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## STATUTORY INSTRUMENTS

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# 1999 No. 728

## The Prison Rules 1999

### PART II

### PRISONERS

#### GENERAL

#### **Purpose of prison training and treatment**

3. The purpose of the training and treatment of convicted prisoners shall be to encourage and assist them to lead a good and useful life.

#### **Outside contacts**

4.—(1) Special attention shall be paid to the maintenance of such relationships between a prisoner and his family as are desirable in the best interests of both.

(2) A prisoner shall be encouraged and assisted to establish and maintain such relations with persons and agencies outside prison as may, in the opinion of the governor, best promote the interests of his family and his own social rehabilitation.

#### **After care**

5. From the beginning of a prisoner's sentence, consideration shall be given, in consultation with the appropriate after-care organisation, to the prisoner's future and the assistance to be given him on and after his release.

#### **Maintenance of order and discipline**

6.—(1) Order and discipline shall be maintained with firmness, but with no more restriction than is required for safe custody and well ordered community life.

(2) In the control of prisoners, officers shall seek to influence them through their own example and leadership, and to enlist their willing co-operation.

(3) At all times the treatment of prisoners shall be such as to encourage their self-respect and a sense of personal responsibility, but a prisoner shall not be employed in any disciplinary capacity.

#### **Classification of prisoners**

7.—(1) Prisoners shall be classified, in accordance with any directions of the Secretary of State, having regard to their age, temperament and record and with a view to maintaining good order and facilitating training and, in the case of convicted prisoners, of furthering the purpose of their training and treatment as provided by rule 3.

(2) Unconvicted prisoners:

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- (a) shall be kept out of contact with convicted prisoners as far as the governor considers it can reasonably be done, unless and to the extent that they have consented to share residential accommodation or participate in any activity with convicted prisoners; and
  - (b) shall under no circumstances be required to share a cell with a convicted prisoner.
- (3) Prisoners committed or attached for contempt of court, or for failing to do or abstain from doing anything required to be done or left undone:
- (a) shall be treated as a separate class for the purposes of this rule;
  - (b) notwithstanding anything in this rule, may be permitted to associate with any other class of prisoners if they are willing to do so; and
  - (c) shall have the same privileges as an unconvicted prisoner under rules 20(5), 23(1) and 35(1).
- (4) Nothing in this rule shall require a prisoner to be deprived unduly of the society of other persons.

### **Privileges**

**8.—(1)** There shall be established at every prison systems of privileges approved by the Secretary of State and appropriate to the classes of prisoners there, which shall include arrangements under which money earned by prisoners in prison may be spent by them within the prison.

(2) Systems of privileges approved under paragraph (1) may include arrangements under which prisoners may be allowed time outside their cells and in association with one another, in excess of the minimum time which, subject to the other provisions of these Rules apart from this rule, is otherwise allowed to prisoners at the prison for this purpose.

(3) Systems of privileges approved under paragraph (1) may include arrangements under which privileges may be granted to prisoners only in so far as they have met, and for so long as they continue to meet, specified standards in their behaviour and their performance in work or other activities.

(4) Systems of privileges which include arrangements of the kind referred to in paragraph (3) shall include procedures to be followed in determining whether or not any of the privileges concerned shall be granted, or shall continue to be granted, to a prisoner; such procedures shall include a requirement that the prisoner be given reasons for any decision adverse to him together with a statement of the means by which he may appeal against it.

(5) Nothing in this rule shall be taken to confer on a prisoner any entitlement to any privilege or to affect any provision in these Rules other than this rule as a result of which any privilege may be forfeited or otherwise lost or a prisoner deprived of association with other prisoners.

### **Temporary release**

**9.—(1)** The Secretary of State may, in accordance with the other provisions of this rule, release temporarily a prisoner to whom this rule applies.

(2) A prisoner may be released under this rule for any period or periods and subject to any conditions.

