
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 331

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

PART 3

SUPERVISION LEVELS

Supervision levels

- 17.**—(1) Every prisoner must be assigned a supervision level.
- (2) The supervision levels which may be assigned to a prisoner—
- (a) relate to the amount of supervision the prisoner requires within the prison; and
 - (b) do not relate to the assessment of the risk that the prisoner may abscond or pose a danger to the public while on temporary release from the prison.
- (3) The supervision level which may be assigned to a prisoner is specified in column 1 of the table set out below and the description of each level is set out opposite that level in column 2 of the table—

<i>Column 1</i>	<i>Column 2</i>
<i>Supervision Level</i>	<i>Description</i>
High Supervision	A prisoner for whom all activities and movements require to be authorised, supervised and monitored by an officer.
Medium Supervision	A prisoner for whom activities and movements are subject to limited supervision and restrictions.
Low Supervision	A prisoner for whom activities and movements are subject to minimum supervision and restrictions, and who may be given the opportunity to participate in supervised or unsupervised activities in the community.

Assignment of supervision levels on reception

- 18.**—(1) Subject to paragraph (2) and any direction made by the Scottish Ministers under rule 22, all prisoners, on reception, must be assigned high supervision level.
- (2) On reception, a prisoner who is—
- (a) transferred under paragraph 1 of Schedule 1 to the Crime (Sentences) Act 1997⁽¹⁾ where the transfer is—

(1) 1997 c.43.

- (i) a restricted transfer within the meaning of paragraph 6(1) of that Schedule; and
 - (ii) has been made for a temporary purpose; or
- (b) transferred under paragraph 2 or 3 of that Schedule,

must be assigned, for the period of the detention, a supervision level which, in the opinion of the Governor, is the nearest equivalent to the prisoner's classification in the prison or place in the part of the United Kingdom, the Channel Islands or the Isle of Man in which the prisoner was detained immediately before the transfer took place.

Assignment of supervision levels on review

19.—(1) The supervision level of prisoners, except those mentioned in rule 18(2), must be reviewed in accordance with the provisions of these Rules—

- (a) for all prisoners, within 72 hours of reception;
- (b) for prisoners assigned medium or high supervision level on a review under subparagraph (a), within 6 months of that review;
- (c) for prisoners assigned medium or high supervision level on a review under subparagraph (b) or any subsequent review, within 12 months of that review; and
- (d) for all prisoners, whenever the Governor deems it necessary to do so.

(2) On the review of a prisoner's supervision level under this rule, and subject to paragraph (3) and any direction made by the Scottish Ministers under rule 22, the prisoner must be assigned the appropriate supervision level having regard, so far as applicable, to the following criteria:—

- (a) the seriousness of the offence for which the prisoner has been convicted;
- (b) the prisoner's previous convictions;
- (c) any outstanding charges;
- (d) the length of time that the prisoner has spent in custody;
- (e) the prisoner's conduct in custody;
- (f) the prisoner's trustworthiness and stability; and
- (g) any other criteria as may be specified in a direction made by the Scottish Ministers for the purposes of this rule.

(3) An untried prisoner must be assigned a supervision level no lower than medium supervision level.

(4) The entitlement of any prisoner who is assigned low supervision level to participate in supervised or unsupervised activities in the community is subject to the requirements of rule 100 and of Part 15.

Maintaining or lowering a supervision level on review

20.—(1) This rule applies to the assignment of supervision levels other than—

- (a) the assignment of high supervision level on reception;
- (b) the assignment of a supervision level under rule 18(2); or
- (c) the assignment of a supervision level to which rule 21 applies.

(2) Following the assignment of a supervision level to which this rule applies, the Governor must inform the prisoner in writing—

- (a) in the case of the assignment of a lower supervision level than that previously assigned, of the reasons why the lower supervision level is appropriate; or

- (b) in the case of a review which has resulted in no change of supervision level, of the reasons why a lower supervision level is not appropriate.
- (3) Following the assignment of a supervision level to which this rule applies, the Governor must, if asked to do so by the prisoner concerned, but subject to rule 27, provide the prisoner with—
 - (a) a copy of any document to which the Governor has had regard in reaching the decision; and
 - (b) a summary of any other information of which the Governor was aware and had regard to in reaching the decision.

