



# Criminal Justice and Public Order Act 1994

## 1994 CHAPTER 33

### PART VIII

#### PRISON SERVICES AND THE PRISON SERVICE

#### CHAPTER II

#### SCOTLAND

#### *Contracted out prisons*

#### **110 Consequential modifications of 1989 Act, prison rules and directions.**

- (1) In relation to a contracted out prison, the provisions specified in subsections (2) to (7) below shall have effect subject to the modifications so specified.
- (2) In section 3 of the 1989 Act (general superintendence of prisons)—
  - [<sup>F1</sup>(a) subsection (1A) shall not apply;]
  - (b) subsection (3) shall not apply.
- (3) In sections [<sup>F2</sup>[<sup>F3</sup>3A(5) and (6) ] (power to authorise searches of persons providing medical services),][<sup>F4</sup>7B (functions of prison monitoring co-ordinators), 7D (functions of independent prison monitors), 7E (duty of the governor to assist with inspection and monitoring), 7G (SPT visits),] 9(5), 11(4), 15(1) and (3) (various functions of the governor of a prison), 33A (power of governor to delegate functions), 34 (duty of governor where prisoner dies), 39(8) and (12) (prison rules), 41(4) (detention of person suspected of bringing prohibited article into prison) [<sup>F5</sup>, 41B(3) (testing prisoners for drugs) and 41C(3) (testing prisoners for alcohol)] of that Act, in prison rules and in directions made by virtue of section 39(8) of that Act the reference to the governor shall be construed as a reference to the director.

**Changes to legislation:** Criminal Justice and Public Order Act 1994, Section 110 is up to date with all changes known to be in force on or before 06 August 2023. 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) View outstanding changes

- (4) In sections [F6][F7]3A(5) and (6)] (power to carry out searches of persons providing medical services), [F8]7 (Her Majesty's Chief Inspector of Prisons), 7B (functions of prison monitoring co-ordinators), 7D (functions of independent prison monitors), 7G (SPT visits), [11(4) (execution of certain warrants by prison officers etc.), 13(b) (legal custody of prisoners), 33A (power of governor to delegate functions), 40(1) (persons unlawfully at large), 41(3), (4), (6) and (8) (detention of person suspected of bringing prohibited article into prison) [F9], 41B(1) (testing prisoners for drugs) and 41C(1) (testing prisoners for alcohol)] of that Act, the reference to an officer of a prison (or, as the case may be, a prison officer) shall be construed as a reference to a prisoner custody officer performing custodial duties at the prison or a prison officer temporarily attached to the prison.

F10(4A) . . . . .

- (5) Section 36 of that Act (vesting of prison property in Secretary of State) shall have effect subject to the provisions of the contract entered into under section 106 above.
- (6) Sections [F11][F12]3A(1) and (2) (medical officers)](medical services), [37 (discontinuance of prison), 41(2A) and (2B) (power to search for prohibited articles) and 41A (powers of search by authorised employees) of that Act shall not apply.
- (7) In prison rules, in subsection (8) of section 39 of that Act (directions supplementing prison rules) and in any direction made by virtue of that subsection, the reference to an officer of a prison (or, as the case may be, a prison officer) shall be construed as including a reference to a prisoner custody officer performing custodial duties at the prison.

#### Textual Amendments

- F1** S. 110(2)(a) substituted (1.7.1999) by [S.I. 1999/1820](#) arts. 1(2), 4, Sch. 2, Pt. I, para. 115(5); [S.I. 1998/3178](#), [art. 2](#)
- F2** Words in s. 110(3) inserted (1.1.1998) by [1997 c. 48, s. 43\(5\)\(a\)](#); [S.I. 1997/2323](#), art. 4, [Sch. 2](#)
- F3** Words in s. 110(3) substituted (1.11.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), [ss. 110\(4\)\(a\)](#), 206(1); [S.S.I. 2011/354](#), art. 2, sch.
- F4** Words in s. 110(3) inserted (31.8.2015) by [The Public Services Reform \(Inspection and Monitoring of Prisons\) \(Scotland\) Order 2015](#) (S.S.I. 2015/39), art. 1, [sch. para. 3\(3\)\(a\)](#)
- F5** Words in s. 110(3) substituted (1.1.1998) by [1997 c. 48, s. 62\(1\)](#), [Sch. 1 para. 15\(a\)](#); [S.I. 1997/2323](#), art. 4, [Sch. 2](#)
- F6** Words in s. 110(4) inserted (1.1.1998) by [1997 c. 48, s. 43\(5\)\(b\)](#); [S.I. 1997/2323](#), art. 4, [Sch. 2](#)
- F7** Words in s. 110(4) substituted (1.11.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), [ss. 110\(4\)\(a\)](#), 206(1); [S.S.I. 2011/354](#), art. 2, sch.
- F8** Words in s. 110(4) inserted (31.8.2015) by [The Public Services Reform \(Inspection and Monitoring of Prisons\) \(Scotland\) Order 2015](#) (S.S.I. 2015/39), art. 1, [sch. para. 3\(3\)\(b\)](#)
- F9** Words in s. 110(4) substituted (1.1.1998) by [1997 c. 48, s. 62\(1\)](#), [Sch. 1 para. 15\(b\)](#); [S.I. 1997/2323](#), art. 4, [Sch. 2](#)
- F10** S. 110(4A) repealed (1.11.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), [ss. 110\(4\)\(b\)](#), 206(1); [S.S.I. 2011/354](#), art. 2, sch.
- F11** Words in s. 110(6) inserted (1.1.1998) by [1997 c. 48, s. 43\(5\)\(d\)](#); [S.I. 1997/2323](#), art. 4, [Sch. 2](#)
- F12** Words in s. 110(6) substituted (1.11.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), [ss. 110\(4\)\(c\)](#), 206(1); [S.S.I. 2011/354](#), art. 2, sch.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 51(10)(a)(ia) inserted by [2003 c. 44 Sch. 36 para. 11\(3\)](#)