
STATUTORY INSTRUMENTS

1994 No. 1931

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

PART 9

SECURITY AND CONTROL

Supervision of the prison and control of prisoners

78.—(1) Subject to the provisions of these Rules, the Governor shall be responsible for—

- (a) the supervision of the whole prison; and
- (b) the control of prisoners confined therein.

(2) The Governor shall as far as practicable visit and inspect daily those parts of the prison where prisoners are employed or accommodated.

Control of prisoners

79.—(1) In the control of prisoners, an officer shall seek—

- (a) to influence by example and leadership; and
- (b) to enlist the willing cooperation of prisoners.

(2) An officer in dealing with a prisoner shall not use force unnecessarily and, when the application of force to a prisoner is necessary, no more force than is necessary shall be used.

(3) No officer shall act in a manner deliberately calculated to provoke a prisoner.

Removal from association

80.—(1) Where it appears to the Governor desirable for the purpose of—

- (a) maintaining good order or discipline;
- (b) protecting the interests of any prisoner; or
- (c) ensuring the safety of other persons,

he may order in writing that a prisoner shall be removed from association with other prisoners, either generally or during any period the prisoner is engaged or taking part in a prescribed activity.

(2) If the Governor makes an order under paragraph (1) in relation to a prescribed activity, he may specify only one prescribed activity in the order.

(3) In this rule, “prescribed activity” means—

- (a) work required to be undertaken in terms of rule 68;
- (b) educational classes undertaken in terms of rule 72;
- (c) counselling provided in terms of rule 73;
- (d) taking exercise and spending time in the open air by virtue of rule 75; or

(e) recreational activities.

(4) If the Governor makes an order under paragraph (1), he shall—

(a) specify in the order whether the removal from association is—

(i) in general; or

(ii) in relation to a prescribed activity;

(b) if the removal is in relation to a prescribed activity, specify which activity the order relates to;

(c) specify in the order the reasons why he is making it;

(d) record in the order the date and time it is made; and

(e) explain to the prisoner the reasons why the order is made.

(5) A prisoner who has been removed from association generally by virtue of an order made by the Governor in terms of paragraph (1) shall not be subject to such removal for a period in excess of 72 hours from the time of the order without the written authority of the Secretary of State.

(6) An authority granted by the Secretary of State under paragraph (5) shall have effect for a period not exceeding one month but may, on the application of the Governor, be renewed from month to month by the Secretary of State.

(7) A prisoner who has been removed from association in relation to a prescribed activity by virtue of an order under paragraph (1) shall not be subject to removal for a period in excess of 72 hours but the Governor may make a further order in relation to the same prescribed activities under paragraph (1), which shall be reviewed by him on a weekly basis thereafter.

(8) The Governor may order that a prisoner who is subject to removal from association under this rule may resume association with other prisoners and shall do so if the medical officer so advises on medical grounds.

(9) If a prisoner is moved by the Secretary of State from any prison to any other prison in terms of section 10 of the Act⁽¹⁾, any order under paragraph (1), or any authority under paragraph (5), made or granted in relation to the prisoner whilst confined in the former prison shall cease to have effect, but without prejudice to the power of the Governor of the prison to which the prisoner is moved to make a new order under paragraph (1).

Prohibited articles

81.—(1) Subject to paragraph (2), no prisoner shall have in his possession, or conceal or deposit anywhere within a prison, any prohibited article.

(2) A prisoner may be allowed to receive alcoholic liquor or controlled drugs under a written order of the medical officer specifying—

(a) the quantity and description of the liquor or drugs to be given; and

(b) the name of the prisoner for whose use it is intended.

(3) No person shall—

(a) convey or throw into, or conceal or deposit in, a prison;

(b) convey to a prisoner, whether inside or outside a prison; or

(c) conceal or deposit in any place with a view to its coming into the possession of a prisoner, any prohibited article.

(4) The Governor may seize and detain any prohibited article which is—

(1) Section 10 was substituted by the 1993 Act, section 22.

- (a) found in the possession of a prisoner or a visitor; or
 - (b) conveyed or thrown into, or concealed or deposited in, the prison,
- in contravention of this rule.

