STATUTORY INSTRUMENTS

2009 No. 1096

The Service Custody and Service of Relevant Sentences Rules 2009

PART 2

Service detention in service custody premises

Places in which persons may be required to serve sentences of service detention

3. The only places in which a person may be required to serve the whole or part of a sentence of service detention are service custody premises.

Committal to prisons and service custody premises and removal from service custody premises

4. A person on whom a relevant sentence has been passed shall not—

(a) be committed to a prison or to service custody premises, or

(b) be moved between one service custody premises and another,

except in accordance with an order of his commanding officer, the commandant of the service custody premises from which he is being transferred, or a judge advocate.

Release from service detention

5.—(1) No person serving a sentence of service detention shall be released from service custody premises except—

(a) in accordance with rule 33;

(b) by an order of a court of competent jurisdiction; or

(c) on the expiry of his sentence, less any remission provided for in these Rules.

(2) Where his sentence of service detention is due to expire on a Sunday or public holiday, a detainee shall be released on the nearest previous weekday and the balance of the sentence shall be deemed to be remitted.

Service custody facilities overseas

6.—(1) Subject to paragraph (2), a person upon whom a sentence of service detention has been passed outside the United Kingdom may be detained in one or more service custody facilities outside the United Kingdom for up to sixty days.

(2) A person may only be detained under paragraph (1) if the relevant principal personnel officer, or an officer authorised by him, has approved his detention under that paragraph.

(3) In paragraph (2) the relevant principal personnel officer is the principal personnel officer of the regular or reserve force of which the person referred to in paragraph (1) is a member.

Inspector of service custody premises

7.—(1) The Secretary of State shall appoint one or more inspectors of service custody premises.

(2) Any person who immediately before the date on which these Rules come into force was an Inspector of Military Establishments(**1**) shall be deemed to have been appointed as an inspector of service premises for the purposes of paragraph (1).

(3) It shall be the duty of an inspector of service custody premises to—

(a) inspect service custody premises;

(b) report to the Defence Council on all service custody facilities at least once a year;

(c) if on an inspection under sub-paragraph (a) he considers a service custody facility is suitable for the confinement of a detainee serving a sentence of service detention, permit its use for that purpose, subject to such conditions, if any, as he may specify;

(d) train staff for employment in service custody premises;

(e) advise on the appointment and posting of staff to be employed in service custody premises; and

(f) decide and issue policy regarding the use of mechanical restraints in service custody premises.

Automatic remission of sentence

8.—(1) A detainee who has been sentenced to twenty-five or more days of service detention shall be entitled to a period of remission in accordance with this rule according to the following provisions.

(2) If his sentence does not exceed twenty-eight days he shall be entitled to a period of remission equal to the number of days by which the sentence exceeds twenty-four days.

(3) If his sentence exceeds twenty-eight days, he shall be entitled to a period of remission equal to one third of the period of his sentence, except that, if this would result in the detainee serving fewer than twenty-four days the period of remission shall be such as to require the detainee to serve twenty-four days.

(4) In this rule any reference to a sentence for a period of service detention is a reference to the period of service detention which the detainee would apart from this rule and rule 70 be required to serve, including any additional period of service detention which he would be required to serve in accordance with rules 51 and 52.

(5) If the detainee is serving two or more periods of service detention concurrently, remission shall be calculated under this rule in respect of each of those periods, and the date of final release shall be the later or last date so calculated.

(6) For the purposes of calculating a period of remission under this rule a fraction of a day shall be ignored.

(**1**) Inspectors of Military Establishments were appointed under rule 5 of the Imprisonment and Detention (Army) Rules S.I. 1979/1456 and rule 5 of the Imprisonment and Detention (Air Force) Rules S.I. 1980/2005.