(3) A prisoner may only be released under this rule:

- (a) on compassionate grounds or for the purpose of receiving medical treatment;
- (b) to engage in employment or voluntary work;
- (c) to receive instruction or training which cannot reasonably be provided in the prison;
- (d) to enable him to participate in any proceedings before any court, tribunal or inquiry;

- (e) to enable him to consult with his legal adviser in circumstances where it is not reasonably practicable for the consultation to take place in the prison;
- (f) to assist any police officer in any enquiries;
- (g) to facilitate the prisoner's transfer between prisons;
- (h) to assist him in maintaining family ties or in his transition from prison life to freedom; or
- (i) to enable him to make a visit in the locality of the prison, as a privilege under rule 8.

(4) A prisoner shall not be released under this rule unless the Secretary of State is satisfied that there would not be an unacceptable risk of his committing offences whilst released or otherwise failing to comply with any condition upon which he is released.

(5) The Secretary of State shall not release under this rule a prisoner serving a sentence of imprisonment if, having regard to:

- (a) the period or proportion of his sentence which the prisoner has served or, in a case where paragraph (10) does not apply to require all the sentences he is serving to be treated as a single term, the period or proportion of any such sentence he has served; and
- (b) the frequency with which the prisoner has been granted temporary release under this rule,

the Secretary of State is of the opinion that the release of the prisoner would be likely to undermine public confidence in the administration of justice.

(6) If a prisoner has been temporarily released under this rule during the relevant period and has been sentenced to imprisonment for a criminal offence committed whilst at large following that release, he shall not be released under this rule unless his release, having regard to the circumstances of this conviction, would not, in the opinion of the Secretary of State, be likely to undermine public confidence in the administration of justice.

(7) For the purposes of paragraph (6), "the relevant period":

- (a) in the case of a prisoner serving a determinate sentence of imprisonment, is the period he has served in respect of that sentence, unless, notwithstanding paragraph (10), the sentences he is serving do not fall to be treated as a single term, in which case it is the period since he was last released in relation to one of those sentences under Part II of the Criminal Justice Act 1991 ("the 1991 Act")<sup>M1</sup>;
- (b) in the case of a prisoner serving an indeterminate sentence of imprisonment, is, if the prisoner has previously been released on licence under Part II of the Crime (Sentences) Act 1997<sup>M2</sup> or Part II of the 1991 Act, the period since the date of his last recall to prison in respect of that sentence or, where the prisoner has not been so released, the period he has served in respect of that sentence; or
- (c) in the case of a prisoner detained in prison for any other reason, is the period for which the prisoner has been detained for that reason;

save that where a prisoner falls within two or more of sub-paragraphs (a) to (c), the "relevant period", in the case of that prisoner, shall be determined by whichever of the applicable sub-paragraphs produces the longer period.

(8) A prisoner released under this rule may be recalled to prison at any time whether the conditions of his release have been broken or not.

(9) This rule applies to prisoners other than persons committed in custody for trial or to be sentenced or otherwise dealt with before or by any Crown Court or remanded in custody by any court.

(10) For the purposes of any reference in this rule to a prisoner's sentence, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term if they would fall to be treated as a single term for the purposes of any reference to the term of imprisonment to which a person has been sentenced in Part II of the 1991 Act.

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(11) In this rule:

- (a) any reference to a sentence of imprisonment shall be construed as including any sentence to detention or custody; and
- (b) any reference to release on licence or otherwise under Part II of the 1991 Act includes any release on licence under any legislation providing for early release on licence.

**Marginal Citations**

**M1** 1991 c. 53.

**M2** 1997 c. 43.

**Information to prisoners**

**10.**—(1) Every prisoner shall be provided, as soon as possible after his reception into prison, and in any case within 24 hours, with information in writing about those provisions of these Rules and other matters which it is necessary that he should know, including earnings and privileges, and the proper means of making requests and complaints.

(2) In the case of a prisoner aged less than 18, or a prisoner aged 18 or over who cannot read or appears to have difficulty in understanding the information so provided, the governor, or an officer deputed by him, shall so explain it to him that he can understand his rights and obligations.

