 51 to 53. Every prisoner is entitled to send at least one letter every week at the expense of the Secretary of

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State. Entitlement of prisoners to make telephone calls from the prison is regulated by rule 54 and any direction which may be made for the purposes of that rule. Visits to prisoners are provided for in rules 55 to 64. Rule 55 specifies the minimum entitlement to visits for prisoners (rule 56 making similar provision for untried and civil prisoners). Rule 57 enables certain prisoners to carry forward their unused visiting allowance where they are moved to another prison. Rules 58 to 61 make special provision in relation to visits by legal advisers, procurators fiscal, police constables, and representatives of diplomatic services and national or international authorities or organisations. Rule 62 makes special provision where a prisoner requires to see persons in connection with legal proceedings. Rule 63 enables the governor to terminate visits in certain circumstances and enables the Secretary of State to impose such conditions as may be specified in a direction on the entitlement of a prisoner to receive visits. Rule 64 provides for the use of closed visiting facilities in certain circumstances. Special arrangements for prisoners committed to prison in default of payments are set out in rule 65 to enable them to communicate with any person to arrange payment of money in order to secure their release.

Part 8 (rules 66 to 77) makes provision in relation to work, education, earnings, counselling and recreational activity. Except for young prisoners and untried and civil prisoners, all prisoners are required to work, for which they are entitled to receive earnings in terms of rule 74. Rules 75 to 77 make provision in relation to exercise and recreational activity. Prisoners are not permitted to carry on any trade, profession or vocation from the prison but are not prevented from writing articles or books.

Part 9 (rules 78 to 93) makes provision in relation to security matters and the control of prisoners. General duties are dealt with in rules 78 and 79. Removal of a prisoner from association with other prisoners is dealt with in rule 80. Rules 81 and 82 regulate possession of prohibited articles and other property. The use of restraints for the control of prisoners is regulated by rules 83 and 84. Provision for the temporary confinement in special cells of violent prisoners is made in rule 85. Searching of visitors and prisoners is regulated by rules 86 and 88. Searching prisoners' property is regulated by rule 89. Provision for prisoners' leave of absence under escort is made in rules 91 and 92. Rule 93 makes provision in relation to production of prisoners to court.

Part 10 (rules 94 to 101) makes provision in relation to the disciplinary system. The acts or omissions constituting a breaching of discipline are specified in Schedule 3. These include provisions which are similar to the offences against discipline specified in rule 42 of the 1952 Rules but do not contain provisions comparable to rule 42(7) (communicating with another prisoner without authority), 42(11) (committing a nuisance), 42(16) (making repeated and groundless complaints) and 42(17) (offending against good order and discipline) of the 1952 Rules. Rules 95 to 99 relate to the adjudication of charges of breaches of discipline and specify the procedure to be followed. Rules 100 and 101 regulate the imposition of punishments in relation to breaches of discipline.

Part 11 (rules 102 to 113) makes provision in relation to requests and complaints by prisoners. Rules 103 to 113 deal with the internal grievance procedures which a prisoner may invoke. The system provides for requests and complaints to be made initially to a designated officer in the prisoner's accommodation hall. Thereafter, the request or complaint may be referred progressively to the manager of that hall, the internal complaints committee, the Governor in charge and finally to the Secretary of State. There is a separate procedure prescribed for referring confidential matters directly to the Governor in charge and for referring certain categories of request directly to the Secretary of State (rules 108 and 110). Rules 111 and 112 make provision in relation to appeals and requests concerning disciplinary matters.

Part 12 (rules 114 to 116) makes provision in relation to female prisoners, particularly pregnant prisoners or prisoners who have babies and who are permitted to have them in prison.

Part 13 (rules 117 to 119) makes provision in relation to arrangements for prisoners who are being transferred or discharged.

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Part 14 (rules 120 to 126) sets out provisions in terms of which prisoners may be temporarily released from prison. The provisions describe different temporary release schemes comprising short home leave, Christmas and summer leave and pre-Training for Freedom leave (rule 120); long home leave (rule 121); pre-parole/pre-life licence leave (rule 122); and unescorted exceptional day release of prisoners in security category D (rule 123).

Part 15 (rules 127 to 132) makes provision in relation to officers and employees. It prescribes general duties and obligations and provides power to the governor to order the search of officers and employees in certain circumstances.

Part 16 (rules 133 to 140) makes provision in relation to visiting committees. Rule 133 sets out the requirement for the constitution of visiting committees of prisons (paragraph 3 of Schedule 1 substitutes this rule in relation to young offenders institutions, the visiting committees for which are appointed by the Secretary of State in terms of section 19(3) of the Act). Rules 134 to 140 regulate the proceedings of the visiting committees and the duties of members.

Part 17 (rules 141 to 144) contains supplementary provisions in relation to various matters. Rule 141 provides for remission of sentence or detention of prisoners or young offenders respectively who were sentenced before 1st October 1993. Rule 142 contains supplementary provision as to the making of directions where any provision of the Rules authorises the making of a direction for a specified purpose. Rules 143 and 144, and Schedules 5 and 6, provide for revocation of various rules and savings and transitional provisions in connection therewith.