



# Criminal Justice and Public Order Act 1994

## 1994 CHAPTER 33

### PART VIII

#### PRISON SERVICES AND THE PRISON SERVICE

### CHAPTER II

#### SCOTLAND

#### *Contracted out prisons*

#### **107 Officers of contracted out prisons.**

- (1) Instead of a governor, every contracted out prison shall have—
- (a) a director, who shall be a prisoner custody officer appointed by the contractor and specially approved for the purposes of this section by the [<sup>F1</sup>Scottish Ministers] and
  - (b) a controller, who shall be a [<sup>F2</sup>member of the staff of the Scottish Administration] appointed by the [<sup>F1</sup>Scottish Ministers],
- and every officer of such a prison who performs custodial duties shall be a prisoner custody officer who is authorised to perform such duties or a prison officer who is temporarily attached to the prison.
- (2) Subject to subsection (3) below, the director shall have the same functions as are conferred on a governor by the 1989 Act and by prison rules.
- (3) The director shall not—
- (a) have any function which is conferred on a controller by virtue of subsection (4) below;

*Status: Point in time view as at 01/01/2010. This version of this provision has been superseded.*

*Changes to legislation: Criminal Justice and Public Order Act 1994, Section 107 is up to date with all changes known to be in force on or before 19 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) inquire into a disciplinary charge brought against a prisoner, conduct the hearing of such a charge or make, remit or mitigate an award in respect of such a charge; or
  - (c) except in cases of urgency, order the removal of a prisoner from association with other prisoners, the temporary confinement of a prisoner in a special cell or the application to a prisoner of any other special control or restraint.
- (4) The controller shall have such functions as may be conferred on him by prison rules and shall be under a duty—
- (a) to keep under review, and report to the [<sup>F3</sup>Scottish Ministers] on, the running of the prison by or on behalf of the director; and
  - (b) to investigate, and report to the [Scottish Ministers] on, any allegations made against prisoner custody officers performing custodial duties at the prison or prison officers who are temporarily attached to the prison.
- (5) The contractor and any sub-contractor of his shall each be under a duty to do all that he reasonably can (whether by giving directions to the officers of the prison or otherwise) to facilitate the exercise by the controller of all such functions as are mentioned in or conferred by subsection (4) above.
- [<sup>F4</sup>(6) Without prejudice to section 11(2) of the 1989 Act (direction by Secretary of State for prisoner to be taken hospital for treatment), the contractor shall secure the provision of appropriate medical services within the prison by—
- (a) appointing one or more registered medical practitioners to the prison;
  - (b) entering into an arrangement with any person for the provision of such services in relation to the prison; or
  - (c) both making any such appointment as is mentioned in paragraph (a) above and entering into such an arrangement as is mentioned in paragraph (b) above.
- (7) In subsection (6) above “appropriate medical services” means such services in relation to—
- (a) routine and emergency health care for prisoners; and
  - (b) the provision of advice to the director on matters related to the medical treatment and health of prisoners generally,
- as the [<sup>F5</sup>Scottish Ministers] may direct or, in the absence of such a direction, as the contractor considers appropriate for the prison in which they are to be provided; and such services shall be provided by or under the supervision of a registered medical practitioner.
- (8) In subsections (6) and (7) above “contractor”, where the contract provides for the running of prison by a sub-contractor, means that sub-contractor.]

#### Textual Amendments

- F1** Words in s. 107(1) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2, Pt. I, para. 115(4)(a) (i); S.I. 1998/3178, art. 2
- F2** Words in s. 107(1) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 115(4)(a) (ii); S.I. 1998/3178, art. 2
- F3** Words in s. 107(4) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 115(4)(b); S.I. 1998/3178, art. 2
- F4** S. 107(6)-(8) substituted (1.1.1998) for s. 107(6) by 1997 c. 48, s. 43(4); S.I. 1997/2323, art. 4, Sch. 2

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**Status:** Point in time view as at 01/01/2010. This version of this provision has been superseded.

**Changes to legislation:** Criminal Justice and Public Order Act 1994, Section 107 is up to date with all changes known to be in force on or before 19 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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**F5** Words in s. 107(7) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 115(4)(c)**; S.I. 1998/3178, **art. 2**

**Status:**

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