(3) A copy of these Rules shall be made available to any prisoner who requests it.

**Requests and complaints**

**11.**—(1) A request or complaint to the governor or board of visitors relating to a prisoner's imprisonment shall be made orally or in writing by the prisoner.

(2) On every day the governor shall hear any requests and complaints that are made to him under paragraph (1).

(3) A written request or complaint under paragraph (1) may be made in confidence.

*WOMEN PRISONERS*

**Women prisoners**

**12.**—(1) Women prisoners shall normally be kept separate from male prisoners.

(2) The Secretary of State may, subject to any conditions he thinks fit, permit a woman prisoner to have her baby with her in prison, and everything necessary for the baby's maintenance and care may be provided there.

*RELIGION*

**Religious denomination**

**13.** A prisoner shall be treated as being of the religious denomination stated in the record made in pursuance of section 10(5) of the Prison Act 1952 <sup>M3</sup> but the governor may, in a proper case and after due enquiry, direct that record to be amended.

**Marginal Citations**

M3 1952 c. 52.

**Special duties of chaplains and prison ministers**

14.—(1) The chaplain or a prison minister of a prison shall—

- (a) interview every prisoner of his denomination individually soon after the prisoner's reception into that prison and shortly before his release; and
- (b) if no other arrangements are made, read the burial service at the funeral of any prisoner of his denomination who dies in that prison.

(2) The chaplain shall visit daily all prisoners belonging to the Church of England who are sick, under restraint or undergoing cellular confinement; and a prison minister shall do the same, as far as he reasonably can, for prisoners of his denomination.

(3) The chaplain shall visit any prisoner not of the Church of England who is sick, under restraint or undergoing cellular confinement, and is not regularly visited by a minister of his denomination, if the prisoner is willing.

**Regular visits by ministers of religion**

15.—(1) The chaplain shall visit the prisoners belonging to the Church of England.

(2) A prison minister shall visit the prisoners of his denomination as regularly as he reasonably can.

(3) Where a prisoner belongs to a denomination for which no prison minister has been appointed, the governor shall do what he reasonably can, if so requested by the prisoner, to arrange for him to be visited regularly by a minister of that denomination.

**Religious services**

16.—(1) The chaplain shall conduct Divine Service for prisoners belonging to the Church of England at least once every Sunday, Christmas Day and Good Friday, and such celebrations of Holy Communion and weekday services as may be arranged.

(2) Prison ministers shall conduct Divine Service for prisoners of their denominations at such times as may be arranged.

**Substitute for chaplain or prison minister**

17.—(1) A person approved by the Secretary of State may act for the chaplain in his absence.

(2) A prison minister may, with the leave of the Secretary of State, appoint a substitute to act for him in his absence.

**Sunday work**

18. Arrangements shall be made so as not to require prisoners of the Christian religion to do any unnecessary work on Sunday, Christmas Day or Good Friday, or prisoners of other religions to do any such work on their recognised days of religious observance.

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## Religious books

19. There shall, so far as reasonably practicable, be available for the personal use of every prisoner such religious books recognised by his denomination as are approved by the Secretary of State for use in prisons.

## MEDICAL ATTENTION

### Medical attendance

20.—(1) The medical officer of a prison shall have the care of the health, mental and physical, of the prisoners in that prison.

(2) Every request by a prisoner to see the medical officer shall be recorded by the officer to whom it is made and promptly passed on to the medical officer.

(3) The medical officer may consult a medical practitioner who is a fully registered person within the meaning of the Medical Act 1983 <sup>M4</sup>[<sup>F1</sup>who holds a licence to practise]. Such a practitioner may work within the prison under the general supervision of the medical officer.

(4) The medical officer shall consult another medical practitioner, if time permits, before performing any serious operation.

(5) If an unconvicted prisoner desires the attendance of a registered medical practitioner or dentist, and will pay any expense incurred, the governor shall, if he is satisfied that there are reasonable grounds for the request and unless the Secretary of State otherwise directs, allow him to be visited and treated by that practitioner or dentist in consultation with the medical officer.

