

1999 No. 962

**YOUNG OFFENDER INSTITUTIONS,
ENGLAND AND WALES**

**The Young Offender Institution (Amendment) (No. 2)
Rules 1999**

<i>Made - - - -</i>	<i>24th March 1999</i>
<i>Laid before Parliament</i>	<i>26th March 1999</i>
<i>Coming into force</i>	
<i>Rules 1 and 2 - -</i>	<i>31st March 1999</i>
<i>Remainder</i>	<i>1st April 1999</i>

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

1. These Rules may be cited as the Young Offender Institution (Amendment) (No. 2) Rules 1999 and shall come into force—
 - (a) as respects this rule and rule 2, on 31st March 1999; and
 - (b) as respects all other provisions, on 1st April 1999.
2. The Young Offender Institution (Amendment) Rules 1999(b) are hereby revoked.
3. The Young Offender Institution Rules 1988(c) shall have effect subject to the amendments set out in the Schedule to these Rules.
4. Without prejudice to the Interpretation Act 1978(d), where an inmate committed an offence against discipline contrary to rule 50(21) of the Young Offender Institution Rules 1988 (“the 1988 Rules”) prior to the coming into force of the amendments to that rule made by these Rules, charges may be laid, disciplinary proceedings may be continued and punishment imposed for such an offence as if the 1988 Rules had not been amended by these Rules.

Home Office
26th March 1999

Jack Straw
One of Her Majesty’s Principal Secretaries of State

(a) 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 43(5) of the Prison Act 1952. The Criminal Justice Act 1988 (c. 33), Schedule 8, paragraph 1, contains amendments affecting these provisions.
(b) S.I. 1999/729.
(c) S.I. 1988/1422; amending instruments are 1989/331, 1989/2142, 1990/1763, 1992/513, 1992/2081, 1993/3076, 1994/3194, 1995/984, 1995/1599, 1996/1662, 1997/789, 1998/1545 and 1999/729.
(d) 1978 c. 30.

AMENDMENTS TO THE YOUNG OFFENDER INSTITUTION RULES 1988

1. In rule 6 (Temporary release):

- (a) in paragraph (5) there shall be added, after the words “has served” the words “or, in a case where paragraph (9) does not apply to require all the sentences he is serving to be treated as a single term, the period or proportion of any such sentence he has served”;
- (b) in paragraph (6) for sub-paragraph (a) there shall be substituted the following sub-paragraph:
 - “(a) in the case of an inmate serving a determinate sentence of imprisonment, detention or custody, is the period he has served in respect of that sentence, unless, notwithstanding paragraph (9), the sentences he is serving do not fall to be treated as a single term, in which case it is the period since he was last released in relation to one of those sentences under Part II of the Criminal Justice Act 1991 (“the 1991 Act”)(a); or”;
- (c) in sub-paragraph (b) for “Part II of the Criminal Justice Act 1991(a)” there shall be substituted “Part II of the 1991 Act or Part II of the Crime (Sentences) Act 1997(b)”;
- (d) for paragraph (9) there shall be substituted the following paragraphs:

“(9) For the purposes of any reference in this rule to an inmate’s sentence consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term if they would fall to be treated as a single term for the purposes of any reference to the term of imprisonment, detention or custody to which a person has been sentenced in Part II of the 1991 Act.

(10) In this rule, any reference to release on licence under Part II of the 1991 Act includes any release on licence under any earlier legislation providing for early release on licence.”.

2. In rule 10 (Letters and visits generally):

- (a) substitute a new heading “Communications generally”;
- (b) in paragraph (1) before “communications” insert “letters or other”;
- (c) after paragraph (1) there shall be added the following paragraph–
 - “(1A) Without prejudice to the generality of paragraph (1), the Secretary of State may require that any visit, or class of visits, shall be held in facilities which include special features restricting or preventing physical contact between an inmate and a visitor.”;
- (d) in paragraph (2) insert at the beginning “Without prejudice to sections 6 and 19 of the Prison Act 1952, and”, and delete “statute or”;
- (e) in paragraph (3) insert “other” before “communication”, “listened to, logged, recorded” after “may be read” and “letter or other” after “stop any”;
- (f) add a new paragraph at the end–
 - “(5) In this rule “communications” includes communications during or by means of visits or by means of a telecommunications system or telecommunications apparatus, and “telecommunications apparatus” has the meaning assigned by paragraph 1 of Schedule 2 to the Telecommunications Act 1984(c).”.

3. In rule 11 (Personal letters or visits):

- (a) in paragraph (1), at the beginning, insert “Subject to paragraph (7)”;
- (b) for paragraph (7) substitute–

(a) 1991 c. 53; relevant amendments to Part II were made by section 101 of the Crime and Disorder Act 1998 (c. 37).

(b) 1997 c. 43.

(c) 1984 c. 12.

“(7) An inmate shall not be entitled under this rule to receive a visit from—

- (a) any person, whether or not a relative or friend, during any period of time that person is the subject of a prohibition imposed under rule 71A; or
- (b) any other person, other than a relative or friend, except with the leave of the Secretary of State.”.

4. In rule 21 (Hygiene), for paragraphs (3) and (4) there shall be substituted the following paragraph—

“(3) An inmate’s hair shall not be cut without his consent.”.

5.—(1) Rule 35 (Education) shall be amended as follows.

(2) In paragraph (2), for the words “an inmate aged less than 17” there shall be substituted “an inmate of compulsory school age as defined in section 8 of the Education Act 1996(a)”.

(3) In paragraph (3), for the words “is illiterate or backward” there shall be substituted “has special educational needs”.

6. In rule 43 (Search), for paragraph (3) there shall be substituted the following paragraph—

“(3) No inmate shall be stripped and searched in the sight of another inmate or in the sight of a person of the opposite sex.”.