Assigning certain supervision levels on review

21.—(1) This rule applies to the assignment of a prisoner’s supervision level in the following circumstances:—

- (a) the prisoner is assigned a higher supervision level than that previously assigned to the prisoner; or
 - (b) a supervision level other than low supervision level is assigned to a prisoner who is—
 - (i) a long-term prisoner who is eligible to be considered by the Parole Board for Scotland in terms of Part I of the 1993 Act;
 - (ii) a life prisoner who has served the part of his or her sentence specified in an order made under section 2(3) of the 1993 Act⁽²⁾; or
 - (iii) a long-term prisoner or life prisoner who has not yet served the part of his or her sentence specified in sub-paragraph (i) or (ii), as the case may be, but who has served such part of his or her sentence as may be specified in a direction made by the Scottish Ministers.
- (2) Prior to the assignment of a supervision level to which this rule applies, the Governor must provide the prisoner with a written notice informing the prisoner of—
- (a) the supervision level that it is proposed should be assigned to the prisoner;
 - (b) the reasons for that proposal; and
 - (c) the procedure by which the prisoner may make written representations in relation to the proposed assignment of the supervision level.
- (3) The Governor must, if asked to do so by the prisoner concerned, but subject to rule 27, provide the prisoner with—
- (a) a copy of any document to which the Governor has had regard in considering the matter; and
 - (b) a summary of any other information of which the Governor was aware and to which he or she has had regard in considering the matter.
- (4) The Governor must—
- (a) consider any representations made by the prisoner prior to making a decision in relation to the assignment of a supervision level; and
 - (b) if the supervision level is assigned in circumstances as mentioned in paragraph (1), provide the prisoner with a written statement of reasons for his or her decision.

Direction with respect to supervision levels

22. The Scottish Ministers may specify in a direction—

(2) 1993 c.9; section 2 was amended as follows: by the Crime and Punishment (Scotland) Act 1997 (c.48), section 16; by the Convention Rights (Compliance) (Scotland) Act 2001 (asp 7), section 1; and by the Criminal Justice (Scotland) Act 2003 (asp 7), section 29 and Schedule 1, paragraph 1.

- (a) the relative importance that is to be given to each of the criteria specified in rule 19(2) in determining the assignment of a supervision level;
- (b) the form and content of any document that may be required to be completed by the Governor when assigning, or when reviewing the assignment of, a supervision level under rules 18 and 19;
- (c) the procedure in terms of which notices may be provided to a prisoner, and representations may be made, under rule 21;
- (d) the form in which any such notice or representations may be provided or made; and
- (e) the time limits within which the procedure mentioned in rule 21 may be carried out.

Imposition of special security measures

23.—(1) For the purposes of this Part, “special security measures” are measures which are—

- (a) separate from and additional to anything that can be done under Part 10; and
- (b) specified in a direction by the Scottish Ministers.

(2) Subject to paragraphs (3) to (5) and to rule 24, the Governor may impose special security measures on any prisoner who is assigned high supervision level, where the Governor considers that the imposition of these measures is necessary—

- (a) in the interests of the health, welfare or safety of the prisoner or any other person; or
- (b) to prevent an escape from legal custody or the doing of any act prejudicial to the safe keeping of persons in legal custody.

(3) Prior to imposing special security measures on a prisoner, the Governor must provide the prisoner with a written notice stating—

- (a) the measures that are to be imposed;
- (b) the reasons why they are to be imposed; and
- (c) the procedure by which the prisoner may make written representations in relation to the imposition of the special security measures.

(4) The Governor must, if asked to do so by the prisoner concerned, but subject to rule 27, provide the prisoner with—

- (a) a copy of any document to which the Governor has had regard in considering the matter; and
- (b) a summary of any other information of which the Governor was aware and to which he or she has had regard in considering the matter.

(5) The Governor must—

- (a) consider any representations made by the prisoner prior to imposing special security measures on the prisoner; and
- (b) if special security measures are imposed, provide the prisoner with a written statement of reasons for this decision.

