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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 331**

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

**PART 16**

**OFFICERS AND EMPLOYEES**

**General duty of officers and employees**

**139.** Every officer and employee must—

- (a) act in conformity with these Rules;
- (b) obey any lawful instructions of the Governor and of the Scottish Ministers; and
- (c) inform the Governor promptly of any breach of these Rules and any abuse or impropriety.

**Transactions with prisoners or in connection with the prison**

**140.**—(1) Officers and employees must not take part in any business or pecuniary transaction with, or on behalf of, a prisoner, except with the authority of the Scottish Ministers.

(2) Officers or employees must not—

- (a) bring in or take out, or attempt to bring in or take out, or knowingly allow to be brought in or taken out, to or for any prisoner; or
- (b) deposit in any place with intent that it shall come into the possession of any prisoner, any item whatsoever, except with the authority of the Governor.

**Fees and gratuities**

**141.** Officers and employees must not—

- (a) receive any unauthorised fee, gratuity or other consideration in connection with his or her duties;
- (b) directly or indirectly, have any interest in any contract in connection with the prison or any other prison;
- (c) receive any fee, gratuity or other consideration from or on behalf of any contractor at, or any person tendering for a contract in connection with, a prison.

**Searching of officers and employees**

**142.**—(1) Without prejudice to any power of search referred to in the Act, the Governor may order the search, at any time, of any officer or employee and this search may involve any number of the following processes—

- (a) a search of the officer's or employee's person;

- (b) a search of the officer's or employee's clothing;
  - (c) a visual examination of the officer's or employee's open mouth but no equipment or force may be used;
  - (d) a search of any items of property in the officer's or employee's possession whilst in the prison, including any items of property which are kept by the officer or employee in his or her locker or any other place within the prison;
  - (e) where the officer or employee is in charge of any vehicle which they intend to take into any restricted area of the prison, a search of that vehicle and any items of property found in that vehicle.
- (2) Where a search is conducted under this rule—
- (a) in the case of a search mentioned in paragraph (1)(a) or (b) the officer conducting the search must be of the same gender as the person being searched;
  - (b) the search must be conducted as quickly and decently as possible;
  - (c) except in the case of a search under paragraph (1)(c), the use of reasonable force is permitted where it is necessary and such force must be reasonable and proportionate to the threat or resistance posed by the person being searched.
- (3) An officer or employee who is being searched under this rule cannot be required to remove, and a search under this rule must not involve the removal of, any clothing other than an outer coat, jacket, headgear, footwear and gloves.
- (4) A search conducted under paragraph (1), other than a search carried out under paragraph (1)(c), may be carried out by—
- (a) hand;
  - (b) the use of equipment involving the application of a suction device or a swab on or to the officer's or employee's clothing, any items of property mentioned in paragraphs (1)(d) or (e) or any vehicle mentioned in paragraph (1)(e) in order to collect substances from their surface;
  - (c) the use of equipment involving the analysis of substances collected under subparagraph (b) for the purpose of ascertaining whether any of them consists of a controlled drug or an explosive substance;
  - (d) the use of equipment designed to detect the existence of metal objects; and
  - (e) the use of trained sniffer dogs under the control of a trained officer.
- (5) Where a search conducted under this rule involves the use of equipment under paragraph (4)(b), (c) or (d), that equipment must be used in accordance with the manufacturer's instructions.
- (6) Where an officer finds any prohibited article in the course of a search carried out under this rule, he or she may seize that article and deal with it in accordance with rule 104.
- (7) Where an officer or employee is searched by an officer under section 41(2A) of the Act—
- (a) an officer of the same gender as the person being searched must conduct the search and another officer of the same gender must be present during the search;
  - (b) the search must be conducted outwith the sight of any person who is not an officer;
  - (c) the search must be conducted as quickly and decently as possible; and
  - (d) if it is necessary to use reasonable force under section 41(2B)(d) of the 1989 Act, the force used must be proportionate to the threat or resistance posed by the person being searched.
- (8) For the purposes of this rule—
- (a) any power to search includes the power to examine; and

- (b) “restricted area of the prison” means any area of the prison to which access is controlled but does not include car parks provided for the use of visitors, persons providing contracted out services, healthcare professionals, officers or employees.

#### **Communications with the media etc.**

**143.**—(1) Officers or employees must not make any unauthorised communication, either directly or indirectly, to a media representative or any other person concerning matters which have become known to the officer or employee in the course of his or her duties.

(2) Subject to paragraph (3), officers and employees must not, without the authority of the Governor—

- (a) publish any matter; or
- (b) make any public pronouncement,

relating to the administration of any prison or any prisoner.

(3) The Scottish Ministers may specify in a direction circumstances in which—

- (a) officers and employees must not do any of the acts specified in paragraph (2); and
- (b) the Governor cannot authorise any of the acts specified in paragraph (2).

#### **Code of conduct**

**144.**—(1) The Scottish Ministers may approve a code regulating the conduct and discipline of officers and employees, or such categories of officers and employees as may be specified in the code.

(2) Any code approved by the Scottish Ministers in terms of paragraph (1) may include provision regulating—

- (a) the procedures which may be invoked where it is suspected that the acts or omissions of an officer or employee may constitute misconduct;
- (b) the disciplinary action which may be taken against an officer or employee where it is found that the acts or omissions of an officer or employee constitute misconduct; and
- (c) the rights of appeal of any such officer or employee.