(6) Subject to any directions given in the particular case by the Secretary of State, a registered medical practitioner selected by or on behalf of a prisoner who is a party to any legal proceedings shall be afforded reasonable facilities for examining him in connection with the proceedings, and may do so out of hearing but in the sight of an officer.

#### Textual Amendments

**F1** Words in rule 20(3) inserted (coming into force in accordance with art. 1(3) of the amending S.I.) by [The Medical Act 1983 \(Amendment\) Order 2002 \(S.I. 2002/3135\)](#), art. 1(2), **Sch. 1 para. 42** (with [Sch. 2](#))

#### Marginal Citations

**M4** [1983 c. 54.](#)

### Special illnesses and conditions

21.—(1) The medical officer or a medical practitioner such as is mentioned in rule 20(3) shall report to the governor on the case of any prisoner whose health is likely to be injuriously affected by continued imprisonment or any conditions of imprisonment. The governor shall send the report to the Secretary of State without delay, together with his own recommendations.

(2) The medical officer or a medical practitioner such as is mentioned in rule 20(3) shall pay special attention to any prisoner whose mental condition appears to require it, and make any special arrangements which appear necessary for his supervision or care.

### **Notification of illness or death**

**22.**—(1) If a prisoner dies, becomes seriously ill, sustains any severe injury or is removed to hospital on account of mental disorder, the governor shall, if he knows his or her address, at once inform the prisoner's spouse or next of kin, and also any person who the prisoner may reasonably have asked should be informed.

(2) If a prisoner dies, the governor shall give notice immediately to the coroner having jurisdiction, to the board of visitors and to the Secretary of State.

## *PHYSICAL WELFARE AND WORK*

### **Clothing**

**23.**—(1) An unconvicted prisoner may wear clothing of his own if and in so far as it is suitable, tidy and clean, and shall be permitted to arrange for the supply to him from outside prison of sufficient clean clothing:

Provided that, subject to rule 40(3):

- (a) he may be required, if and for so long as there are reasonable grounds to believe that there is a serious risk of his attempting to escape, to wear items of clothing which are distinctive by virtue of being specially marked or coloured or both; and
- (b) he may be required, if and for so long as the Secretary of State is of the opinion that he would, if he escaped, be highly dangerous to the public or the police or the security of the State, to wear clothing provided under this rule.

(2) Subject to paragraph (1) above, the provisions of this rule shall apply to an unconvicted prisoner as to a convicted prisoner.

(3) A convicted prisoner shall be provided with clothing adequate for warmth and health in accordance with a scale approved by the Secretary of State.

(4) The clothing provided under this rule shall include suitable protective clothing for use at work, where this is needed.

(5) Subject to rule 40(3), a convicted prisoner shall wear clothing provided under this rule and no other, except on the directions of the Secretary of State or as a privilege under rule 8.

(6) A prisoner may be provided, where necessary, with suitable and adequate clothing on his release.

### **Food**

**24.**—(1) Subject to any directions of the Secretary of State, no prisoner shall be allowed, except as authorised by the medical officer or a medical practitioner such as is mentioned in rule 20(3), to have any food other than that ordinarily provided.

(2) The food provided shall be wholesome, nutritious, well prepared and served, reasonably varied and sufficient in quantity.

(3) The medical officer, a medical practitioner such as is mentioned in rule 20(3) or any person deemed by the governor to be competent, shall from time to time inspect the food both before and after it is cooked and shall report any deficiency or defect to the governor.

(4) In this rule "food" includes drink.

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### **Alcohol and tobacco**

**25.**—(1) No prisoner shall be allowed to have any intoxicating liquor except under a written order of the medical officer or a medical practitioner such as is mentioned in rule 20(3) specifying the quantity and the name of the prisoner.

(2) No prisoner shall be allowed to smoke or to have any tobacco except as a privilege under rule 8 and in accordance with any orders of the governor.

