
STATUTORY INSTRUMENTS

1996 No. 32 (S.1)

**PRISONS
YOUNG OFFENDERS
INSTITUTIONS, SCOTLAND**

The Prisons and Young Offenders Institutions
(Scotland) Amendment Rules 1996

<i>Made</i>	- - - -	<i>10th January 1996</i>
<i>Laid before Parliament</i>		<i>15th January 1996</i>
<i>Coming into force</i>	- -	<i>5th February 1996</i>

The Secretary of State, in exercise of the powers conferred on him by section 39 of the Prisons (Scotland) Act 1989(1) and of all other powers enabling him in that behalf, hereby makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Prisons and Young Offenders Institutions (Scotland) Amendment Rules 1996 and shall come into force on 5th February 1996.

(2) In these Rules, “the principal Rules” mean the Prisons and Young Offenders Institutions (Scotland) Rules 1994(2).

Amendment of rule 3 of the principal Rules

2.—(1) Rule 3 of the principal Rules (interpretation) is amended in accordance with the following paragraphs of this rule.

(2) In paragraph (1) there are inserted after the definition of “constable” the following definitions:

(1) 1989 c. 45; section 39 was amended by the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9), sections 24 and 25, Schedule 5, paragraph 6(6) and Schedule 7 and by the Criminal Justice and Public Order Act 1994 (c. 33), sections 116(4) and 130(4); section 39 is to be read with sections 8(1) and (2), 11(1), 12 (as amended by the 1993 Act, Schedule 5, paragraph 6(2)), 14(1) (as amended by the 1993 Act, Schedule 5, paragraph 6(3)), 19(3) and (4) (as amended by the 1993 Act, Schedule 5, paragraph 6(4)), 24 (which was repealed by the 1993 Act, Schedule 7 but was saved by Schedule 6 to that Act in relation to any “existing prisoner” within the meaning specified in paragraph 1 of Schedule 6) and 41 (as amended by the 1994 Act, section 153); section 39 was extended by the Courts-Martial (Appeals) Act 1968 (c. 20), section 52 (as amended by the 1989 Act, Schedule 2, paragraph 10).

(2) S.I. 1994/1931.

““controlled drug” means any drug which is a controlled drug for the purposes of the Misuse of Drugs Act 1971(3);

“Deputy Governor” means the officer who is appointed to act in place of the Governor-in-Charge during any period when the Governor-in-Charge is temporarily absent from the prison;”.

(3) In paragraph (1), for the definition of “Governor” there are substituted the following definitions:—

““Governor” means—

- (a) in this rule, rule 78, rule 88A and in any rule in Part 11 (other than rules 102 and 103), the Governor-in-Charge;
- (b) in rules 4, 5, 11, 21 and 67 and in any rule in Parts 7, 9 (other than rule 88A), 10 and 13 to 16, any of the following:—
 - (i) the Governor-in-Charge;
 - (ii) the Deputy Governor;
 - (iii) any authorised Unit Manager; and
 - (iv) where there is no officer as mentioned in paragraphs (i) to (iii) above 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;

“Governor-in-Charge” means the officer who is appointed as the Governor in overall charge of the prison;”.

(4) In paragraph (1), after the definition of “training for freedom hostel” there is inserted the following definition:—

““Unit Manager” means an officer who is appointed to manage a function or group of functions within the prison;”.

Amendment of rule 10 of the principal Rules

3.—(1) Rule 10 of the principal Rules (registration and records of prisoners) is amended in accordance with the following paragraphs of this rule.

(2) In rule 10(4) the words “and shall at least once in every 3 years where a prisoner has been in legal custody for such a period” and “palm and” are omitted.

(3) For rule 10(5) there is substituted the following paragraph—

“(5) The Governor may at any time during the period that an untried prisoner is remanded or detained in prison take photographs of, and fingerprints from, the prisoner.”.

(4) In rule 10(6)(b) the words “palm and” are omitted.

Amendment of rule 12 of the principal Rules

4.—(1) Rule 12 of the principal Rules (security categories of prisoners) is amended in accordance with the following paragraphs of this rule.

(2) In rule 12(3), after the words “Schedule 2” there are inserted the words “(other than Category A)”.

(3) In rule 12(5), the words “or assign Category B to such a prisoner who is Category A” are omitted.

(4) In rule 12(7), after the words “category D” there are inserted the words “or limited category D”.

(5) For paragraph (8) of rule 12 there is substituted the following paragraph:—

“(8) Following the assignment of a security category or a review of such a category in terms of this rule, the Governor shall, if asked to do so by the prisoner concerned, inform the prisoner in writing—

- (a) in the case of the assignment of a security category or of a new category, of the reasons why the category assigned is the lowest appropriate; or
- (b) in the case of a review which has resulted in no change of category, of the reasons why a lower category is not appropriate,

and, in either case, shall inform the prisoner in writing of the gist of any matter of fact or opinion to which he has had regard in reaching the relevant decision.”.

Amendment of rule 21 of the principal Rules

5. Rule 21 of the principal Rules (prisoners' food) is amended by substituting for paragraph (2) the following paragraph:—

“(2) Where by reason of exceptional circumstances pertaining in the prison, it is not practicable to provide food and drink to prisoners, or any particular group or category of prisoners, in terms of paragraph (1)—

- (a) subject to sub-paragraph (b), the Governor shall seek to provide food and drink so far as reasonably practicable having regard to the circumstances; and
- (b) where the exceptional circumstances have existed for more than 48 hours, the Secretary of State may by direction provide that paragraph (1) shall not apply in relation to prisoners in that prison until such time as he considers that it is practicable for it to do so.”.

Amendment of rule 27 of the principal Rules

6. Rule 27 of the principal Rules (arrangements for medical care by other medical practitioners or at outside facilities) is amended by substituting for paragraph (2) the following paragraph:—

“(2) Where the medical officer considers that it is appropriate to do so, and after consulting with the Governor, he may arrange for another medical practitioner to attend at the prison for the purpose of providing medical care to prisoners as may be required and in accordance with any conditions as may be specified in the arrangements.”.

Substitution of rule 30 of the principal Rules

7. For rule 30 of the principal Rules (notification of relatives and friends of prisoners suffering serious illness, etc) there is substituted the following rule:—

“Notification of relatives and friends of prisoners suffering serious illness, etc

30.—(1) If a prisoner becomes seriously ill or sustains serious injury or is admitted to a hospital outwith the prison, the Governor shall, where possible, ask the prisoner if he wishes any relative or friend of his, or any other person, to be informed.

(2) Subject to paragraph (3) where the prisoner wishes any relative, friend or other person to be informed of any event mentioned in paragraph (1), the Governor shall notify any such person accordingly.

(3) The Governor shall not be required to notify more than 2 persons in accordance with paragraph (2).

(4) In the case of a young prisoner, or a young offender who is under the age of 16 years, the Governor shall notify the parent or guardian of that prisoner or young offender of any event mentioned in paragraph (1).”.