7. In rule 48 (Temporary confinement), after paragraph (3) there shall be inserted the following paragraph—

“(4) An inmate shall not be confined under this rule for longer than 24 hours without a direction in writing given by a member of a board of visitors or by an officer of the Secretary of State not being an officer of the young offender institution.”.

8.—(1) Rule 49 (Restraints) shall be amended as follows.

(2) In paragraph (1), the words “other than an inmate aged less than 17” shall be omitted.

(3) After paragraph (1) there shall be inserted the following paragraph—

“(1A) The governor may not order an inmate aged less than 17 to be put under restraint, except that he may order such an inmate be placed in handcuffs where this is necessary to prevent the inmate from injuring himself or others, damaging property or creating a disturbance.”.

9. In rule 50 (Offences against discipline), for paragraph (21) there shall be substituted the following paragraph—

“(21) receives any controlled drug or, without the consent of an officer, any other article, during the course of a visit (not being an interview such as is mentioned in rule 13);”

10.—(1) Rule 53 (Governor’s punishments) shall be amended as follows.

(2) In paragraph (1), after the words “subject to” there shall be inserted the words “paragraph (3) below and”.

(3) In paragraph (2), at the end there shall be added, “and in the case of an award of cellular confinement the total period shall not exceed 7 days”.

(4) After paragraph (2) there shall be inserted the following paragraphs—

“(3) An award of a caution shall not be combined with any other punishment for the same charge.

(4) In imposing a punishment under this rule, the governor shall take into account any guidelines that the Secretary of State may from time to time issue as to the level of punishment that should normally be imposed for a particular offence against discipline.”.

(a) 1996 c. 56.

11.—(1) Rule 60 (Adult female inmates: disciplinary punishments) shall be amended as follows.

(2) In paragraph (1)—

(a) after the words “committed to prison for default” there shall be added “and who is detained in a young offender institution pursuant to a direction of the Secretary of State under section 43(2)(a) of the Prison Act 1952”; and

(b) sub-paragraph (d) shall be omitted.

12. In rule 63 (Search of officers), at the end, there shall be added “Any such search shall be conducted in as seemly a manner as is consistent with discovering anything concealed.”.

13. Rule 67 (Quarters) shall be omitted.

14. In rule 70 (Control of persons and vehicles), at the end of paragraph (1), there shall be added “Any such search of a person shall be carried out in as seemly a manner as is consistent with discovering anything concealed.”.

15. After rule 71 there shall be inserted the following rule—

“Visitors

71A.—(1) Without prejudice to any other powers to prohibit or restrict entry to young offender institutions, and to his powers under rules 10 and 11, the Secretary of State may, with a view to securing discipline and good order or the prevention of crime or in the interests of any persons, impose prohibitions on visits by a person to a young offender institution or to an inmate in a young offender institution for such periods of time as he considers necessary.

(2) Paragraph (1) shall not apply in relation to any visit to a young offender institution or inmate by a member of the board of visitors of the young offender institution, or justice of the peace, or to prevent any visit by a legal adviser for the purposes of an interview under rule 13 or visit allowed by the board of visitors under rule 11(5).”.

16. For rule 72 (Disqualification for membership), there shall be substituted the following rule—

“72. Any person directly or indirectly interested in any contract for the supply of goods or services to a young offender institution shall not be a member of the board of visitors for that institution and any member who becomes so interested in such a contract shall vacate office as a member.”

17. In rule 73 (Appointment) in paragraph (1A) at the end there shall be added “; or (d) there is, or appears to be, or could appear to be, any conflict of interest between the member performing his duties as a member and any interest of that member, whether personal, financial or otherwise.”.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules revoke and replace the Young Offender Institution (Amendment) Rules 1999 (which have not been published), which contained some minor drafting errors.

These Rules amend the Young Offender Institution Rules 1988 (“the 1988 Rules”), as amended.

Rule 3 of these Rules introduces the Schedule, which sets out the amendments to the 1988 Rules.

Paragraph 1 of the Schedule amends rule 6 (Temporary Release) of the 1988 Rules to reflect amendments made to Part II of the Criminal Justice Act 1991 by the Crime and Disorder Act 1998. Paragraph 2 adds to rule 10 (Communications) express reference to restrictions on visits and telecommunications. Paragraphs 4, 5 and 6 make minor amendments to rules 21 (Hygiene), 35 (Education) and 43 (Search) of the 1988 Rules respectively. Paragraph 7 amends rule 48 (Temporary confinement) to provide that where an inmate is confined for 24 hours there must be a direction in his case given by a member of a board of visitors or by an officer of the Secretary of State, not being an officer of the young offender institution. Paragraph 8 clarifies rule 49 (Restraints) so that an inmate aged less than 17 years cannot be put under restraint but may, in certain circumstances, be placed in handcuffs.

Paragraph 9 amends rule 50 (Offences against discipline) to remove the offence of offending against good order and discipline and adds a new offence of receiving an article or controlled drugs during a visit; and paragraph 10 makes minor amendments to the punishments that a governor may impose under rule 53 (Governor’s punishments) and makes provision for the Secretary of State to issue guidelines for punishments.

Paragraphs 11 to 14 inclusive make minor amendments to rules 60 (Adult female inmates: disciplinary punishments), 63 (Search of officers), 67 (Quarters) and 70 (Control of persons and vehicles).

In paragraph 15 a new rule 71A (Visitors) adds powers to prohibit certain visitors for periods of time.

Paragraphs 16 and 17 amend rules 72 and 73 to make new provision in respect of the circumstances where a person may not be a member of a board of visitors and where the Secretary of State may terminate the appointment of such a person.

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