### **Sleeping accommodation**

**26.**—(1) No room or cell shall be used as sleeping accommodation for a prisoner unless it has been certified in the manner required by section 14 of the Prison Act 1952 in the case of a cell used for the confinement of a prisoner.

(2) A certificate given under that section or this rule shall specify the maximum number of prisoners who may sleep or be confined at one time in the room or cell to which it relates, and the number so specified shall not be exceeded without the leave of the Secretary of State.

### **Beds and bedding**

**27.** Each prisoner shall be provided with a separate bed and with separate bedding adequate for warmth and health.

### **Hygiene**

**28.**—(1) Every prisoner shall be provided with toilet articles necessary for his health and cleanliness, which shall be replaced as necessary.

(2) Every prisoner shall be required to wash at proper times, have a hot bath or shower on reception and thereafter at least once a week.

(3) A prisoner's hair shall not be cut without his consent.

### **Physical education**

**29.**—(1) If circumstances reasonably permit, a prisoner aged 21 years or over shall be given the opportunity to participate in physical education for at least one hour a week.

(2) The following provisions shall apply to the extent circumstances reasonably permit to a prisoner who is under 21 years of age—

(a) provision shall be made for the physical education of such a prisoner within the normal working week, as well as evening and weekend physical recreation; the physical education activities will be such as foster personal responsibility and the prisoner's interests and skills and encourage him to make good use of his leisure on release; and

(b) arrangements shall be made for each such prisoner who is a convicted prisoner to participate in physical education for two hours a week on average.

(3) In the case of a prisoner with a need for remedial physical activity, appropriate facilities will be provided.

(4) The medical officer or a medical practitioner such as is mentioned in rule 20(3) shall decide upon the fitness of every prisoner for physical education and remedial physical activity and may excuse a prisoner from, or modify, any such education or activity on medical grounds.



### **Time in the open air**

**30.** If the weather permits and subject to the need to maintain good order and discipline, a prisoner shall be given the opportunity to spend time in the open air at least once every day, for such period as may be reasonable in the circumstances.

### **Work**

**31.—(1)** A convicted prisoner shall be required to do useful work for not more than 10 hours a day, and arrangements shall be made to allow prisoners to work, where possible, outside the cells and in association with one another.

(2) The medical officer or a medical practitioner such as is mentioned in rule 20(3) may excuse a prisoner from work on medical grounds, and no prisoner shall be set to do work which is not of a class for which he has been passed by the medical officer or by a medical practitioner such as is mentioned in rule 20(3) as being fit.

(3) No prisoner shall be set to do work of a kind not authorised by the Secretary of State.

(4) No prisoner shall work in the service of another prisoner or an officer, or for the private benefit of any person, without the authority of the Secretary of State.

(5) An unconvicted prisoner shall be permitted, if he wishes, to work as if he were a convicted prisoner.

(6) Prisoners may be paid for their work at rates approved by the Secretary of State, either generally or in relation to particular cases.

## *EDUCATION AND LIBRARY*

### **Education**

**32.—(1)** Every prisoner able to profit from the education facilities provided at a prison shall be encouraged to do so.

(2) Educational classes shall be arranged at every prison and, subject to any directions of the Secretary of State, reasonable facilities shall be afforded to prisoners who wish to do so to improve their education by training by distance learning, private study and recreational classes, in their spare time.

(3) Special attention shall be paid to the education and training of prisoners with special educational needs, and if necessary they shall be taught within the hours normally allotted to work.

(4) In the case of a prisoner of compulsory school age as defined in section 8 of the Education Act 1996 <sup>M5</sup>, arrangements shall be made for his participation in education or training courses for at least 15 hours a week within the normal working week.

#### **Marginal Citations**

**M5** 1996 c. 56.

### **Library**

**33.** A library shall be provided in every prison and, subject to any directions of the Secretary of State, every prisoner shall be allowed to have library books and to exchange them.

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## COMMUNICATIONS

### Communications generally

[<sup>F2</sup>34.—(1) Without prejudice to sections 6 and 19 of the Prison Act 1952 and except as provided by these Rules, a prisoner shall not be permitted to communicate with any person outside the prison, or such person with him, except with the leave of the Secretary of State or as a privilege under rule 8.