Amendment of rule 40 of the principal Rules

8. Rule 40(3) of the principal Rules (privileges) is amended by the substitution for sub-paragraph (c) of the following sub-paragraph:—

“(c) the use of recreational and library facilities provided, or the participation in recreational activities organised, by virtue of rule 76;”.

Amendment of rule 56 of the principal Rules

9. Rule 56(2) of the principal Rules (visits to untried and civil prisoners by persons of a prisoner’s choice) is amended—

- (a) in sub-paragraph (a), by inserting after the words “to receive” the words “(other than on 1st January or 25th December in any year)”; and
- (b) in sub-paragraph (b), by inserting after the word “Sunday” the words “or on 1st January or 25th December in any year”.

Amendment of rule 63 of the principal Rules

10. Rule 63(2) of the principal Rules (general conditions applicable to visits under Part 7) is amended by inserting after sub-paragraph (a) the following sub-paragraph:—

“(aa) to impose a prohibition on, or restrictions in relation to, the possession and use of photographic equipment, sound recording equipment and writing materials;”.

Amendment of rule 64 of the principal Rules

11. Rule 64(2)(a) of the principal Rules (closed visiting facilities) is amended by substituting for the words “any prohibited article from a visitor” the words “from any visitor any prohibited article or any property which the prisoner was not or, as the case may be, would not be authorised to possess in prison or in any particular part of the prison”.

Amendment of rule 67 of the principal Rules

12. Rule 67 of the principal Rules (arrangements for work, education etc.) is amended by—

- (a) substituting for the words “work, education etc.” in the heading the words “work, education and counselling”; and
- (b) substituting for the words “work, education etc.” in paragraph (1) the words “work and education”.

Amendment of rule 69 of the principal rules

13. Rule 69 of the principal Rules (conditions of work or activities in lieu of work) is amended by substituting for paragraph (4) the following paragraph:—

“(4) A prisoner shall be entitled to work in association with other prisoners except where—

- (a) an order has been made under rule 80 removing him from association with other prisoners either generally or during any period the prisoner is undertaking work;
- (b) he has been removed from association in terms of rule 95(2); or
- (c) he is subject to cellular confinement imposed under rule 100(1)(d).”.

Substitution of rule 75 of the principal Rules

14. For rule 75 of the principal Rules (exercise and time in the open air) there is substituted the following rule:—

“Exercise and time in the open air

75.—(1) Subject to the following provisions of this rule, every prisoner shall be given the opportunity—

- (a) to take exercise for not less than one hour every day; and
- (b) to spend time in the open air at least once every day.

(2) A prisoner shall be entitled to take exercise and spend time in the open air in terms of paragraph (1) in association with other prisoners except where—

- (a) an order has been made under rule 80 removing him from association with other prisoners either generally or during any period the prisoner is engaged in or taking part in such activities;
- (b) he has been removed from association in terms of rule 95(2); or
- (c) he is subject to cellular confinement imposed under rule 100(1)(d).

(3) Where at any time it appears to the Governor that it is not practicable to give prisoners, or any particular group or category of prisoners, the opportunity to take exercise or spend time in the open air due to exceptional circumstances pertaining in that prison, or in any other prison, he may order in writing that such prisoners or group or category of prisoners shall not be given the opportunity to do either or both of the activities mentioned in paragraph (1) until such time as he considers that it is so practicable.

(4) If the Governor makes an order under paragraph (3), he shall—

- (a) specify in the order the reasons why he is making it;
- (b) record in the order the date and time it is made;
- (c) take such steps as are practicable to notify prisoners subject to the order of the effect of the order; and
- (d) provide a copy of the order to the Secretary of State.

(5) An order made under paragraph (1) shall cease to have effect 48 hours after the time at which it was made unless the Secretary of State specifies in a direction made before the expiry of that period that the order shall continue to have effect until revoked by a further order made by the Governor or by a further direction made for that purpose by the Secretary of State.”.

Amendment of rule 76 of the principal rules

15. Rule 76 of the principal Rules (recreation) shall be amended by the insertion after paragraph (2) of the following paragraph:—

“(3) The extent to which any prisoner or group or category of prisoner may at any time be permitted to use facilities provided, or to participate in recreational activities organised, by

virtue of this rule shall be determined in accordance with the system of privileges established under rule 40.”.

Amendment of rule 80 of the principal Rules

16. Rule 80(4) of the principal Rules (removal from association) is amended by the insertion in sub-paragraph (e) after the word “made” of the words “and provide him with a copy of the written order”.

Substitution of rule 86 of the principal Rules

17. For rule 86 of the principal Rules (control of admission of visitors) there is substituted the following rule:—

“Admission and searching of visitors

86.—(1) Where any person seeks to enter a prison as a visitor, an officer may 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) Without prejudice to any power of search referred to in the Act, an officer may ask any person who seeks to enter a prison as a visitor to consent to a search of—

- (a) his person and any of his personal possessions; and
- (b) his open mouth, but without the use of force or any instrument.

(3) A visitor shall not be asked in terms of paragraph (2) to remove, nor shall a search thereunder involve the removal of, any of his clothing other than an outer coat, jacket, headgear, gloves and footwear.

(4) Where in the course of a search undertaken in terms of paragraph (2) an officer finds any prohibited article, he may seize and detain that article.

(5) Where a person seeking to enter a prison as a visitor is in charge of any vehicle which he intends to take into any area forming part of the premises of the prison, an officer may ask the visitor to consent to a search of that vehicle.

(6) Without prejudice to the powers conferred by section 41 of the Act⁽⁴⁾, an officer may refuse to admit a visitor where—

- (a) the visitor refuses to comply with a request made in terms of paragraph (1); or
- (b) the visitor refuses to give consent for the purposes of paragraph (2) or (5) or, having given consent, is obstructive in the course of the relevant search.

(7) Where a visitor is searched by an officer under section 41(2A) of the Act—

- (a) the officer carrying out the search shall be of the same sex as the visitor;
- (b) the search shall be undertaken outwith the sight of any prisoner, any other visitor or 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.

(8) Where a visitor is searched with his consent in terms of paragraph (2)—

- (a) the officer carrying out the search shall be of the same sex as the visitor; and

(4) Section 41 was amended by the Criminal Justice and Public Order Act 1994 (c. 33), section 153.

- (b) the search shall be carried out as expeditiously and decently as possible.
- (9) Without prejudice to rule 63(1) or section 41(3) of the Act, an officer may terminate a visit and remove the visitor from the prison where—
 - (a) the officer has reasonable grounds for suspecting that the visitor has in his possession or is taking out, or attempting to take out, any article which the Governor has not authorised the visitor to convey into the prison or any article which may be prejudicial to security, good order or discipline; or
 - (b) the visitor’s conduct is prejudicial to security, good order or safety.
- (10) Where a person visiting a prison has been allowed to take any vehicle into any area forming part of the prison, an officer may ask the visitor to consent to a search of the vehicle prior to leaving the prison.
- (11) 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.
- (12) The Governor shall ensure that a notice explaining the effect of the provisions of this rule, of section 41 of the Act and of any direction made for any purpose specified in rule 63(2) shall be displayed prominently in the visits area of the prison.”.