Provisional imposition of special security measures

24.—(1) The Governor may impose special security measures on a prisoner on a provisional basis without having recourse to the procedure contained in rule 23 where the Governor considers that the immediate provisional imposition of the measures is necessary—

- (a) in the interests of the health, welfare or safety of the prisoner or any other person; or

- (b) to prevent an escape from legal custody or the doing of any act prejudicial to the safe keeping of persons in legal custody.
- (2) Special security measures may only be provisionally imposed on a prisoner under paragraph (1) where—
 - (a) the prisoner is informed in writing of the provisional imposition of the special security measures; and
 - (b) the procedure contained in rule 23 is commenced within 48 hours of the provisional imposition of the special security measures.
- (3) If the Governor decides that the provisional imposition of the special security measures does not require to extend beyond a 48 hour period—
 - (a) the prisoner must be informed in writing, within 24 hours of the Governor’s decision, that the special security measures are no longer provisionally imposed; and
 - (b) there is no requirement to follow the procedure contained in rule 23.

Reviews of imposition of special security measures

- 25.**—(1) Where special security measures are imposed by the Governor under rules 23 or 24, the Governor must—
- (a) keep the imposition of those special security measures under review, and
 - (b) conduct a formal review as to whether the imposition of the special security measures continues to be necessary under rule 23, at least once in every period of 2 months while the special security measures are in force.
- (2) If the Governor proposes to continue to impose special security measures on a prisoner, following a review conducted under this rule, the Governor must, prior to ordering the continued imposition of those measures, provide the prisoner with a written notice stating—
- (a) the measures that the Governor proposes to continue to impose;
 - (b) the reasons why they are to be continued; and
 - (c) the procedure by which the prisoner may make written representations in relation to the continued imposition of the special security measures.
- (3) The Governor must, if asked to do so by the prisoner concerned, but subject to rule 27, provide the prisoner with—
- (a) a copy of any document to which the Governor has had regard in considering the matter; and
 - (b) a summary of any other information of which the Governor was aware and to which he or she has had regard in considering the matter.
- (4) The Governor must—
- (a) consider any representations made by the prisoner prior to ordering the continued imposition of special security measures on the prisoner; and
 - (b) if special security measures are to continue to be imposed, provide the prisoner with a written statement of reasons for this decision.

Direction with respect to special security measures

- 26.** The Scottish Ministers may make a direction for the purposes of prescribing—
- (a) the special security measures for the purposes of this Part;

- (b) the procedure in terms of which notices may be provided to a prisoner, and representations may be made, under rules 23 and 25;
- (c) the form in which any such notice or representations may be provided or made; and
- (d) the time limits within which the procedure mentioned in rules 23 and 35 may be carried out.

Disclosure of information considered by the Governor under this Part

27.—(1) The Governor is not obliged to provide the prisoner with a copy of a document or a summary of information under rules 20(3), 21(3), 23(4) and 25(3) if the Governor is of the opinion that the document or information, if disclosed to the prisoner, would be likely to be damaging on one or more of the following grounds—

- (a) that it would be likely to adversely affect the health, welfare or safety of the prisoner or of any other person;
- (b) that it would be likely to result in the commission of an offence;
- (c) that it would be likely to facilitate an escape from legal custody or the doing of any act prejudicial to the safe keeping of persons in legal custody;
- (d) that it would be likely to impede the prevention or detection of offences or the apprehension or prosecution of suspected offenders; or
- (e) that it would be otherwise likely to damage the public interest.

(2) Where a prisoner is not provided with a copy of a document or a summary of information by virtue of paragraph (1), the Governor must inform the prisoner in writing of the gist of that document or information, but only insofar as is practicable without prejudicing the purposes for which that document or other information is not disclosed.

(3) Where a prisoner makes a request to the Governor—

- (a) under rule 21(3), prior to the Governor making a decision in relation to the assignment of a supervision level;
- (b) under rule 23(4) prior to the Governor making a decision in relation to imposition of special security measures; or
- (c) under rule 25(3), prior to the Governor making a decision in relation to the continued imposition of special security measures;

the Governor must comply with the obligations contained in those rules and this rule prior to making his or her decision.