(2) Notwithstanding paragraph (1) above, and except as otherwise provided in these Rules, the Secretary of State may impose any restriction or condition, either generally or in a particular case, upon the communications to be permitted between a prisoner and other persons if he considers that the restriction or condition to be imposed—

- (a) does not interfere with the convention rights of any person; or
- (b) (i) is necessary on grounds specified in paragraph (3) below;
  - (ii) reliance on the grounds is compatible with the convention right to be interfered with; and
  - (iii) the restriction or condition is proportionate to what is sought to be achieved.

(3) The grounds referred to in paragraph (2) above are—

- (a) the interests of national security;
- (b) the prevention, detection, investigation or prosecution of crime;
- (c) the interests of public safety;
- (d) securing or maintaining prison security or good order and discipline in prison;
- (e) the protection of health or morals;
- (f) the protection of the reputation of others;
- (g) maintaining the authority and impartiality of the judiciary; or
- (h) the protection of the rights and freedoms of any person.

(4) Subject to paragraph (2) above, the Secretary of State may require that any visit, or class of visits, shall be held in facilities which include special features restricting or preventing physical contact between a prisoner and a visitor.

(5) Every visit to a prisoner shall take place within the sight of an officer or employee of the prison authorised for the purposes of this rule by the governor (in this rule referred to as an “authorised employee”), unless the Secretary of State otherwise directs, and for the purposes of this paragraph a visit to a prisoner shall be taken to take place within the sight of an officer or authorised employee if it can be seen by an officer or authorised employee by means of an overt closed circuit television system.

(6) Subject to rule 38, every visit to a prisoner shall take place within the hearing of an officer or authorised employee, unless the Secretary of State otherwise directs.

(7) The Secretary of State may give directions, either generally or in relation to any visit or class of visits, concerning the day and times when prisoners may be visited.

(8) In this rule—

- (a) references to communications include references to communications during visits;
- (b) references to restrictions and conditions upon communications include references to restrictions and conditions in relation to the length, duration and frequency of communications; and
- (c) references to convention rights are to the convention rights within the meaning of the Human Rights Act 1998.]

### Textual Amendments

- F2** Rule 34 substituted (24.10.2000) by [The Prison \(Amendment\) \(No. 2\) Rules 2000 \(S.I. 2000/2641\)](#), rules 1, 4

### Personal letters and visits

**35.**—(1) Subject to paragraph (8), an unconvicted prisoner may send and receive as many letters and may receive as many visits as he wishes within such limits and subject to such conditions as the Secretary of State may direct, either generally or in a particular case.

- (2) Subject to [<sup>F3</sup>paragraphs (2A) and (8)], a convicted prisoner shall be entitled—
- (a) to send and to receive a letter on his reception into a prison and thereafter once a week; and
  - (b) to receive a visit twice in every period of four weeks, but only once in every such period if the Secretary of State so directs.

[<sup>F4</sup>(2A) A prisoner serving a sentence of imprisonment to which an intermittent custody order relates shall be entitled to receive a visit only where the governor considers that desirable having regard to the extent to which he has been unable to meet with his friends and family in the periods during which he has been temporarily released on licence.]

(3) The governor may allow a prisoner an additional letter or visit as a privilege under rule 8 or where necessary for his welfare or that of his family.

(4) The governor may allow a prisoner entitled to a visit to send and to receive a letter instead.

(5) The governor may defer the right of a prisoner to a visit until the expiration of any period of cellular confinement.

(6) The board of visitors may allow a prisoner an additional letter or visit in special circumstances, and may direct that a visit may extend beyond the normal duration.

(7) The Secretary of State may allow additional letters and visits in relation to any prisoner or class of prisoners.

(8) A prisoner shall not be entitled under this rule to receive a visit from:

- (a) any person, whether or not a relative or friend, during any period of time that person is the subject of a prohibition imposed under rule 73; or
- (b) any other person, other than a relative or friend, except with the leave of the Secretary of State.