Unauthorised property

82.—(1) No prisoner shall have in his possession, or conceal or deposit anywhere within a prison, any property which he has not been authorised to possess or keep in terms of these Rules or by any officer.

(2) No prisoner shall have in his possession any property in a part of the prison which he has been authorised to possess only in some other part of the prison.

(3) Subject to paragraph (4), no person shall—

- (a) convey or throw into, or conceal or deposit in, a prison;
- (b) convey to a prisoner, whether inside or outside a prison; or
- (c) conceal or deposit in any place with a view to its coming into the possession of a prisoner,

any article whatsoever.

(4) Paragraph (3) does not apply to any property which—

- (a) the Governor has authorised a person—
 - (i) to convey into, or deposit in, the prison; or
 - (ii) to convey to a prisoner whether inside or outside a prison; or
- (b) consists of a letter or package addressed to a prisoner and sent to the prison by means of the postal service or otherwise.

(5) The Governor may seize and detain—

- (a) any property which a prisoner is not authorised to possess or keep in accordance with these Rules or by any officer and which is found in the possession of a prisoner, or concealed or deposited anywhere in the prison; or
- (b) any article or property conveyed or thrown into, or concealed or deposited in, prison in contravention of paragraph (3).

(6) No prisoner (other than untried and civil prisoners) shall be allowed to smoke or have any tobacco in his possession except as a privilege granted by virtue of rule 40 and provided that the prisoner is at least 16 years old.

Orders as to the use of restraints

83.—(1) In this rule and rule 84, “restraint” means a body belt.

(2) The Governor may order that a prisoner be placed under a restraint where it appears to him that it is necessary to do so in order to restrain a prisoner—

- (a) who threatens to injure, or is in the course of injuring, himself or other persons; or
- (b) who threatens to damage, or is in the course of damaging, property; or
- (c) who threatens to create, or is in the course of creating, a disturbance.

(3) Where the Governor makes an order under paragraph (2), he shall give notice of the order to the medical officer as soon as possible.

(4) On receipt of a notice under paragraph (3), the medical officer shall inform the Governor whether he concurs in the order and if he does not concur the Governor shall order the restraint to be removed immediately.

(5) The medical officer may order that a prisoner be placed under a restraint where it appears to him that it is necessary to do so in order to prevent self-injury.

(6) Where the medical officer makes an order under paragraph (5), he shall give notice of the order to the Governor as soon as possible.

(7) No prisoner shall be placed under a restraint as a punishment.

Conditions of use of restraints

84.—(1) A prisoner shall not be placed under a restraint—

- (a) any longer than is necessary; and
- (b) without prejudice to sub-paragraph (a), for a period of more than 24 hours except with the authority of the Secretary of State.

(2) An authority given under paragraph (1) shall—

- (a) state the grounds for continued use of the restraint and the time during which it may continue to be used; and
- (b) require the medical officer to visit the prisoner at regular intervals.

(3) A restraint—

- (a) shall be applied in such a manner; and
- (b) when applied, shall be temporarily removed in such circumstances,

as may be specified in a direction by the Secretary of State.

(4) A prisoner who is placed under a restraint shall be visited by an officer at least once in every 15 minutes during the period he is under restraint.

(5) The medical officer shall examine a prisoner who is placed under a restraint immediately following—

- (a) the placing of the restraint; and
- (b) its removal (other than for a temporary purpose).

(6) The Governor shall forthwith—

- (a) record particulars of every case of a prisoner placed under a restraint; and
- (b) give notice to the Secretary of State of those particulars.

Temporary confinement

85.—(1) The Governor may order the temporary confinement in a special cell of any prisoner who is refractory or acting in a violent manner.

(2) No prisoner shall be confined in a special cell pursuant to paragraph (1)—

- (a) as a punishment; or
- (b) for any longer than necessary and, in any event, no longer than a continuous period of 24 hours.

(3) Where the Governor makes an order under paragraph (1), he shall—

- (a) give notice of the order to the medical officer as soon as possible; and
- (b) record the particulars of the case.

