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STATUTORY INSTRUMENTS

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**1994 No. 1931**

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

**PART 11**

**REQUESTS AND COMPLAINTS**

**Requests to speak to an officer of the Secretary of State, a member of the visiting committee, a sheriff or a justice of the peace**

**102.**—(1) Where a prisoner makes a request to speak to—

- (a) an officer of the Secretary of State;
- (b) a member of the visiting committee, or
- (c) a sheriff or a justice of the peace visiting the prison in terms of section 15 of the Act,

the request shall be recorded by the officer to whom it is made and conveyed without delay to the Governor.

(2) The Governor shall inform any such person as mentioned in sub-paragraphs (a) to (c) of paragraph (1) as soon as reasonably practicable of any request by a prisoner to speak to him.

**Requests and complaints to the visiting committee**

**103.** Every prisoner intimating to an officer his desire to write a letter of request or complaint to the visiting committee shall be supplied with paper for the purpose, and the Governor shall ensure that every such letter is posted without delay.

**Requests and complaints to the residential officer**

**104.**—(1) A prisoner who desires to make a request or complaint concerning any matter, other than one specified in rules 102, 103, 108, 110, 111 and 112, may do so subject to and in accordance with the following provisions of this rule.

(2) Subject to paragraph (3), such a request or complaint—

- (a) may be made orally or in writing; but
- (b) shall be made by the prisoner to the residential officer in the first instance.

(3) If the prisoner intends to make a complaint against any officer or employee he must make the complaint in writing.

(4) If a prisoner requires assistance with the making of the written request or complaint, an officer appointed by the Governor for the purpose shall provide such assistance as is reasonably practicable in the circumstances.

(5) Subject to paragraph (6), the residential officer shall give a reply to the prisoner within 24 hours of receiving the request or complaint and shall give a written reply to any request or complaint which was made in writing.

(6) If the residential officer is unable to reply within the period specified in paragraph (5), he shall inform the prisoner within that period when he considers he will be able to reply and shall thereafter give a written reply as soon as reasonably practicable.

(7) This rule does not affect any right of a prisoner to make any request or complaint at any time to any person or body other than the Secretary of State and any officer of the prison.

### **Requests and complaints to the residential unit manager**

**105.**—(1) If a prisoner has made a request or complaint in terms of rule 104 and is dissatisfied with the reply given, he may refer the request or complaint in writing to the residential unit manager.

(2) If the prisoner requires assistance with the making of the written request or complaint, an officer appointed by the Governor for the purpose shall provide such assistance as is reasonably practicable in the circumstances.

(3) Subject to paragraph (4), the residential unit manager shall give a written reply within 24 hours of receiving the written request or complaint.

(4) If the residential unit manager is unable to reply within the period specified in paragraph (3), he shall inform the prisoner within that period when he considers he will be able to reply and shall thereafter give a reply as soon as reasonably practicable.

(5) When the residential unit manager gives his reply he shall inform the prisoner of his right to refer the request or complaint to the internal complaints committee if he is dissatisfied with his reply.

### **Referral of requests and complaints to the internal complaints committee**

**106.**—(1) If a prisoner is dissatisfied with the reply given in relation to a request or complaint by the residential unit manager in terms of rule 105(3) or (4), he may make a written referral of the request or complaint to the internal complaints committee (“the committee”) consisting of not fewer than 3 officers or employees.

(2) If the prisoner requires assistance with the making of the written request or complaint, an officer appointed by the Governor for the purpose shall provide such assistance as is reasonably practicable in the circumstances.

(3) The request or complaint shall be inquired into by the committee not later than 7 days after the date on which the referral is made.

(4) The prisoner making the referral may—

(a) attend the inquiry and make representations to the committee;

(b) be assisted at the inquiry by—

(i) an officer or an employee, a member of the visiting committee, or any person who ordinarily works at the prison but who is not employed by the Secretary of State; or

(ii) where the officer acting as chairman of the committee is satisfied that there are exceptional circumstances, another prisoner at the prison concerned,

if the person concerned has agreed to assist the prisoner;

(c) subject to paragraphs (5) and (6), call witnesses to give evidence in support of his request or complaint; and

(d) ask questions of any person giving evidence at the inquiry.

(5) If a prisoner making a referral intends—

(a) to call witnesses to give evidence in support of his request or complaint; or

(b) to be assisted by any person as mentioned in paragraph (4)(b),

he shall give written notice of that intention and the reasons why he considers this is necessary.

(6) The officer acting as chairman of the committee may refuse to allow a prisoner to call a particular witness if, having discussed the matter with the prisoner, he is reasonably satisfied that the evidence which the witness is likely to give will be of no relevance or value in considering the request or complaint and, in that event, the officer shall inform the prisoner concerned prior to the hearing.

