SCHEDULES

SCHEDULE 4

Amendments relating to prisons

Prison and Young Offenders Centre Rules (Northern Ireland) 1995

8. Amend the Prison and Young Offenders Centre Rules (Northern Ireland) 1995(**1**) as follows.

9. Subject to what follows, in Parts 1 to 16 for "Secretary of State" (wherever occurring) substitute "Department of Justice".

10.—(1) Amend rule 4 as follows.

(2) In the definition of "the Ombudsman's staff" for "Northern Ireland Office" substitute "Department of Justice".

(3) In the definition of "separated prisoner" for "who has applied" to the end substitute "whom the Secretary of State has decided is to be accommodated in separated conditions on the grounds of security, safety or good order and who is so accommodated".

11.—(1) Amend rule 7 as follows.

(2) After paragraph (2) insert—

"(3) In paragraph (1) the reference to these rules does not include rules 50A, 73A, 79MA and 109ZA."

12. In rules 32(2L) and 48(3L) and (11) for "he" substitute "it".

13. In rules 48B(2) and 48C(2) omit "by the Secretary of State".

14. After rule 50 insert—

"National security

50A. In a case where evidence is not inspected by the independent monitoring board by virtue of rule 32(2H)(a) or 48(3H)(a), in rule 32(2J) to (2L) or 48(3J) to (3L) (as the case may be) references to the Department of Justice are to be read as references to the Secretary of State."

15. In rule 59(6) for "him" substitute "the Department of Justice".

16. In rule 67(2) for "he" substitute "the Department of Justice".

17. In rule 71(2) for "Secretary of State's" substitute "Department of Justice's".

18. After rule 73 insert—

(**1**) S.R. (N.I.) 1995 No. 8; as amended by S.R. (N.I.) 1995 No. 264, S.R. (N.I.) 1997 No. 86, S.R. (N.I.) 2000 No. 4, S.R. (N.I.) 2000 No. 267, S.R. (N.I.) 2001 No. 221, S.R. (N.I.) 2005 No. 153, S.R. (N.I.) 2008 No. 452 and S.R. (N.I.) 2009 No. 429.

"National security

73A.—(1) The Secretary of State may if he considers it necessary in the interests of national security—

(a) exercise any power of the Department of Justice under rule 67(1), (2) or (5) to (9), 68(8) or 68A(1) or (2) above;

(b) by direction provide for anything done by the Department of Justice in the exercise of any of those powers to cease to have effect to the extent set out in the direction.

(2) In relation to—

(a) any intercepted material which is intercepted under a direction of the Secretary of State or which is otherwise information held by the governor as an officer of the Secretary of State in accordance with arrangements made under section 1A(7) of the Act, or

(b) any information retained pursuant to rule 68B above in relation to any intercepted material within sub-paragraph (a),

rule 68C above has effect as if for the words "an officer of a prison or of the Department of Justice" there were substituted "an officer of the Secretary of State (including a person treated as such an officer under arrangements made under section 1A(7) of the Act)"."

19.—(1) Amend rule 79L as follows.

(2) In paragraphs (2) and (6) for "he" substitute "the Department of Justice".

(3) In paragraph (3) for "his" substitute "the Department's".

20. After rule 79M insert—

"National security etc

79MA.—(1) In carrying out any function under these Rules or otherwise, the Ombudsman (including members of the Ombudsman's staff) must have regard to any guidance given by the Secretary of State for purposes connected with national security (including, in particular, any matter within section 1A(2)(c)(i) to (iii) of the Act).

(2) In relation to any matter mentioned in section 1A(2) of the Act, in rule 79M references to the Department of Justice are to be read as including references to the Secretary of State."

21. In rule 92(2) and (3) for "he" substitute "the Department of Justice".

22. At the beginning of Part 13A insert—

"Entry into separated accommodation etc

109ZA.—(1) This rule applies where at any time the accommodation of prisoners in separated conditions on the grounds of security, safety or good order is provided for.

(2) It is for the Secretary of State—

(a) to decide whether a prisoner is to be accommodated in separated conditions on the grounds of security, safety or good order or is to cease to be so accommodated, and

(b) to set the criteria upon which any such decision is to be based."

23. In rule 122(3) for "he" (where it first occurs) substitute "the Department of Justice".

24. In rule 124(3) for "him" substitute "the Department of Justice".

25.—(1) Subject to sub-paragraph (2), the Prison and Young Offenders Centre Rules (Northern Ireland) 1995(**2**) (as amended by paragraphs 8 to 24 above) continue in effect as if made by the Department of Justice under section 13 of the Prison Act (Northern Ireland) 1953(**3**).

(2) Rules 7(3), 50A, 73A, 79MA and 109ZA have effect as if made by the Secretary of State under that section by virtue of section 1A of the 1953 Act (as inserted by paragraph 3(1) above).

(**2**) S.R. (N.I.) 1995 No. 8.
(**3**) 1953 c. 18 (N.I.). Section 13 was amended by section 31 of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (N.I), S.I. 1976/226 (N.I. 4), S.I. 1980/1084 (N.I. 10) and S.I. 2005/1965 (N.I. 15).