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STATUTORY INSTRUMENTS

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**2005 No. 3437**

**PRISONS**

**The Prison (Amendment) (No. 2) Rules 2005**

*Made* - - - - - *13th December 2005*  
*Laid before Parliament* *14th December 2005*  
*Coming into force* - - *3rd January 2006*

The Secretary of State makes the following Rules in exercise of the powers conferred by section 47 of the Prison Act 1952(1):

1. These Rules may be cited as the Prison (Amendment) (No. 2) Rules 2005 and shall come into force on 3<sup>rd</sup> January 2006.
2. The Prison Rules 1999(2) shall have effect subject to the amendments set out in the Schedule to these Rules.

Home Office  
13th December 2005

*Scotland of Asthal, Q.C*  
Minister of State

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(1) 1952 c. 52. There are amendments which are not relevant to the subject matter of these Rules.  
(2) S.I.1999/728. There are amendments to the Prison Rules 1999 which are not relevant to the subject matter of these Rules.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

SCHEDULE 1

Rule 2

Amendments to the Prison Rules 1999

1. In rule 2 (interpretation)—
  - (a) in paragraph (1)—
    - (i) after the definition of “convicted prisoner” insert—

““fixed term prisoner has the meaning assigned to it by section 237(1) of the Criminal Justice Act 2003(3)
    - (ii) after the definition of “governor” insert —

““health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(4) and who is working within the prison pursuant to rule 20(3);”;
    - (iii) after the definition of “prison minister” insert—

““registered medical practitioner” and “registered nurse” mean a practitioner or nurse who is working within the prison pursuant to rule 20(3);” and
    - (iv) after the definition of “telecommunications system” insert—

““the 2003 Act” means the Criminal Justice Act 2003.”; and
  - (b) in paragraph (2)(a) after “the Criminal Justice Act 1991(5)” add “or by virtue of section 257 of the 2003 Act”.
2. In rule 9 (temporary release)—
  - (a) paragraph (3)(i) is deleted;
  - (b) in paragraph (7)(a) at the end add “or Chapter 6 of Part 12 of the 2003 Act”;
  - (c) in paragraph (7)(b) after “Part II of the 1991 Act” add “or Chapter 6 of Part 12 of the 2003 Act”; and
  - (d) for paragraph (10) substitute—

“(10) 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.”.
3. In rule 20 (medical attendance)—
  - (a) for paragraph (2) substitute—

“(2) Every request by a prisoner to see a registered medical practitioner, a registered nurse or other health care professional such as is mentioned in paragraph (3) shall be recorded by the officer to whom it is made and promptly passed on to the medical officer.”;
  - (b) for paragraph (3) substitute—

“(3) The medical officer may consult —

    - (a) a registered medical practitioner,
    - (b) a registered nurse, or
    - (c) any other health care professional,

and such a person may work within the prison under the general supervision of the medical officer.”;

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(3) 2003 c. 44.  
(4) 2002 c. 17.  
(5) 1991 c. 53.

- (c) omit paragraph (4);
  - (d) in paragraph (5) for the words “the medical officer” substitute “a registered medical practitioner such as is mentioned in paragraph (3)”.
4. In rule 21 (special illnesses and conditions)—
- (a) in paragraph (1) for the words “The medical officer or a medical practitioner” substitute “A registered medical practitioner”;
  - (b) omit paragraph (2).
5. In rule 24 (food)—
- (a) in paragraph (1) for the words “the medical officer or a medical practitioner” substitute “a health care professional”;
  - (b) in paragraph (3) omit the words “The medical officer, a medical practitioner such as is mentioned in rule 20(3) or”.
6. In rule 25 (alcohol and tobacco), in paragraph (1) omit from “except under a written order” to the end of that paragraph.
7. In rule 29 (physical education), omit paragraph (4).
8. In rule 31 (work), in paragraph (2) for the words “the medical officer or a medical practitioner” in both places where they occur substitute “a registered medical practitioner or registered nurse”.
9. In rule 45 (removal from association)—
- (a) for paragraph (2) substitute—
    - “(2) A prisoner shall not be removed under this rule for a period of more than 72 hours without the authority of the Secretary of State and authority given under this paragraph shall be for a period not exceeding 14 days but it may be renewed from time to time for a like period.”;
  - (b) for paragraph (3) substitute—
    - “(3) The governor may arrange at his discretion for a prisoner removed under this rule to resume association with other prisoners at any time, and in exercising that discretion the governor must fully consider any recommendation that the prisoner resumes association on medical grounds made by a registered medical practitioner or registered nurse such as is mentioned in rule 20(3).”.
10. In rule 48 (2) (temporary confinement), omit “by a member of a board of visitors or” and “(not being an officer of a prison)”.
11. In rule 49 (restraints)—
- (a) in paragraph (2) for the words “to the medical officer or to a medical practitioner” substitute “to a registered medical practitioner or to a registered nurse”;
  - (b) in paragraph (3) for the words “the medical officer, or the medical practitioner” substitute “the registered medical practitioner or registered nurse”;
  - (c) in paragraph (6) for the words “of the medical officer or of a medical practitioner” substitute “of a registered medical practitioner or of a registered nurse”.
12. In rule 52A(6) (defences), omit paragraph (c).
13. In rule 55A(1)(b)(7) (adjudicator’s punishments) after “long-term prisoner” add “or fixed-term prisoner”.