(9) Any letter or visit under the succeeding provisions of these Rules shall not be counted as a letter or visit for the purposes of this rule.

### Textual Amendments

- F3** Words in rule 35(2) substituted (26.1.2004) by [The Prison \(Amendment\) Rules 2003 \(S.I. 2003/3301\)](#), rules 1, 4(a)
- F4** Rule 35(2A) inserted (26.1.2004) by [The Prison \(Amendment\) Rules 2003 \(S.I. 2003/3301\)](#), rules 1, 4(b)

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## [F5] **Interception of communications**

**35A.**—(1) The Secretary of State may give directions to any governor concerning the interception in a prison of any communication by any prisoner or class of prisoners if the Secretary of State considers that the directions are—

- (a) necessary on grounds specified in paragraph (4) below; and
- (b) proportionate to what is sought to be achieved.

(2) Subject to any directions given by the Secretary of State, the governor may make arrangements for any communication by a prisoner or class of prisoners to be intercepted in a prison by an officer or an employee of the prison authorised by the governor for the purposes of this rule (referred to in this rule as an “authorised employee”) if he considers that the arrangements are—

- (a) necessary on grounds specified in paragraph (4) below; and
- (b) proportionate to what is sought to be achieved.

(3) Any communication by a prisoner may, during the course of its transmission in a prison, be terminated by an officer or an authorised employee if he considers that to terminate the communication is—

- (a) necessary on grounds specified in paragraph (4) below; and
- (b) proportionate to what is sought to be achieved by the termination.

(4) The grounds referred to in paragraphs (1)(a), (2)(a) and (3)(a) above are—

- (a) the interests of national security;
- (b) the prevention, detection, investigation or prosecution of crime;
- (c) the interests of public safety;
- (d) securing or maintaining prison security or good order and discipline in prison;
- (e) the protection of health or morals; or
- (f) the protection of the rights and freedoms of any person.

(5) Any reference to the grounds specified in paragraph (4) above in relation to the interception of a communication by means of a telecommunications system in a prison, or the disclosure or retention of intercepted material from such a communication, shall be taken to be a reference to those grounds with the omission of sub-paragraph (f).

(6) For the purposes of this rule “interception”—

- (a) in relation to a communication by means of a telecommunications system, means any action taken in relation to the system or its operation so as to make some or all of the contents of the communications available, while being transmitted, to a person other than the sender or intended recipient of the communication; and the contents of a communication are to be taken to be made available to a person while being transmitted where the contents of the communication, while being transmitted, are diverted or recorded so as to be available to a person subsequently; and
- (b) in relation to any written or drawn communication, includes opening, reading, examining and copying the communication.

### **Textual Amendments**

**F5** Rules 35A-35D inserted (24.10.2000) by [The Prison \(Amendment\) \(No. 2\) Rules 2000 \(S.I. 2000/2641\)](#), rules 1, 5

## Permanent log of communications

**35B.**—(1) The governor may arrange for a permanent log to be kept of all communications by or to a prisoner.

(2) The log referred to in paragraph (1) above may include, in relation to a communication by means of a telecommunications system in a prison, a record of the destination, duration and cost of the communication and, in relation to any written or drawn communication, a record of the sender and addressee of the communication.

### Textual Amendments

**F5** Rules 35A-35D inserted (24.10.2000) by [The Prison \(Amendment\) \(No. 2\) Rules 2000 \(S.I. 2000/2641\)](#), rules 1, 5

## Disclosure of material

**35C.** The governor may not disclose to any person who is not an officer of a prison or of the Secretary of State or an employee of the prison authorised by the governor for the purposes of this rule any intercepted material, information retained pursuant to rule 35B or material obtained by means of an overt closed circuit television system used during a visit unless—

- (a) he considers that such disclosure is—
  - (i) necessary on grounds specified in rule 35A(4); and
  - (ii) proportionate to what is sought to be achieved by the disclosure; or
- (b)
  - (i) in the case of intercepted material or material obtained by means of an overt closed circuit television system used during a visit, all parties to the communication or visit consent to the disclosure; or
  - (ii) in the case of information retained pursuant to rule 35B, the prisoner to whose communication the information relates, consents to the disclosure.