Amendment of rule 87 of the principal Rules

18. Rule 87 of the principal Rules (viewing of prisons) is amended by substituting for paragraph (3) the following paragraph:—

- “(3) Without prejudice to paragraph (2), no person viewing the prison shall be permitted to take a photograph or make a film of a prisoner or an officer unless he has obtained the prior consent of the prisoner or officer.”.

Amendment of rule 88 of the principal Rules

19. Rule 88(2)(d) of the principal Rules (searching of prisoners) is amended by omitting the words “if the prisoner agrees,”.

Insertion of new rule 88A in the principal Rules

20. After rule 88 of the principal Rules there is inserted the following rule:—

“Compulsory testing for controlled drugs

88A.—(1) This rule applies where an officer, acting under the powers conferred by section 41B of the Act⁽⁵⁾ (testing prisoners for drugs), requires a prisoner to provide a sample for the purpose of ascertaining whether he has any controlled drug in his body.

(2) In this rule “sample” means a sample of urine or any other description of sample specified in the authorisation by the Governor for the purposes of section 41B.

(3) When requiring a prisoner to provide a sample, an officer shall, so far as is reasonably practicable, inform the prisoner—

- (a) that he is being required to provide a sample in accordance with section 41B of the Act; and
- (b) that a refusal to provide a sample may lead to disciplinary proceedings being brought against him.

(5) Section 41B was inserted by the Criminal Justice and Public Order Act 1994, section 151(2).

(4) An officer shall require a prisoner to provide a fresh sample, free from any adulteration.

(5) An officer requiring a sample shall make such arrangements and give the prisoner such instructions for its provision as may be reasonably necessary in order to prevent or detect its adulteration or falsification.

(6) A prisoner who is required to provide a sample may be kept apart from other prisoners for a period not exceeding one hour to enable arrangements to be made for the provision of the sample.

(7) A prisoner who is unable to provide a sample of urine when required to do so may be kept apart from other prisoners until he has provided the required sample, save that a prisoner may not be kept apart under this paragraph for a period of more than 5 hours.

(8) A prisoner required to provide a sample of urine shall be afforded such degree of privacy for the purposes of providing the sample as may be compatible with the need to prevent or detect any adulteration or falsification of the sample; in particular a prisoner shall not be required to provide such a sample in the sight of a person of the opposite sex.”.

Amendment of rule 91 of the principal Rules

21. Rule 91(3) of the principal Rules (special escorted leave) is amended—

(a) by substituting for sub-paragraph (c)(ii) the following:—

“(ii) a life prisoner assigned the security category limited category D; and”;

(b) by substituting for the words “the term of imprisonment which he is serving at the time of his application” in sub-paragraph (d) the words “his sentence”.

Omission of rule 93 of the principal Rules

22. Rule 93 of the principal Rules (production of prisoners to court etc.) is omitted.

Amendment of rule 95 of the principal Rules

23. Rule 95 of the principal Rules (reports of breaches of discipline and removal from association) is amended—

(a) by substituting for paragraph (2) the following paragraph:—

“(2) Subject to paragraphs (3) and (4), where any officer has reasonable grounds for suspecting that a prisoner has committed a breach of discipline he may, if he considers it appropriate to do so, remove the prisoner from association with other prisoners in general pending the making of a report in terms of paragraph (1) and the adjudication of the charge of breach of discipline.”; and

(b) by substituting for the word “order” in paragraph (3) the word “removal”.

Amendment of rule 96 of the principal Rules

24. Rule 96 of the principal Rules (disciplinary charges) is amended by the insertion after paragraph (2) of the following paragraph:—

“(3) Where an untried prisoner is reported for a suspected breach of discipline on the day before his trial is due to commence, or on the day of (or any day during) his trial, the officer concerned may delay bringing a charge in accordance with the foregoing provisions until the relevant criminal proceedings are concluded and, where the prisoner is sentenced to imprisonment, the officer may bring the charge no later than 48 hours after the time at which sentence is passed.”.

Amendment of rule 98 of the principal Rules

25. Rule 98 of the principal Rules (adjudication of charges) is amended by the insertion after paragraph (4) of the following paragraph:—

“(5) It shall be a defence for a prisoner charged with a breach of discipline contrary to paragraph (x) of Schedule 3 to show that—

- (a) the controlled drug had been, prior to its administration, lawfully in his possession for his use or was administered to him in the course of a lawful supply of the drug to him by another person;
- (b) the controlled drug was administered by or to him in circumstances in which he did not know and had no reason to suspect that such a drug was being administered; or
- (c) the controlled drug was administered by or to him under duress or to him without his consent in circumstances where it was not reasonable for him to have resisted.”.

Amendment of rule 100 of the principal rules

26.—(1) Rule 100 of the principal Rules (Governor’s punishments) is amended in accordance with the following paragraphs of this rule.

(2) In rule 100(1)(e) there are inserted after the words “prisoner” the words “, or a person sentenced to be detained under section 206 of the Criminal Procedure (Scotland) Act 1975(6) (the detention not being without limit of time),”.

(3) In rule 100(5)—

- (a) after the word “prisoner” where it first occurs there are inserted the words “, or a person sentenced to be detained under section 206 of the Criminal Procedure (Scotland) Act 1975 (the detention not being without limit of time),”; and
- (b) after the word “prisoner” where it occurs in sub-paragraph (b) there are inserted the words “or person so detained under section 206 of the said Act of 1975”.

Insertion of rule 101A into the principal Rules

27. After rule 101 of the principal Rules (suspended punishments) there is inserted the following rule:—

“Review of punishments following transfer of a prisoner to hospital

101A.—(1) This rule applies in respect of any prisoner who is transferred to hospital by virtue of a direction made under section 71 of the Mental Health (Scotland) Act 1984(7).

(2) In the case of a prisoner to whom this rule applies, the Governor shall, as soon as reasonably practicable after the direction is made, review any award of additional days or, as the case may be, forfeiture of remission of sentence which has effect in relation to the prisoner.

(3) In carrying out such a review as is mentioned in paragraph (2), the Governor shall consult the medical practitioner having responsibility for the treatment of the prisoner at the hospital to which he has been transferred for the purpose of assessing whether the breach of discipline in respect of which any such punishment as is mentioned in paragraph (2) has

(6) 1975 c. 21; section 206 was substituted by the Prisons (Scotland) Act 1989 (c. 45), Schedule 2, paragraph (12).

(7) 1984 c. 36; section 71 was amended by the 1993 Act, section 4 and Schedule 7.

been imposed may have been committed at a time when the prisoner was suffering from mental disorder.

(4) Having regard to any opinion of the medical practitioner referred to in paragraph (3), the Governor may—

(a) remit or mitigate any award of additional days; or

(b) restore, or partially restore, any remission of sentence which has been forfeited.

(5) If the Governor exercises the powers conferred on him by paragraph (4) he shall forthwith notify in writing the prisoner and the managers of the hospital in which he is detained.”.