(7) Subject to paragraphs (8) and (9), at the conclusion of the inquiry, the committee shall—

- (a) consider and decide upon such recommendations as it sees fit in relation to the request or complaint;
- (b) inform the prisoner of its decision at that time; and
- (c) confirm the decision in writing as soon as reasonably practicable thereafter.

(8) Subject to paragraph (9), if the committee is unable to give a decision at the time of the inquiry, it shall inform the prisoner of the decision in writing within 48 hours of the conclusion of the inquiry.

(9) If in exceptional circumstances the committee is unable to inform the prisoner of its decision within the period specified in paragraph (8), it shall inform the prisoner—

- (a) within that period of the reasons for the delay and when the committee considers it will be able to give its decision; and
- (b) of its decision as soon as reasonably practicable thereafter.

(10) The officer acting as chairman of the committee shall inform the Governor of the decision.

(11) The Governor shall take such action as is possible in order to give effect to any recommendation the committee may make in relation to the request or complaint.

### **Referral of requests and complaints to the Governor**

**107.**—(1) If a prisoner is dissatisfied with the decision of the internal complaints committee in terms of rule 106 in relation to a request or a complaint which he referred to it, he may refer the request or complaint to the Governor.

(2) If the prisoner requires assistance with the making of the written request or complaint, an officer appointed by the Governor for the purpose shall provide such assistance as is reasonably practicable in the circumstances.

(3) The Governor shall consider the request or complaint within 7 days of the date on which it is referred except where it is not reasonably practicable for him to do so.

(4) The Governor may, at the request of the prisoner, discuss the request or complaint with the prisoner.

(5) If the Governor refuses a request by a prisoner to discuss the request or complaint, he shall inform the prisoner of his reasons and record that decision in writing.

(6) After considering the referral, the Governor may—

- (a) reject the request or complaint; or
- (b) substitute or amend any recommendation made by the internal complaints committee in terms of rule 106(7) or make any other recommendation as he considers appropriate and give effect to the recommendations as substituted or amended.

(7) The Governor shall inform the prisoner of his decision in writing and of the prisoner's right to refer the request or complaint to the Secretary of State in terms of rule 109.

### **Requests and complaints to the Governor in relation to confidential matters**

**108.**—(1) Notwithstanding rules 104 to 107, a prisoner who desires to make a request or complaint to the Governor concerning any confidential matter which is of an exceptionally sensitive

or serious nature may do so in writing subject to and in accordance with the following provisions of this rule.

(2) The prisoner shall, if he desires to make such a request or complaint, give a sealed envelope containing the written request or complaint to the residential officer, who shall convey the request or complaint without delay to the Governor.

(3) If the Governor is of the opinion that the request or complaint is not of an exceptionally sensitive or serious nature, he shall inform the prisoner without delay that he must make the request or complaint in accordance with rule 104.

(4) Subject to paragraph (3), the Governor shall consider the request or complaint and inform the prisoner of his decision within 7 days of the date on which the request or complaint was made except where it is not reasonably practicable for him to do so.

### **Referral of requests and complaints to the Secretary of State**

**109.**—(1) Except in relation to any matter specified in rule 110, or an appeal made under rule 111(2)(b), the Secretary of State shall be under no obligation to consider a request or complaint by a prisoner unless it has been referred to him in terms of this rule.

(2) Subject to paragraph (1), a prisoner may refer a request or complaint to the Secretary of State in writing if he is dissatisfied with the decision of the Governor in terms of rule 107 or 108 in relation to that request or complaint.

(3) If the prisoner requires assistance with the making of the written request or complaint, an officer appointed by the Governor for the purpose shall provide such assistance as is reasonably practicable in the circumstances.

(4) The Secretary of State shall give a written decision within 14 days of the date on which a request or complaint has been referred to him except where it is not reasonably practicable for him to do so.

(5) After considering the referral, the Secretary of State may—

- (a) reject the request or complaint; or
- (b) substitute or amend any recommendation made, substituted or amended by the Governor in terms of rule 107(6) or give any other instruction to the Governor he considers appropriate,

and shall inform the prisoner and the Governor of his decision.

(6) Following receipt of the Secretary of State's decision, the Governor shall take such action as is necessary in order to give effect to any instruction which the Secretary of State has made in relation to the request or complaint.

### **Requests, complaints and representations to the Secretary of State in relation to certain matters**

**110.**—(1) Notwithstanding rule 109, a prisoner who desires to make any request or complaint, or representations, in relation to any matter mentioned in paragraph (2) may do so in writing directly to the Secretary of State.

