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STATUTORY INSTRUMENTS

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**1996 No. 1663**

**PRISONS**

**The Prison (Amendment) Rules 1996**

<i>Made</i>	- - - -	<i>24th June 1996</i>
<i>Laid before Parliament</i>		<i>1st July 1996</i>
<i>Coming into force</i>	- -	<i>22nd July 1996</i>

In exercise of the powers conferred upon me by section 47 of the Prison Act 1952(1), I hereby make the following Rules:

1. These Rules may be cited as the Prison (Amendment) Rules 1996 and shall come into force on 22nd July 1996.
2. The Prison Rules 1964(2) shall have effect subject to the amendments set out in the Schedule to these Rules.
3. Without prejudice to the operation of the Interpretation Act 1978(3), any appointment of a chairman or a vice chairman of a board of visitors for a prison made under rule 92(3) of the Prison Rules 1964 as in force prior to the commencement of these Rules shall be deemed to have been made under rule 92(3) of the Prison Rules 1964 as substituted by paragraph 4 of the Schedule to these Rules.

Home Office  
24th June 1996

*Michael Howard*  
One of Her Majesty's Principal Secretaries of  
State

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(1) 1952 c. 52; section 47 was affected by an amendment to section 52(2) of that Act by section 66(4) of the Criminal Justice Act 1967 (c. 80) and is extended by section 6 of the Prison Act 1952.  
(2) S.I. 1964/388; relevant amending instruments are S.I. 1971/2019, 1989/330 and 1994/3195.  
(3) 1978 c. 30.

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SCHEDULE

Rule 2

AMENDMENTS TO THE PRISON RULES 1964

1. For rule 27 (Daily exercise) there shall be substituted the following rules—

**“Physical education**

27.—(1) If circumstances reasonably permit, a prisoner aged 21 years or over shall be given the opportunity to participate in physical education for at least one hour a week.

(2) The following provisions shall apply, to the extent circumstances reasonably permit, to a prisoner who is under 21 years of age—

(a) provision shall be made for the physical education of such a prisoner within the normal working week, as well as evening and weekend physical recreation; the physical education activities shall be such as will foster personal responsibility and the prisoner’s interests and skills and encourage him to make good use of his leisure on release; and

(b) arrangements shall be made for each such prisoner who is a convicted prisoner to participate in physical education for at least two hours a week on average.

(3) In the case of a prisoner with a need for remedial physical activity, appropriate facilities shall be provided.

(4) The medical officer shall decide upon the fitness of every prisoner for physical education and remedial physical activity and may excuse a prisoner from, or modify, any such education or activity on medical grounds.

**Time in the open air**

27A. If the weather permits and subject to the need to maintain good order and discipline, a prisoner shall be given the opportunity to spend time in the open air at least once every day, for such period as may be reasonable in the circumstances.”.

2. In rule 39(1) (Search), the words “or as the Secretary of State may direct” shall be inserted at the end.

3. The following shall be inserted after rule 47(8A)—

“(8B) is intoxicated as a consequence of knowingly consuming any alcoholic beverage;

(8C) knowingly consumes any alcoholic beverage, other than any provided to him pursuant to a written order of the medical officer under rule 22(1);”.

- 4.—(1) Rule 92 (Boards of visitors: appointment) shall be amended as follows.

(2) In paragraph (1), the words “paragraphs (1A) and (1B)” shall be substituted for the words “paragraph (1A)”.

- (3) The following paragraph shall be inserted after paragraph (1)—

“1ZA) A member—

(a) appointed for the first time to the board of visitors for a particular prison; or

(b) reappointed to the board following a gap of a year or more in his membership of it,

shall, during the period of 12 months following the date on which he is so appointed or (as the case may be) reappointed, undertake such training as may reasonably be required by the Secretary of State.”.

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(4) In paragraph (1A) there shall be inserted, after sub-paragraph (a), the following sub-paragraph—

“(aa) he has failed to undertake training he has been required to undertake under paragraph (1ZA) of this rule, by the end of the period specified in that paragraph;”.

(5) The following paragraph shall be inserted after paragraph (1A)—

“(1B) Where the Secretary of State:

- (a) has reason to suspect that a member of the board of visitors for a prison may have so conducted himself that his appointment may be liable to be terminated under paragraph (1A)(a) or (c) above; and
- (b) is of the opinion that the suspected conduct is of such a serious nature that the member cannot be permitted to continue to perform his functions as a member of the board pending the completion of the Secretary of State’s investigations into the matter and any decision as to whether the member’s appointment should be terminated,

he may suspend the member from office for such period or periods as he may reasonably require in order to complete his investigations and determine whether or not the appointment of the member should be so terminated; and a member so suspended shall not, during the period of the suspension, be regarded as being a member of the board, other than for the purposes of this paragraph and paragraphs (1) and (1A) above.”.

(6) For paragraphs (2) to (4) there shall be substituted the following paragraphs—

“(2) A board shall have a chairman and a vice chairman, who shall be members of the board.

(3) The Secretary of State shall—

- (a) upon the constitution of a board for the first time, appoint a chairman and a vice chairman to hold office for a period not exceeding twelve months;
- (b) thereafter appoint, before the date of the first meeting of the board in any year of office of the board, a chairman and a vice chairman for that year, having first consulted the board; and
- (c) promptly fill, after having first consulted the board, any casual vacancy in the office of chairman or vice chairman.

(4) The Secretary of State may terminate the appointment of a member as chairman or vice chairman of the board if he is satisfied that the member has—

- (a) failed satisfactorily to perform his functions as chairman or (as the case may be) vice chairman; or
- (b) has grossly misconducted himself whilst performing those functions.”.

5. For rule 97 (Boards of visitors: annual report), there shall be substituted the following rule—

“97.—(1) The board of visitors for a prison shall, in accordance with paragraphs (2) and (3) below, from time to time make a report to the Secretary of State concerning the state of the prison and its administration, including in it any advice and suggestions they consider appropriate.

(2) The board shall comply with any directions given to them from time to time by the Secretary of State as to the following matters—

- (a) the period to be covered by a report under paragraph (1);
- (b) the frequency with which such a report is to be made; and

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(c) the length of time from the end of the period covered by such a report within which it is to be made,

either in respect of a particular report or generally; provided that no directions may be issued under this paragraph if they would have the effect of requiring a board to make or deliver a report less frequently than once in every 12 months.

(3) Subject to any directions given to them under paragraph (2), the board shall, under paragraph (1), make an annual report to the Secretary of State as soon as reasonably possible after 31st December each year, which shall cover the period of 12 months ending on that date or, in the case of a board constituted for the first time during that period, such part of that period during which the board has been in existence.”.

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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules amend the Prison Rules 1964 (“the 1964 Rules”), as amended.

Rule 2 of these Rules introduces the Schedule, which sets out the amendments to the 1964 Rules.

Paragraph 1 of the Schedule makes revised provision for physical education and time in the open air for prisoners.

Paragraph 2 of the Schedule enables the Secretary of State to direct when a prisoner should be searched.

Paragraph 3 of the Schedule creates two new disciplinary offences relating to alcohol.

Paragraphs 4 and 5 of the Schedule make revised provision for the appointment of the chairman and vice chairman of a board of visitors for a prison (in respect of which rule 3 of these Rules makes transitional provision) and for the making of reports by such a board to the Secretary of State. Paragraph 5 introduces new provision for training for members of a board of visitors and for their suspension from membership on grounds of suspected serious misconduct. That paragraph also introduces new provision for the termination of office of a chairman or vice chairman of a board of visitors.