Amendment of rule 104 of the principal Rules

28.—(1) Rule 104 of the principal Rules (requests and complaints to the residential officer) is amended in accordance with the following paragraphs of this rule.

(2) In the heading to rule 104 the words “Requests and” are omitted.

(3) For paragraph (1) there is substituted the following paragraph:—

“(1) A prisoner who desires to make a complaint concerning any matter, other than a matter to which rules 102, 103, 108, 108A, 110, 111 and 112 apply, may do so subject to and in accordance with the following provisions of this rule.”.

(4) In paragraphs (2), (4), (5) and (7) the words “request or” are omitted in each place where they occur.

Amendment of rule 105 of the principal Rules

29.—(1) Rule 105 of the principal Rules (requests and complaints to the residential unit manager) is amended in accordance with the following paragraph of this rule.

(2) In the heading to rule 105 the words “Requests and” are omitted.

(3) In paragraphs (1), (2), (3) and (5) the words “request or” are omitted in each place where they occur.

Amendment of rule 106 of the principal Rules

30.—(1) Rule 106 of the principal Rules (referral of requests and complaints to the internal complaints committee) is amended in accordance with the following paragraphs of this rule.

(2) In the heading to rule 106 the words “requests and” are omitted.

(3) In paragraphs (1) to (7) and (11) the words “request or” are omitted in each place where they occur.

Amendment of rule 107 of the principal Rules

31.—(1) Rule 107 of the principal Rules (referral of requests and complaints to the Governor) is amended in accordance with the following paragraphs of this rule.

(2) In the heading to rule 107 the words “requests and” are omitted.

(3) In rule 107(1) for the words from “a request” to “the request or” inclusive there are substituted the words “a complaint which he referred to it, he may refer the”.

(4) The words “request or” in each place where they occur in paragraphs (2) to (6) of rule 107 are omitted.

(5) In rule 107(7) the words after “writing” are omitted.

Amendment of rule 108 of the principal Rules

32.—(1) Rule 108 of the principal Rules (requests and complaints to the Governor in relation to confidential matters) is amended in accordance with the following paragraphs of this rule.

(2) In the heading to rule 108 the words “Requests and” are omitted.

(3) The words “request or” in each place where they occur in rule 108 are omitted.

(4) Rule 108(3) is amended by the insertion at the end of the words “and shall return the written complaint in a sealed envelope”.

Insertion of rule 108A into the principal Rules

33. After rule 108 of the principal Rules (requests and complaints to the Governor in relation to confidential matters) there is inserted the following rule:—

“Complaints concerning medical treatment

108A.—(1) A prisoner who desires to make a complaint to the medical officer concerning any aspect of the care provided by any medical officer at the prison may do so subject to and in accordance with the following provisions of this rule.

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

(3) As soon as reasonably practicable after receiving a complaint in terms of paragraph (2), the medical officer shall send a copy of the complaint to the Governor.

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

(5) The medical officer shall consider the complaint and reply to the prisoner within 7 days of the date on which the complaint was made except where it is not reasonably practicable for him to do so.

(6) A prisoner may refer his complaint concerning any aspect of the care provided by any medical officer of the prison to the Secretary of State if he is dissatisfied with the reply given by the medical officer in terms of paragraph (5), but the Secretary of State shall be under no obligation to consider the complaint unless it has been so referred.

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

(8) The Secretary of State shall inform the prisoner, the Governor and the medical officer of his decision; and the Governor and the medical officer shall each take any such action as he is required to take to give effect to any instruction which the Secretary of State makes in relation to the complaint.”.

Omission of rule 109 of the principal Rules

34. Rule 109 of the principal Rules (referral of requests and complaints to the Secretary of State) is omitted.

Amendment of rule 110 of the principal Rules

35. In rule 110(1) of the principal Rules (requests, complaints and representations to the Secretary of State in relation to certain matters) the words “Notwithstanding rule 109,” are omitted.

Substitution of rule 111 of the principal Rules

36. For rule 111 of the principal Rules (appeals in relation to disciplinary proceedings) there is substituted the following rule:—

“Appeals in relation to disciplinary proceedings

111.—(1) A prisoner who is found guilty of any breach of discipline may, where any officer other than the Governor adjudicated the charge, appeal in writing to the internal complaints committee not later than 14 days after the date on which the charge was adjudicated—

- (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) An appeal under paragraph (1) shall be dealt with as if it were a complaint made under rule 106 and the Governor shall, if recommended to do so by the internal complaints committee,—

- (a) quash any finding of guilt; or
- (b) 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).

(3) If a prisoner who has appealed under paragraph (1) to the internal complaints committee is dissatisfied with the decision of the committee and refers the matter to the Governor under rule 107, the powers of the Governor under rule 107(6) shall include the same powers as mentioned in paragraph (2) above.

(4) Following the conclusion of the appeals procedure in relation to an appeal under paragraph (1), 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).”.

Substitution of rule 112 of the principal Rules

37. For rule 112 of the principal Rules there is substituted the following rule:—

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

112.—(1) Without prejudice to rule 111(1), if a prisoner who is serving a sentence of imprisonment for a term of more than 3 months 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 rule 100(1)(f),

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

(2) The Governor shall not consider any such request as mentioned in paragraph (1) unless the relevant period has elapsed; and in this rule “the relevant period” means the period which in the Governor’s opinion represents a sufficiently large proportion of the

balance of the prisoner's sentence remaining to be served after the date on which the relevant punishment was imposed.

(3) Where, at the expiry of the relevant period mentioned in paragraph (2), the Governor is of the opinion that—

- (a) the prisoner's conduct has been exemplary throughout that period; or
- (b) the prisoner has at any time during that period demonstrated particularly meritorious conduct which, by itself, might justify the grant of the prisoner's request,

the Governor may grant the request either in whole or in part.

(4) The Governor shall inform the prisoner of his decision in writing within 7 days of the date on which the relevant period mentioned in paragraph (2) has elapsed or, if the request was made at any time after that date, within 7 days of the date on which it was made.

(5) Where the Governor has refused a request made in terms of paragraph (1) or has granted the request only in part, the prisoner may, if he is dissatisfied with that decision, complain to the Governor.

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

(7) The Governor shall inform the prisoner of his decision in relation to the complaint in writing.

(8) Where the Governor has—

- (a) refused a request made in terms of paragraph (1) or has granted the request only in part; and
- (b) decided not to review that decision following a complaint made in terms of paragraph (5) or, in considering the complaint, has decided to grant the original request only in part,

the prisoner may make a further request in terms of paragraph (1).

(9) The Governor may at any time, irrespective of whether any request is made by a prisoner, review any decision under paragraph (3) in which he refused the prisoner's request or granted the request only in part.”.

Insertion of new rule 112A into the principal Rules

38. After rule 112 of the principal Rules there is inserted the following rule:—

“Power of Secretary of State to quash findings of guilt and to remit or mitigate punishments

112A.—(1) The Secretary of State may in relation to a prisoner who has been found guilty of any breach of discipline—

- (a) quash any finding of guilt;
- (b) 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); or
- (c) substitute another punishment which is, in the Secretary of State's opinion, less severe.

