
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 366

**The Prisons and Young Offenders Institutions
(Scotland) Amendment Rules 2023**

Amendment of the Prisons and Young Offenders Institutions (Scotland) Rules 2011

2.—(1) The Prisons and Young Offenders Institutions (Scotland) Rules 2011(1) are amended in accordance with paragraphs (2) to (7).

(2) In rule 92 (searching of prisoners)—

(a) in paragraph (3)—

(i) for “Where” substitute “Subject to paragraph (3A), where”,

(ii) in sub-paragraph (b), after “gender” in the second place it occurs insert “as the officer carrying out the search”,

(iii) in sub-paragraph (c), for “as the prisoner” substitute “as the officer carrying out the search”.

(b) after paragraph (3) insert—

“(3A) Where a search is conducted under paragraph (2)(a), (c) or (d), the Governor may require that the officer carrying out the search must be of a different gender to the prisoner where the Governor considers that it is necessary to do so for the purpose of protecting the health, welfare or safety of any person, or the security or good order of the prison.”.

(3) In rule 93(8)(b) (compulsory testing for controlled drugs) after “gender” insert “unless the Governor considers that it is necessary to do so for the purpose of protecting the health, welfare or safety of any person, or the security or good order of the prison”.

(4) In rule 94(8)(b) (compulsory testing for alcohol) after “gender” insert “unless the Governor considers that it is necessary to do so for the purpose of protecting the health, welfare or safety of any person or the security or good order of the prison”.

(5) In rule 106 (searching of visitors)—

(a) in paragraph (3) for “Where” substitute “Subject to paragraph (3A), where”,

(b) after paragraph (3) insert—

“(3A) Where a search is conducted under paragraph (1)(a) or (b), the Governor may require that the officer conducting the search must be of a different gender to the visitor where the Governor considers that it is necessary to do so for the purpose of protecting the health, welfare or safety of any person, or the security or good order of the prison.”.

(c) in paragraph (8)—

(i) for “Where” substitute “Subject to paragraph (8A), where”,

(ii) in sub-paragraph (a), after “gender” in the second place it occurs insert “as the officer conducting the search”,

(d) after paragraph (8) insert—

“(8A) Where a visitor is searched by an officer under section 41(2A) of the Act, the Governor may require that an officer of a different gender to the visitor must conduct the search where the Governor considers that it is necessary to do so for the purpose of protecting the health, welfare or safety of any person or the security or good order of the prison.”.

(6) In rule 108 (searching of specified persons)—

(a) in paragraph (3) for “Where” substitute “Subject to paragraph (3A), where”,

(b) after paragraph (3) insert—

“(3A) The Governor may require in the case of a search mentioned in paragraph (2) (a) or (b), that the officer conducting the search must be of a different gender to the specified person where the Governor considers that it is necessary to do so for the purpose of protecting the health, welfare or safety of any person or the security or good order of the prison.”,

(c) in paragraph (8)—

(i) for “Where” substitute “Subject to paragraph (8A), where”,

(ii) in sub-paragraph (a), after “gender” in the second place it occurs insert “as the officer conducting the search”,

(d) after paragraph (8) insert—

“(8A) Where a specified person is searched by an officer under section 41(2A) of the Act, the Governor may require that an officer of a different gender to the specified person must conduct the search where the Governor considers that it is necessary to do so for the purpose of protecting the health, welfare or safety of any person or the security or good order of the prison.”.

(7) In rule 142 (searching of officers and employees)—

(a) in paragraph (2) for “Where” substitute “Subject to paragraph (2A), where”,

(b) after paragraph (2) insert—

“(2A) The Governor may require in the case of a search mentioned in paragraph (1)(a) or (b), that the officer conducting the search must be of a different gender to the person being searched where the Governor considers that it is necessary to do so for the purpose of protecting the health, welfare or safety of any person, or the security or good order of the prison.”,

(c) in paragraph (7)—

(i) for “Where” substitute “Subject to paragraph (7A), where”,

(ii) in paragraph (a), after “gender” in the second place it occurs insert “as the officer conducting the search”,

(d) after paragraph (7) insert—

“(7A) Where an officer or employee is searched by an officer under section 41(2A) of the Act, the Governor may require that an officer of a different gender to the person being searched must conduct the search where the Governor considers that it is necessary to do so for the purpose of protecting the health, welfare or safety of any person or the security or good order of the prison.”.