
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 331

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

PART 10

SECURITY

SUPERVISION AND CONTROL OF PRISONERS

Supervision of the prison and control of prisoners

90.—(1) Subject to the provisions of these Rules, the Governor is responsible for—

- (a) the supervision of the whole prison; and
- (b) the control of prisoners confined in the prison.

(2) The Governor must, as far as practicable, visit and inspect on a daily basis those parts of the prison where prisoners are employed or accommodated.

Control of prisoners

91.—(1) In the control of prisoners, an officer must seek—

- (a) to influence behaviour by example and leadership; and
- (b) to enlist the willing co-operation of prisoners.

(2) An officer may only use force against a prisoner when it is necessary to do so taking into account all of the circumstances of the situation and the force used must be—

- (a) proportionate to the risk posed by the prisoner in that situation; and
- (b) no more than necessary for the purposes of that situation.

(3) Where an officer uses force against a prisoner that officer must keep a written record of that use of force.

(4) An officer must not deliberately provoke a prisoner.

Searching of prisoners

92.—(1) Every prisoner and his or her property and accommodation may be searched in accordance with this rule.

(2) An officer may conduct a search of a prisoner at any time and this search may involve any number of the following processes—

- (a) a search of the prisoner's person including the prisoner's clothing prior to removal of the clothing under sub-paragraph (c);
- (b) a search of the prisoner's clothing after removal of the clothing under sub-paragraph (c);
- (c) the removal of the prisoner's clothing;

- (d) a visual examination of the external parts of the prisoner's body after the removal of the prisoner's clothing;
 - (e) a visual examination of the prisoner's open mouth but no equipment or force may be used;
 - (f) a search of any items of property in the prisoner's possession;
 - (g) a search of the prisoner's cell or room including any items of property found in the cell or room.
- (3) Where a search is conducted under paragraph (2)—
- (a) in the case of a search under paragraph (2)(a), the officer carrying out the search must be of the same gender as the prisoner;
 - (b) in the case of a search under paragraph (2)(c) or (d), the officer carrying out the search must be of the same gender as the prisoner and at least one other officer of the same gender must be present during the search;
 - (c) in the case of a search under paragraph (2)(c) or (d), the search must be conducted outwith the sight of any other person who is not an officer of the same gender as the prisoner;
 - (d) except in the case of a search under paragraph (2)(e), the use of force is permitted where it is necessary and such force must be reasonable and proportionate to the threat or resistance posed by the prisoner; and
 - (e) the search must be carried out as quickly and decently as possible.
- (4) A search conducted under paragraph (2), other than a search carried out under paragraph (2)(d) or (e), may be carried out by hand.
- (5) A search conducted under paragraph (2), other than a search carried out under paragraph (2)(c), (d) or (e), may be carried out by—
- (a) the use of equipment involving the application of a suction device or a swab on or to the prisoner's clothing, any items of property mentioned in paragraph (2)(f) or (g) or any part of the prisoner's cell in order to collect substances from their surface;
 - (b) the use of equipment involving the analysis of substances collected under subparagraph (a) for the purpose of ascertaining whether any of them consists of a controlled drug or an explosive substance;
 - (c) the use of equipment designed to detect the existence of metal objects or any prohibited article; or
 - (d) the use of trained sniffer dogs under the control of a trained officer.
- (6) Where a search conducted under paragraph (2) involves the use of equipment under paragraph (5)(a), (b) or (c), that equipment must be used in accordance with the manufacturer's instructions.
- (7) Where an officer finds any prohibited article in the course of a search conducted under this rule, he or she may seize that article and deal with it in accordance with rule 104.
- (8) Nothing in this rule permits the physical examination of the prisoner's body orifices.
- (9) For the purposes of this rule, any power to search includes the power to examine.

Compulsory testing for controlled drugs

93.—(1) This rule applies where an officer, acting under the powers conferred by section 41B of the Act (testing prisoners for drugs)(1), requires a prisoner to provide a sample for the purpose of ascertaining whether he or she has any controlled drug in his or her body.

(1) 1989 c.45; section 41B was added by the Criminal Justice and Public Order Act 1994 (c.33), section 151(2) and was amended by the Management of Offenders etc. (Scotland) Act 2005 (asp 14), section 16.

(2) In this rule “sample” means a sample of urine, saliva or any other description of sample specified in the authorisation by the Governor for the purposes of section 41B of the Act.

(3) When requiring a prisoner to provide a sample, an officer must, so far as is reasonably practicable, inform the prisoner—

- (a) that he or she is being required to provide a sample in accordance with section 41B of the Act; and
- (b) that a refusal to provide a sample may lead to disciplinary proceedings being brought against the prisoner under Part 11.

(4) A prisoner who is required to produce a sample under this rule must provide a fresh sample, free from any alteration or falsification.

(5) An officer requiring a sample must make such arrangements and give the prisoner such instructions for the provision of a sample as may be reasonably necessary in order to prevent or detect any alteration or falsification of the sample.

(6) Subject to paragraph (7), a prisoner who is required to provide a sample under this rule may be kept apart from other prisoners for a period not exceeding one hour to enable arrangements to be made for the provision of the sample.

(7) A prisoner who is unable to provide a sample of urine when required to do so under this rule may be kept apart from other prisoners until he or she has provided the required sample, but not for a period in excess of 5 hours.

(8) When providing a sample of urine—

- (a) the prisoner must be afforded such degree of privacy for the purposes of providing the sample as may be compatible with the need to prevent or detect any alteration or falsification of the sample; and
- (b) the prisoner must not be required to provide such a sample in the sight of a person of the opposite gender.

Compulsory testing for alcohol

94.—(1) This rule applies where an officer, acting under the powers conferred by section 41C of the Act (testing of prisoners for alcohol)(2), requires a prisoner to provide a sample for the purpose of ascertaining whether a prisoner has any alcohol in his or her body.

(2) In this rule “sample” means a sample of breath or any other description of sample specified in the authorisation by the Governor for the purposes of section 41C of the Act.

(3) When requiring a prisoner to provide a sample, an officer must, so far as is reasonably practicable, inform the prisoner—

- (a) of the requirement to provide a sample in accordance with section 41C of the Act; and
- (b) that a refusal to provide a sample may lead to disciplinary proceedings being brought against the prisoner under Part 11.

(4) A prisoner who is required to produce a sample under this rule must provide a fresh sample, free from any alteration or falsification.

(5) An officer requiring a sample must make such arrangements and give the prisoner such instructions for the provision of a sample as may be reasonably necessary in order to prevent or detect any alteration or falsification of the sample.

(2) 1989 c.45; Section 41C was added by the Crime and Punishment (Scotland) Act 1997 (c.48), section 42.

(6) Subject to paragraph (7), a prisoner who is required to provide a sample under this rule may be kept apart from other prisoners for a period not exceeding one hour to enable arrangements to be made for the provision of the sample.

(7) A prisoner who is unable to provide a sample of urine when required to do so under this rule may be kept apart from other prisoners until the required sample has been provided, but not for a period in excess of 5 hours.

(8) When providing a sample of urine—

- (a) the prisoner must be afforded such degree of privacy for the purposes of providing the sample as may be compatible with the need to prevent or detect any alteration or falsification of the sample; and
- (b) the prisoner must not be required to provide such a sample in the sight of a person of the opposite gender.