(2) If the Secretary of State quashes any finding of guilt, the Governor shall destroy any record in the prisoner's file which relates to the alleged breach of discipline except where

the record, or a part of it, relates to any other finding of breach of discipline which continues to form part of the prisoner's record.”.

Substitution of rule 113 of the principal Rules

39. For rule 113 of the principal Rules (Direction with respect to requests, complaints and appeals) there is substituted the following rule:—

“Direction with respect to complaints procedures

113.—(1) The Secretary of State may provide in a direction such conditions as he considers appropriate with respect to the form and manner in which—

- (a) any complaint as mentioned in rules 104 to 108A may be made or referred; and
- (b) any reply or decision in relation to such a complaint may be given.

(2) The Governor shall ensure that—

- (a) supplies of any form specified in a direction made for the purposes of paragraph (1); and
- (b) information as to where prisoners may obtain assistance in the completion of any such form,

are readily available to prisoners.”.

Amendment of rule 120 of the principal Rules

40. Rule 120 of the principal Rules (short home leave, Christmas and summer leave and pre-Training for Freedom leave) is amended by substituting for sub-paragraph (b) of paragraph (3) the following sub-paragraph:—

“(b) is either—

- (i) a life prisoner; or
- (ii) a prisoner serving a sentence for a term of more than 1 year and who has served not less than 6 months or one third of the term of the sentence, whichever expires the later;”.

Insertion of rule 120A into the principal Rules

41. After rule 120 of the principal Rules (short home leave, Christmas and summer leave and pre-Training for Freedom leave) there is inserted the following rule:—

“Local leave

120A.—(1) In this rule, “local leave” means the temporary release of an eligible prisoner for a period not exceeding 8 hours for the purpose of enabling him to meet any person outwith the prison—

- (a) in the town in which the prison is situated or in the town which is nearest to the prison; or
- (b) at some other place approved by the Governor.

(2) On the application of an eligible prisoner and subject to rule 126, the Governor may grant a prisoner local leave if he is of the opinion that, having regard to the relevant criteria applicable to the granting of such leave, it is appropriate to do so.

- (3) For the purposes of this rule, a prisoner is an eligible prisoner only if at the time of his application—
- (a) he is confined at a prison or in a particular hall of a prison to which this rule applies;
 - (b) he is either—
 - (i) a life prisoner; or
 - (ii) a prisoner serving a sentence for a term of more than 1 year and who has served not less than 6 months or one third of the term of the sentence, whichever expires the later;
 - (c) he is assigned security category D and has been assigned that category for at least 6 weeks prior to his application;
 - (d) he has previously been granted short home leave on at least one occasion and the Governor was satisfied with his conduct during that leave;
 - (e) where he has previously been granted local leave, at least one month has elapsed since the date on which he was last granted local leave; and
 - (f) he is not disqualified from consideration for any reason specified in rule 124.”.

Amendment of rule 121 of the principal Rules

42. Rule 121 of the principal Rules (long home leave) is amended by substituting for sub-paragraph (b) of paragraph (3) the following sub-paragraph:—

- “(b) is a prisoner serving a sentence for a term of more than 1 year and who has served not less than 6 months or one-third of the term of the sentence, whichever expires the later;”.

Substitution of rule 123 of the principal Rules

43. For rule 123 of the principal Rules (unescorted exceptional day release of prisoners in security category D) there is substituted the following rule:—

“Unescorted day release of prisoners in security category D

123.—(1) In this rule, “unescorted day release” means the temporary release for a period not exceeding one day of an eligible prisoner who is, for the time being, assigned security category D for the purpose of enabling him—

- (a) to visit any relative who it appears to the Governor is dangerously ill;
- (b) to attend the funeral of a near relative;
- (c) to visit a parent who is either too old or too ill to travel to the prison; or
- (d) to attend at any place for any other reason where the Governor is of the opinion that the circumstances warrant it.

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

- (a) not an untried or a civil prisoner; and
- (b) not disqualified from consideration for any reason specified in rule 124.

(3) The Governor may grant unescorted day release on the written application of an eligible prisoner.”.

Insertion of rule 123A into the principal Rules

44. After rule 123 of the principal Rules there is inserted the following rule:—

“Temporary release for work or educational placements

123A.—(1) The Governor may grant temporary release to an eligible prisoner for the purpose of enabling the prisoner—

- (a) to undertake an unescorted work placement outside prison in terms of rule 70; or
- (b) to attend unescorted at a college, university or other educational establishment in order to participate in vocational training or an educational class.

(2) For the purposes of this rule, a prisoner is an eligible prisoner only if at the time of the temporary release being granted—

- (a) he is not disqualified from consideration for any reason specified in rule 124; and
- (b) he is assigned either security category D or limited category D.

(3) The Governor shall not grant temporary release under this rule to a prisoner who is assigned security category limited category D unless he has obtained the prior consent of the Secretary of State.”.

Amendment of rule 124 of the principal Rules

45. Rule 124 of the principal Rules (circumstances where prisoners are disqualified from consideration for temporary release) is amended by the substitution for the words “rules 120 to 123” of the words “rules 120 to 123A”.

Amendment of rule 126 of the principal Rules

46. Rule 126 of the principal Rules (direction with respect to temporary release) is amended by the substitution for the words “rules 120 to 123” of the words “rules 120 to 123A”.

Amendment of rule 130 of the principal Rules

47. Rule 130 of the principal Rules (searches of officers and employees) is amended in paragraph (1) by substituting for the words from “If the Governor” to “safety, he” the words “Without prejudice to any power of search referred to in the Act, the Governor”.

Amendment of rule 133 of the principal Rules

48. Rule 133 of the principal Rules (constitution of visiting committees) is amended by substituting for paragraphs (1) to (5) the following paragraphs:—

“(1) On and after 1st April 1996 there shall be a visiting committee constituted in accordance with this rule for each prison specified in column 1 of Schedule 4.

(2) The members of a visiting committee constituted in accordance with this rule for each prison specified in column 1 of Schedule 4 shall be appointed in accordance with this rule by the council or councils specified in column 2 of that Schedule in relation to that prison and each such council shall appoint the number of members of the committee specified in column 3 of that Schedule in relation to that council.

(3) In appointing the members of a visiting committee for each prison specified in column 1 of Schedule 4 each council responsible for appointing the members shall ensure that the total number of members specified in column 3 of that Schedule in relation to that prison and council shall include not fewer than the number of members specified (where

a number is specified) in column 4 of that Schedule in relation to that prison and council being persons who are not members of the council which appoints them.

(4) Any person with a direct financial interest in any contract for the supply of goods or services to any prison shall not be eligible for appointment to a visiting committee in terms of this rule.

(5) The member or members of a visiting committee to be appointed by a council in terms of paragraph (2) shall be appointed at a meeting of the council held at any time prior to 1st April 1996 and thereafter shall be so appointed at a meeting of that council held not later than 2 months after the date of—

- (a) the ordinary election of councillors in 1999; and
- (b) the ordinary election of councillors every third year thereafter.