(4) A prisoner who is temporarily confined pursuant to an order under paragraph (1) shall be visited—

- (a) by the medical officer where a prisoner has been so confined for a continuous period in excess of 15 hours; and
- (b) by an officer at least once in every 15 minutes during the period of the prisoner's temporary confinement.

Control of admission of visitors

- 86.**—(1) An officer may, prior to admitting any visitor to the prison, ask the visitor—
- (a) to state his name and address and the purpose of his visit; and
 - (b) to deposit for the duration of the visit any article in his possession which the officer considers may be prejudicial to security, good order or safety.
- (2) An officer may, where he suspects that the visitor may have concealed anything which may be prejudicial to security, good order or safety, ask the visitor to consent to a search of—
- (a) his person and any of his personal possessions; and
 - (b) his open mouth by visual examination of it without the use of force or any instrument.
- (3) For the purposes of paragraph (2), a search shall not be construed as involving removal of any of the visitor's clothing other than an outer coat, jacket, headgear and gloves.
- (4) Without prejudice to section 41(3) of the Act, an officer may, in the event that a visitor refuses to comply with paragraph (1) or give consent for the purposes of paragraph (2), refuse to admit the visitor.
- (5) Where a visitor consents to a search in terms of paragraph (2)(a)—
- (a) the officer carrying out the search shall be of the same sex as the visitor;
 - (b) the search shall be carried out outwith the sight of any prisoner or other visitors, or of officers who are not of the same sex as the visitor; and
 - (c) the search shall be carried out as expeditiously and decently as possible.
- (6) Without prejudice to rule 63(1), any officer may terminate a visit and remove the visitor from the prison where—
- (a) the officer has reasonable grounds for suspecting that the visitor is bringing in or taking out, or attempting to bring in or take out, anything which may be prejudicial to security, good order or safety; or
 - (b) the visitor's conduct is prejudicial to good order or discipline.
- (7) Where an officer refuses admission to a visitor or terminates a visit in terms of this rule, he shall record particulars of the matter, including his reasons.
- (8) The Governor shall ensure that a notice explaining the effect of the provisions of this rule and of any directions regarding introduction or prohibited articles shall be displayed prominently in the visitors' area of the prison.

Viewing of prisons

- 87.**—(1) No person shall be permitted to view a prison unless authorised by any enactment or by the Governor or the Secretary of State.
- (2) No person viewing the prison shall be permitted to take a photograph, make any film, sound recording or sketch or communicate with a prisoner unless authorised by any enactment or by the Governor or the Secretary of State.
- (3) Without prejudice to paragraph (2), no person viewing the prison shall be permitted to take a photograph of a prisoner unless he has obtained the prisoner's prior consent.

Searching of prisoners

88.—(1) Every prisoner may be searched by an officer in accordance with the provisions of this rule.

- (2) A search of a prisoner may take the form of—
 - (a) an examination of the prisoner’s person and clothing but without removal of the clothing;
 - (b) the removal and examination of the prisoner’s clothing;
 - (c) the visual examination of the external parts of his body following removal of the prisoner’s clothing; or
 - (d) if the prisoner agrees, the visual examination of his open mouth without the use of force or any instrument.
- (3) A search of a prisoner shall be carried out—
 - (a) only by an officer who is of the same sex;
 - (b) as expeditiously and decently as possible;
 - (c) in the case of a search of the type mentioned in paragraph (2)(b) and (c)—
 - (i) by 2 officers of the same sex; and
 - (ii) outwith the sight of any other prisoner; and
 - (d) in accordance with any other conditions as may be specified in a direction by the Secretary of State.

(4) A prisoner may be searched at such times and in such circumstances as the Governor considers necessary.

(5) Subject to paragraph (2)(d), the power to search conferred by this rule shall not be construed as authorising the physical examination of a prisoner’s body orifices.

Searching of prisoners' property and cells

89.—(1) Any item of property belonging to a prisoner may be searched by an officer at any time.

(2) The room or cell of every prisoner, including any item of property kept in it, shall be searched at such times as the Governor considers necessary.

Custody outside prison

90.—(1) A prisoner required to be taken in legal custody anywhere outside a prison shall be kept in the custody or under the control of an officer or a constable.

