
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 331

**The Prisons and Young Offenders
Institutions (Scotland) Rules 2011**

PART 11

DISCIPLINE

Disciplinary appeals

118.—(1) A prisoner who is found guilty of any breach of discipline, in accordance with rule 113, may appeal the decision in accordance with this rule not later than 14 days after the date of the decision.

(2) An appeal brought under this rule must be in writing and is to be known as a disciplinary appeal.

(3) A disciplinary appeal may be against—

- (a) both the finding of guilt and any punishment imposed under rule 114; or
- (b) only the punishment imposed under rule 114,

but the appeal does not suspend that punishment.

(4) A disciplinary appeal may only be made where the disciplinary hearing—

- (a) was chaired by any officer other than the Governor in Charge, to the internal complaints committee;
- (b) was chaired by the Governor in Charge, to the Scottish Ministers;
- (c) took place in a contracted out prison, to the Scottish Ministers.

(5) An appeal under paragraph (4)(a) must be dealt with as if it were a complaint to the internal complaints committee made under rule 123 but the Governor must, 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 rule 114 where the period for which the punishment was imposed has expired by the date of the decision of the appeal).

(6) Where an appeal is made under paragraph (4)(b) or (c) the Scottish Ministers must—

- (a) investigate any relevant matters raised in the appeal; and
- (b) provide a written decision to the prisoner within 20 days of the appeal being made.

(7) The Scottish Ministers may, either in the course of a disciplinary appeal brought under paragraph (4)(b) or (c) or of their own volition, 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 rule 114 where the period for which the punishment was imposed has expired by the date of the decision of the appeal);
- (c) substitute another punishment which is, in the Scottish Ministers' opinion, less severe; or
- (d) in the case of a disciplinary appeal, refuse the appeal.

(8) If the Governor quashes any finding of guilt under paragraph (5)(a), or Scottish Ministers quash any finding of guilt under paragraph (7)(a), the Governor must 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.

(9) Following the conclusion of the appeals procedure in relation to any appeal brought under this rule, a prisoner is not entitled to make any further appeal or complaint under these Rules in relation to the same matter to which the breach of discipline in question related.