(2) This rule applies to the following matters—

- (a) a request or complaint by a prisoner in connection with a transfer out of the United Kingdom under the Repatriation of Prisoners Act 1984(1);

- (b) a request to be transferred to another part of the United Kingdom or to any of the Channel Islands or the Isle of Man under section 26 or 27 of the Criminal Justice Act 1961(2);
- (c) a complaint which involves any allegation against the Governor; and
- (d) representations to the Secretary of State as regards any matter concerning a prisoner's release on licence under the Act or Part I of the 1993 Act or his return to prison or detention by virtue of the Act or Part I of the 1993 Act.

### **Appeals in relation to disciplinary proceedings**

**111.**—(1) A prisoner who is found guilty of any breach of discipline may appeal in accordance with this rule—

- (a) against such a finding of guilt and any punishment imposed in respect of the breach; or
- (b) in the case of any punishment imposed under rule 100(1), against the punishment only.

(2) A prisoner may make such an appeal—

- (a) where any officer other than the Governor in charge of the prison adjudicated the charge, by appealing in writing to the internal complaints committee; or
- (b) where the Governor in charge of the prison adjudicated the charge, by appealing to the Secretary of State.

(3) Where a prisoner makes an appeal in terms of paragraph (2)(a) to the internal complaints committee—

- (a) the appeal shall be dealt with as a complaint made under rule 106; and
- (b) if recommended to do so by the committee, the Governor may—
  - (i) quash any finding of guilt; or
  - (ii) remit or mitigate any punishment (other than a punishment imposed under subparagraph (b), (d), (g) or (i) of rule 100(1) where the period for which the punishment was imposed has expired by the date of the decision of the appeal).

(4) If a prisoner who has appealed in terms of paragraph (2)(a) to the internal complaints committee is dissatisfied with the decision of the committee and refers the matter to the Governor under rule 107, or subsequently to the Secretary of State under rule 109—

- (a) the powers of the Governor under rule 107(6) shall include the same powers as mentioned in paragraph (3)(b); and
- (b) the powers of the Secretary of State under rule 109(5) shall include the power to instruct the Governor—
  - (i) to quash any finding of guilt;
  - (ii) to remit or mitigate any punishment (other than a punishment imposed under subparagraph (b), (d), (g) or (i) of rule 100(1) where the period for which the punishment was imposed has expired by the date of the decision of the appeal); or
  - (iii) to substitute another punishment which is, in the Secretary of State's opinion, less severe.

(5) Where a prisoner makes an appeal in terms of paragraph (2)(b) to the Secretary of State—

- (a) the appeal shall be dealt with as a complaint referred to him under rule 109; and
- (b) the powers of the Secretary of State under rule 109(5) shall include the same powers as mentioned in paragraph (4)(b).

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(2) 1961 c. 39; section 26 was amended by the Criminal Law Act 1977 (c. 45), Schedule 12, by the Criminal Justice (Scotland) Act 1980 (c. 62), Schedule 7, paragraph 7 and by the Criminal Justice Act 1982 (c. 48), Schedule 14, paragraph 11.

(6) Following the conclusion of the appeals procedure in relation to an appeal in accordance with this rule, a prisoner shall not be entitled to make any further request, complaint or appeal under this Part of these Rules in relation to the same matter to which the breach of discipline in question related, except for any request which he may make in terms of rule 112 in relation to a punishment imposed in terms of rule 100(1)(e) or (f).

**Requests for restoration of forfeited remission or rescinding awards of additional days**

**112.**—(1) Without prejudice to rule 111(1), if a prisoner desires to make a request for the—

- (a) remission or mitigation of any award of additional days which has been made in terms of rule 100(1)(e); or
- (b) restoration of any remission of sentence which has been forfeited in terms of rules 100(1)(f),

he may make that request in writing directly to the Governor.

(2) The Governor shall consider the request and may grant it, either in whole or in part, if—

- (a) the prisoner’s conduct has been exemplary for a sustained period of time; or
- (b) whether or not his conduct has been exemplary for a sustained period, the grant of the request is justified by particularly meritorious conduct demonstrated at any time subsequent to the award of additional days or the forfeiture of remission of sentence.

(3) The Governor shall inform the prisoner of his decision in writing within 7 days of the date on which the request was made.

**Direction with respect to requests, complaints and appeals**

**113.** The Secretary of State may provide in a direction such conditions with respect to the form and manner in which—

- (a) any request, complaint and appeal as mentioned in rules 104 to 112 may be made or referred; and
- (b) any reply or decision in relation to such a request, complaint and appeal may be given,

as he considers appropriate.