- (2) A prisoner being taken to or from a prison shall be—
 - (a) exposed to public view as little as possible; and
 - (b) protected so far as reasonably practicable from insult, curiosity and publicity in any form.

(3) Where a prisoner is allowed or is required to be present at any court, he shall wear his own clothing or ordinary civilian clothing provided by the Governor.

Special escorted leave

91.—(1) In this rule, “special escorted leave” means leave of absence from the prison of a prisoner for the purpose of being escorted to his home or other approved place for a visit not exceeding 2 hours, excluding travelling time.

(2) On the application of an eligible prisoner, the Governor may grant special escorted leave if he is of the opinion that, having regard to the relevant criteria applicable to the granting of such leave and to any operational requirements, it is appropriate to do so.

(3) For the purposes of this rule, a prisoner is an eligible prisoner if at the time of his application he—

- (a) is confined in a prison, or a category of prison, or a particular part of a prison, to which this rule applies;
- (b) is a life prisoner or is serving a sentence for a term of more than 1 year;
- (c) is and has been for at least 3 months—
 - (i) assigned security category C; or
 - (ii) in the case of a prisoner who is serving a sentence or period of detention for an indeterminate period, assigned that category but who is for certain purposes treated as if he were assigned security category D; and
- (d) if serving a sentence for a term of more than 1 year, has served at least one third of the term of imprisonment which he is serving at the time of his application.

(4) For the purposes of special escorted leave in terms of this rule, the Secretary of State may specify in a direction—

- (a) the prisons, categories of prisons, or parts of prisons to which this rule applies;
- (b) the manner in which the Governor shall consider an application for special escorted leave;
- (c) the criteria about which the Governor must be satisfied before he may grant special escorted leave;
- (d) the conditions which may be imposed in relation to any approval of such an application; and
- (e) the timing and duration of special escorted leave and the frequency with which it may be granted to an eligible prisoner.

Escorted exceptional day absence

92.—(1) In this rule, “escorted exceptional day absence” means leave of absence under escort from the prison, for a period not exceeding 1 day, of a prisoner for the purpose of enabling him—

- (a) to visit a near relative who it appears to the Governor is dangerously ill;
- (b) to attend the funeral of a deceased near relative;
- (c) to attend at any place for any other reason where the Governor is of the opinion there are exceptional circumstances.

(2) On the written application of a prisoner, the Governor may grant, subject to and in accordance with the provisions of this rule and any operational requirements, escorted exceptional day absence to the prisoner if he is satisfied that the purpose of the application is genuine and appropriate.

(3) If the prisoner concerned is for the time being assigned security category A, the Governor shall obtain the prior written consent of the Secretary of State to the granting of escorted exceptional day absence.

(4) Where the Governor grants escorted exceptional day absence, the prisoner concerned shall be escorted by an officer or officers throughout the period of his absence from the prison.

(5) For the purposes of escorted exceptional day absence in terms of this rule, the Secretary of State may specify in a direction—

- (a) the criteria about which the Governor must be satisfied before granting leave of absence for the purpose specified in paragraph (1)(a);

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- (b) the persons who are to be treated as near relatives of the prisoner; and
- (c) the proceedings, services or ceremonies which a prisoner may attend for the purpose specified in paragraph (1)(b).

Production of prisoners to court etc.

93.—(1) Subject to paragraph (2), where any prisoner is directed under section 29 of the Criminal Justice Act 1961(2) to be taken to any court or other place, he shall be kept in custody while being so taken, while at that place, and while being taken back to prison.

(2) Paragraph (1) shall not apply if the Governor considers it appropriate that a prisoner who is assigned security category D need not be escorted, in which event the Governor shall grant him unescorted exceptional day release in terms of rule 123.

(2) 1961 c. 39; section 29 was amended by the Criminal Law Act 1977 (c. 45), Schedule 12, by the Criminal Justice (Scotland) Act 1980 (c. 62), Schedule 7, paragraph 8 and by the Criminal Justice Act 1982 (c. 48), Schedule 14, paragraph 12.