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(6) Rule 52A was inserted by the Prison (Amendment) Rules 2005 (S.I. 2005/869).

(7) Rule 55A was inserted by the Prison (Amendment) Rules 2002 (S.I. 2002/2116).

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**14.** For rule 58 (cellular confinement) substitute—

“**58.** Before deciding whether to impose a punishment of cellular confinement the governor, adjudicator or reviewer shall first enquire of a registered medical practitioner or registered nurse, such as is mentioned in rule 20(3), as to whether there are any medical reasons why the punishment is unsuitable and shall take this advice into account when making his decision.”.

**15.** In rule 59(2) (prospective award of additional days)—

- (a) after “long-term prisoner” add “or fixed-term prisoner”; and
- (b) after “the Criminal Justice Act 1967” add “or section 240 of the 2003 Act”.

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**EXPLANATORY NOTE**

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

The Schedule to these Rules amends the Prison Rules 1999 as follows.

Paragraph 1 amends rule 2 to include a definition of “fixed-term prisoner”, “health care professional” and “the 2003 Act”. It also clarifies that an award of additional days referred to in the Rules includes an award made under section 257 of the Criminal Justice Act 2003 (“the 2003 Act”).

Paragraph 2 amends rule 9 in two ways. First, it deletes sub-paragraph (3)(i) with the result that release on temporary licence for the purpose of making local visits can no longer be earned as privilege. Second, it confirms that all sentences being served consecutively or concurrently are to be treated as a single term for the purposes of calculating eligibility and adds various references to relevant provisions of the 2003 Act.

Paragraph 3 amends rule 20 to enable registered medical practitioners, registered nurses and other health care professionals to work with medical officers in providing health care for prisoners.

Paragraph 4 amends rule 21 to enable the relevant registered medical practitioner to report to the governor on a prisoner’s health.

Paragraph 5 amends rule 24 to enable any person deemed by the governor to be competent to inspect and report on food deficiencies.

Paragraph 6 amends rule 25(1) with the effect that medical officers or practitioners are no longer to prescribe intoxicating liquor to prisoners.

Paragraph 7 removes the requirement in rule 29 for every prisoner to be medically assessed prior to undergoing physical activity.

Paragraph 8 amends rule 31 to enable the relevant medical practitioner or registered nurse to provide a note excusing a prisoner from work.

Paragraph 9 amends rule 45 to provide that the decision to remove a prisoner from association rests with the Secretary of State, and to require the governor to consider any recommendation of a registered medical practitioner when considering whether to return the prisoner to association.

Paragraph 10 amends rule 48 (2) by removing the role of boards of visitors in authorising temporary confinement of a prisoner.

Paragraph 11 amends rule 49 so that registered medical practitioners and registered nurses must be involved in assessing whether prisoners can be put under restraints.

Paragraph 12 makes an amendment consequential on the amendment to rule 25 (1).

Paragraph 13 amends rule 55A(1)(b) by inserting a reference to a “fixed-term” prisoner.

Paragraph 14 substitutes a new rule 58 to enable the governor, adjudicator or reviewer to enquire of a registered medical practitioner or registered nurse whether there are medical reasons why cellular confinement is unsuitable.

Paragraph 15 amends rule 59(2) both by inserting references to a “fixed-term prisoner” and section 240 of the 2003 Act.