(5A) Any member of a visiting committee appointed by a council in accordance with paragraphs (2) and (5) shall—

- (a) in the case of the first members to be appointed, take office on 1st April 1996 and shall hold office, unless he earlier ceases to hold office by virtue of paragraph (6), until the day prior to the day which falls 2 months after the date of the ordinary election of councillors in 1999; or
- (b) in the case of the members to be appointed after the ordinary election of councillors every third year after 1999, take office on the day which falls 2 months after the date of the respective ordinary election of councillors and shall hold office, unless he earlier ceases to hold office by virtue of paragraph (6), until the day prior to the day which falls 2 months after the date of the next ordinary election of councillors.”.

Amendment of rule 134 of the principal Rules

49. Rule 134 of the principal Rules (proceedings of visiting committees) is amended by inserting at the end of paragraph (7) the words “as soon as reasonably practicable after the relevant proceedings”.

Insertion of rule 140A into the principal rules

50. After rule 140 of the principal Rules (conflicts of interest) there is inserted the following rule:—

“Visiting committees for legalised police cells

140A.—(1) On and after 1st April 1996 there shall be a visiting committee constituted in accordance with this rule for the legalised police cells specified in column 1 of Schedule 4A to these Rules.

(2) The members of a visiting committee for the legalised police cells specified in column 1 of Schedule 4A shall be appointed in accordance with this rule by the council or councils specified in column 2 of that Schedule in relation to those cells and each such council shall appoint the number of members of the committee specified in column 3 of that Schedule in relation to that council.

(3) In relation to the legalised police cells specified in Schedule 4A and to the visiting committees constituted in accordance with this rule and to the members and officers of any such committees, the following provisions of these Rules shall apply subject to the modifications specified in paragraphs (4) to (7):—

- (a) in rule 133, paragraphs (4) to (8);

- (b) in rule 134, paragraphs (1) to (3) and (6) and (7);
 - (c) rule 135;
 - (d) rule 136;
 - (e) rule 137;
 - (f) rule 138;
 - (g) rule 139; and
 - (h) rule 140.
- (4) The provisions specified in sub-paragraphs (a) to (h) of paragraph (3) shall apply as if—
- (a) any reference to “prison” were a reference to the relevant legalised police cells;
 - (b) any reference to “Governor” were a reference to the constable who is in charge of the cells.
- (5) Rule 134(7) shall apply as if the words “the Governor and to” were omitted.
- (6) Rule 137 shall apply as if for the words from the beginning to the word “fortnightly” read “A member of a visiting committee shall visit the legalised police cells on at least one occasion in a month if any prisoners have been detained in the cells within the preceding month”.
- (7) Rule 138 shall apply as if—
- (a) in paragraph (1), the words after “inspect” read “records relating to the legalised police cells and any record kept at the cells which relates to a prisoner who is or has been detained in them.”; and
 - (b) in paragraph (2), the words “prison records” read “any such records as mentioned in paragraph (1)”.

Amendment of rule 141 of the principal Rules

51. Rule 141 of the principal Rules (remission of sentence or period of detention) is amended by the insertion at the end of each of sub-paragraphs (a) and (b) of paragraph (1) of the following words:—

“or was liable to be detained in pursuance of such a sentence (whether or not he was then absent with or without authority or by reason of admission to bail or otherwise)”.

Amendment of Schedule 1 to the principal Rules

52.—(1) Schedule 1 to the principal Rules (modification of the Rules in their application to young offenders institutions and young offenders) is amended in accordance with the following paragraphs of this rule.

(2) For paragraph 3 there is substituted the following paragraph:—

“Substitution of rule 75

3. For rule 75 there is substituted the following rule:—

“Exercise

75.—(1) Subject to the following provisions of this rule, every young offender shall regularly be given such physical recreation, training and exercise as are required to promote health and physical well being.

(2) A young offender shall be entitled to be given physical recreation, training and exercise in terms of paragraph (1) in association with other young offenders except where—

- (a) an order has been made under rule 80 removing him from association with other young offenders either generally or during any period the young offender is engaged in or taking part in such activities;
- (b) he has been removed from association in terms of rule 95(2); or
- (c) he is subject to cellular confinement imposed under rule 100(1)(d).

(3) Where at any time it appears to the Governor that it is not practicable to give young offenders or any particular group or category of young offenders the opportunity to take physical recreation, training and exercise due to exceptional circumstances pertaining in that young offenders institution, or in any other young offenders institutions or in any prison, he may order in writing that such young offenders or group or category of young offenders shall not be given the opportunity to undertake all or any of the said activities until such time as he considers that it is so practicable.

(4) If the Governor makes an order under paragraph (3), he shall—

- (a) specify in the order the reasons why he is making it;
- (b) record in the order the date and time it is made;
- (c) take such steps as are practicable to notify young offenders subject to the order of the effect of the order; and
- (d) provide a copy of the order to the Secretary of State.

(5) An order made under paragraph (1) shall cease to have effect 48 hours after the time at which it was made unless the Secretary of State specifies in a direction made before the expiry of that period that the order shall continue to have effect until revoked by a further order made by the Governor or by a further direction made for that purpose by the Secretary of State.””.

(3) After paragraph 6 there is inserted the following paragraph:—

“Disapplication of rule 140A

6A. Rule 140A shall not apply.”.

(4) After paragraph 7 there is inserted the following paragraph:—

“Disapplication of Schedule 4A

8. Schedule 4A shall not apply.”.

Amendment of Schedule 2 to the principal Rules

53. Schedule 2 to the principal Rules (security categories) is amended by inserting between the entries for categories C and D the following entry:—

“limited category D

A life prisoner who may participate in activities approved by the Secretary of State for the purposes of testing his suitability to be assigned security category D.”.

Substitution of Schedule 3 to the principal Rules

54. For Schedule 3 to the principal Rules (breaches of discipline) there is substituted the Schedule set out in Schedule 1 to these Rules.

Substitution of Schedule 4 to the principal Rules

55. For Schedule 4 to the principal Rules there is substituted the Schedule set out in Schedule 2 to these Rules.

Insertion of Schedule 4A into the principal Rules

56. After Schedule 4 to the principal Rules (constitution of visiting committees) there is inserted the Schedule 4A set out in Schedule 3 to these Rules.

Savings and transitional provisions

57.—(1) In this rule—

“existing visiting committee” means a visiting committee constituted under rule 133 of the principal Rules on 1st January 1995; and

“new visiting committee” means a visiting committee constituted on 1st April 1996 by virtue of rule 133 of the principal Rules as amended by rule 48 of these Rules.

(2) Notwithstanding the amendments made by rules 48 and 55 above, the provisions of rule 133(1) to (4) of, and Schedule 4 to, the principal Rules as in force immediately before 5th February 1996 shall continue to have effect until 1st April 1996 in relation to any existing visiting committee; and, accordingly, until 1st April 1996—

- (a) the existing visiting committees shall continue to exist;
- (b) each of the members of the existing visiting committees shall (unless he otherwise ceases to hold office) remain in office;
- (c) the chairman and deputy chairman of, and the clerk to, each of the existing visiting committees shall (unless he otherwise ceases to hold his appointment) continue to hold his appointment; and
- (d) so far as relating to an existing visiting committee and to a member thereof, references in Part 16 of the principal Rules to a visiting committee or a member of a visiting committee shall be construed as references to an existing visiting committee or a member thereof.

(3) Where before 1st April 1996—

- (a) an existing visiting committee has undertaken any inquiry in terms of rule 135(1) of the principal Rules and has not concluded that inquiry and made a report in relation to it by 1st April 1996;
- (b) an existing visiting committee has received a complaint by a prisoner in terms of rule 136(1) of the principal Rules and has not concluded its hearing and investigation of the complaint by 1st April 1996; or
- (c) a member of an existing visiting committee has received a complaint by a prisoner in terms of rule 136(1) of the principal Rules and has not concluded his hearing and investigation of the complaint by 1st April 1996,

the new visiting committee for the prison in question shall continue to deal with the inquiry, hearing or investigation, as the case may be, as if that committee had been asked to make the inquiry and report or had received the complaint from the prisoner.

(4) The minute book and any other documents held by or on behalf of an existing visiting committee for a prison shall transfer to the new visiting committee for the prison and the chairman of the existing visiting committee shall, before 1st April 1996, make such arrangements as are necessary to ensure that the minute book and any such documents are delivered to the new visiting committee on that date.

(5) Notwithstanding rule 139 of the principal Rules, the new visiting committee for a prison shall, so far as reasonably practicable, make, or conclude the making of, the annual report of the existing visiting committee for the relevant prison in respect of the period of 12 months ending on 31st March 1996 and shall deliver that report to the Secretary of State as soon as reasonably practicable.

(6) The amendments made by rules 40 and 42 of these Rules shall only apply in relation to prisoners who are assigned security Category D, or who are reassigned that category, on or after 5th February 1996 and accordingly the provisions of rules 120 and 121 of the principal Rules as in force immediately before 5th February 1996 shall continue to apply, as if these Rules had not been made, to any prisoner who before 5th February 1996 is assigned security Category D but only for so long as he continues to be assigned that category.

(7) Where immediately before 5th February 1996—

- (a) any request or complaint has been referred to the Secretary of State in terms of rule 109(2) of the principal Rules;
- (b) any appeal has been made in accordance with rule 111 of the principal Rules; or
- (c) any request has been made under rule 112 of the principal Rules,

then, notwithstanding rules 34, 36 and 37 of these Rules, any such request, complaint or appeal shall continue to be dealt with and determined in all respects as if these Rules had not been made.

(8) Schedule 3 to the principal Rules as substituted by rule 54 of, and Schedule 1 to, these Rules shall not apply in relation to a breach of discipline committed by a prisoner before 5th February 1996 where the relevant act or omission would not have constituted a breach of discipline in terms of Schedule 3 as in force immediately before 5th February 1996.

St Andrew's House,
Edinburgh
10th January 1996

James Douglas-Hamilton
Minister of State, Scottish Office

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SCHEDULE 1

Rule 54.

“SCHEDULE 3

Rule 94

BREACHES OF DISCIPLINE

A prisoner shall be guilty of a breach of discipline if he—

- (a) commits any assault;
- (b) detains any person against his will;
- (c) denies access to any part of the prison to any officer or any person (other than a prisoner) who is at the prison for the purpose of working there;
- (d) fights with any person;
- (e) intentionally endangers the health or personal safety of others or, by his conduct, is reckless whereby such health or personal safety is endangered;
- (f) intentionally obstructs an officer in the execution of his duty or any person (other than a prisoner), who is at the prison for the purpose of working there, in the performance of his work;
- (g) escapes or absconds from prison or from legal custody;
- (h) fails—
 - (i) to return to prison when he should return after being temporarily released under Part 14 of these Rules; or
 - (ii) to comply with any condition upon which he is so temporarily released;
- (i) has in his possession—
 - (i) any article which he is not authorised to have; or
 - (ii) a greater quantity of any article than he is authorised to have; or
 - (iii) any article in a part of the prison where he is not authorised to have it;
- (j) sells or delivers to any person any article which he is not authorised to have;
- (k) sells or, without permission, delivers to any person any article which he is allowed to have only for his own use;
- (l) takes improperly any article belonging to another person or to the prison;
- (m) intentionally or recklessly sets fire to any part of a prison or any other property, whether or not that property belongs to him;
- (n) destroys or damages any part of a prison or any other property, other than his own;
- (o) absents himself from any place where he is required to be or is present at any place where he is not authorised to be;
- (p) is disrespectful to any officer, or any person (other than a prisoner) who is at the prison for the purpose of working there, or any person visiting a prison;
- (q) uses threatening, abusive or insulting words or behaviour;
- (r) intentionally fails to work properly or, being required to work, refuses to do so;
- (s) disobeys any lawful order;
- (t) disobeys or fails to comply with any rule or regulation applying to a prisoner;
- (u) inhales any substance, or the fumes of any substance, which is—
 - (i) a prohibited article;

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- (ii) an article which he is not authorised to possess or keep in terms of these Rules or by any officer; or
- (iii) an article which he is so authorised to keep or possess but not for the purpose of inhaling or inhaling the fumes thereof;
- (v) consumes, takes, injects or ingests any substance which is a prohibited article;
- (w) commits any indecent or obscene act;
- (x) administers a controlled drug to himself or fails to prevent the administration of a controlled drug to him by another person (but subject to rule 98(5));
- (y) fails, without reasonable excuse, to open his mouth for the purpose of enabling a visual examination in terms of rule 88(2)(d); or
- (z) attempts to commit, incites another prisoner to commit, or assists another prisoner to commit or to attempt to commit, any of the foregoing breaches.”

SCHEDULE 2

Rule 55.

“SCHEDULE 4

Rule 133

CONSTITUTION OF VISITING COMMITTEES

(1) Name of Prison	(2) Name of Appointing Authorities	(3) Number of Members to be appointed	(4) Number of Members who are nonmembers of Appointing Authority
ABERDEEN			
Aberdeen City Council	4	2	
	Aberdeenshire Council	4	2
BARLINNIE			
	West Dunbartonshire Council	2	1
	East Ayrshire Council	1	—
	City of Glasgow Council	10	4
	Inverclyde Council	1	—
	North Ayrshire Council	2	1
	North Lanarkshire Council	4	2
	Renfrewshire Council	1	—
	South Lanarkshire Council	4	2
CASTLE HUNTLY	Perthshire and Kinross Council	5	2

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(1) Name of Prison	(2) Name of Appointing Authorities	(3) Number of Members to be appointed	(4) Number of Members who are nonmembers of Appointing Authority
	Dundee City Council	3	1
CORNTON VALE	Clackmannanshire Council	2	1
	Stirling Council	7	3
	Falkirk Council	6	2
DUMFRIES	Dumfries and Galloway Council	11	4
DUNGAVEL	East Dunbartonshire Council	3	1
	South Lanarkshire Council	5	2
EDINBURGH	City of Edinburgh Council	10	42
	East Lothian Council	2	12
	West Lothian Council	2	12
	Midlothian Council	3	1
FRIARTON	Dundee City Council	4	2
	Perthshire and Kinross Council	4	2
GLENOCHIL	Clackmannanshire Council	5	2
	Stirling Council	4	2
	Fife Council	5	2
GREENOCK	Inverclyde Council	5	2
	North Ayrshire Council	2	1
	Argyll and Bute Council	1	—
INVERNESS	Highland Council	10	4
LONGRIGGEND	North Lanarkshire Council	5	2
	East Dunbartonshire Council	3	1
LOW MOSS	City of Glasgow Council	3	1

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(1) Name of Prison	(2) Name of Appointing Authorities	(3) Number of Members to be appointed	(4) Number of Members who are nonmembers of Appointing Authority
	North Lanarkshire Council	3	1
	East Dunbartonshire Council	4	2
NORANSIDE	Angus Council	5	2
	Dundee City Council	3	1
PENNINGHAME	Dumfries and Galloway Council	8	3
PERTH	Perthshire and Kinross Council	8	3
	Dundee City Council	8	3
PETERHEAD	Aberdeenshire Council	5	2
	Aberdeen City Council	3	1
SHOTTS	North Lanarkshire Council	9	3
	South Lanarkshire Council	8	3"

SCHEDULE 3

Rule 56.

“SCHEDULE 4A

Rule 140A

CONSTITUTION OF VISITING COMMITTEES FOR LEGALISED POLICE CELLS

(1) Legalised Police Cells	(2) Names of Appointing Authorities	(3) Number of members to be appointed
AYR	South Ayrshire Council	2
	East Ayrshire Council	1
CAMPBELTOWN	North Ayrshire Council	12
	Argyll and Bute council	2
DUNOON	Inverclyde Council	1
	Argyll and Bute Council	2
HAWICK	Scottish Borders Council	3
KIRKWALL	Orkney Islands Council	3

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(1) Legalised Police Cells	(2) Names of Appointing Authorities	(3) Number of members to be appointed
LERWICK	Shetland Islands Council	3
LOCHMADDY	Western Isles Council	3
OBAN	Highland Council	2
	Argyll and Bute Council	1
PORTREE	Highland Council	3
STORNOWAY	Western Isles Council	3
THURSO	Highland Council	3”

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision for the amendment of the Prisons and Young Offenders Institutions (Scotland) Rules 1994 (“the principal Rules”).

The substantive changes made by these Rules are as follows.

Rule 75 (exercise and time in the open air) of the principal Rules is amended to clarify the circumstances when the entitlements specified in the rule do not apply and to alter the procedures for disapplying its provisions.

The provisions of rule 86 (admission and searching of visitors) are amended in consequence of the amendments made to section 41 of the Prisons (Scotland) Act 1989 (“the 1989 Act”) by section 153 of the Criminal Justice and Public Order Act 1994.

Provision is made for compulsory testing for controlled drugs by inserting new rule 88A. Section 41B of the 1989 Act (as inserted by section 151(2) of the Criminal Justice and Public Order Act 1994) permits compulsory testing of prisoners for controlled drugs. Rule 88A prescribes the manner in which an officer may require a prisoner to provide a sample specified in an authorisation by the Governor for the purposes of section 41B of the 1989 Act. Amendments are made to the discipline provisions in rules 98 of, and Schedule 3 to, the principal Rules in relation to the administration of controlled drugs in breach of discipline.

New provision is made, by inserting a new rule 101A into the principal Rules, for the Governor to review certain disciplinary punishments in the case of a prisoner who is removed to hospital for treatment for mental disorder.

Rules 28 to 39 of these Rules make various amendments to Part 11 of the principal Rules (requests and complaints). The need to make requests in terms of the prescribed procedure is removed so that the procedures apply only to complaints. These procedures are amended to make specific provision in relation to complaints against medical officers and to remove the provisions (in rule 109 of the principal Rules) concerning complaints to the Secretary of State. Amendments are made to the provisions relating to appeals arising out of disciplinary proceedings. Provision is made for the

Secretary of State to quash findings of guilt and to remit or mitigate punishments notwithstanding the conclusion of the internal appeals procedures within the prison.

Rule 133 of the principal Rules (constitution of visiting committees) is amended to make provision for the constitution for prisons of new visiting committees on 1st April 1996 by councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994. These committees will replace the visiting committees constituted on 1st January 1995 by existing Regional, District and Islands Councils but, until 1st April 1996, the existing committees will continue to perform their functions by virtue of the savings set out in rule 57 of these Rules. The substituted Schedule 4 of the principal Rules prescribes the requirements for appointing members of the new committees.

Various provisions of the rules relating to temporary release in Part 14 (rules 120 to 126) of the principal Rules are amended. In relation to short home leave, Christmas and summer leave and pre-Training for Freedom Leave and long home leave (rules 120 and 126) the eligibility requirements are amended so that leave will only be available at a later date in a determinate-sentence prisoner's term. New forms of temporary release are introduced for "local leave" and for work or educational placements.

Provision is also made, by inserting a new rule 140A and Schedule 4A into the principal Rules, for the constitution of visiting committees for those police cells which are currently declared by rules made under the 1989 Act to be legalised Police cells.

In addition a number of minor and consequential and drafting amendments are made to rules 3 (interpretation), 10 (registration and records of prisoners), 12 (security categories of prisoners), 21 (prisoners' food), 27 (arrangements for medical care by other medical practitioners or at outside facilities), 30 (notification of relatives and friends of prisoners suffering serious illness etc), 40 (privileges), 56 (visits to untried and civil prisoners by persons of a prisoner's choice), 63 (general conditions applicable to visits under Part 7), 64 (closed visiting facilities), 67 (arrangements for work, education, etc), 69 (conditions of work or activities in lieu of work), 76 (recreation), 80 (removal from association), 87 (viewing of prisons), 88 (searching of prisoners), 91 (special escorted leave), 95 (reports of breaches of discipline and removal from association), 96 (disciplinary charges), 100 (Governor's punishments), 130 (searches of officers and employees), 134 (proceedings of visiting committees), 141 (remission of sentence or period of detention), Schedule 1 (modification of the Rules in their application to young offenders institutions and young offenders) and Schedule 2 (security categories). Rule 93 (productions of prisoners to Court etc) is omitted.

Schedule 3 (breaches of discipline) is substituted but apart from the inclusion of a provision in relation to the administration of controlled drugs in breach of discipline and a provision in relation to visual examination of prisoners' mouths the changes consist of only minor amendments to paragraphs (c), (f), (p) and (u) of Schedule 3 in its original form.

Rule 57 sets out savings and transitional provisions relative to amendments made by these Rules.

By virtue of rule 2 of the principal Rules, the principal 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 to the principal Rules.