### Textual Amendments

**F5** Rules 35A-35D inserted (24.10.2000) by [The Prison \(Amendment\) \(No. 2\) Rules 2000 \(S.I. 2000/2641\)](#), rules 1, 5

## Retention of material

**35D.**—(1) The governor shall not retain any intercepted material or material obtained by means of an overt closed circuit television system used during a visit for a period longer than 3 months beginning with the day on which the material was intercepted or obtained unless he is satisfied that continued retention of it is—

- (a) necessary on grounds specified in rule 35A(4); and
- (b) proportionate to what is sought to be achieved by the continued retention.

(2) Where such material is retained for longer than 3 months pursuant to paragraph (1) above the governor shall review its continued retention at periodic intervals until such time as it is no longer held by the governor.

(3) The first review referred to in paragraph (2) above shall take place not more than 3 months after the decision to retain the material taken pursuant to paragraph (1) above, and subsequent reviews shall take place not more than 3 months apart thereafter.

**Status:** Point in time view as at 18/04/2005.

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(4) If the governor, on a review conducted pursuant to paragraph (2) above or at any other time, is not satisfied that the continued retention of the material satisfies the requirements set out in paragraph (1) above, he shall arrange for the material to be destroyed.]

#### Textual Amendments

**F5** Rules 35A-35D inserted (24.10.2000) by [The Prison \(Amendment\) \(No. 2\) Rules 2000 \(S.I. 2000/2641\)](#), rules 1, 5

#### Police interviews

**36.** A police officer may, on production of an order issued by or on behalf of a chief officer of police, interview any prisoner willing to see him.

#### Securing release

**37.** A person detained in prison in default of finding a surety, or of payment of a sum of money, may communicate with and be visited at any reasonable time on a weekday by any relative or friend to arrange for a surety or payment in order to secure his release from prison.

#### Legal advisers

**38.—(1)** The legal adviser of a prisoner in any legal proceedings, civil or criminal, to which the prisoner is a party shall be afforded reasonable facilities for interviewing him in connection with those proceedings, and may do so out of hearing but in the sight of an officer.

(2) A prisoner's legal adviser may, subject to any directions given by the Secretary of State, interview the prisoner in connection with any other legal business out of hearing but in the sight of an officer.

#### Correspondence with legal advisers and courts

**39.—(1)** A prisoner may correspond with his legal adviser and any court and such correspondence may only be opened, read or stopped by the governor in accordance with the provisions of this rule.

(2) Correspondence to which this rule applies may be opened if the governor has reasonable cause to believe that it contains an illicit enclosure and any such enclosures shall be dealt with in accordance with the other provision of these Rules.

(3) Correspondence to which this rule applies may be opened, read and stopped if the governor has reasonable cause to believe its contents endanger prison security or the safety of others or are otherwise of a criminal nature.

(4) A prisoner shall be given the opportunity to be present when any correspondence to which this rule applies is opened and shall be informed if it or any enclosure is to be read or stopped.

(5) A prisoner shall on request be provided with any writing materials necessary for the purposes of paragraph (1).

(6) In this rule, "court" includes the European Commission of Human Rights, the European Court of Human Rights and the European Court of Justice; and "illicit enclosure" includes any article possession of which has not been authorised in accordance with the other provisions of these Rules and any correspondence to or from a person other than the prisoner concerned, his legal adviser or a court.

## REMOVAL, SEARCH, RECORD AND PROPERTY

### Custody outside prison

**40.**—(1) A person being taken to or from a prison in custody shall be exposed as little as possible to public observation, and proper care shall be taken to protect him from curiosity and insult.

(2) A prisoner required to be taken in custody anywhere outside a prison shall be kept in the custody of an officer appointed or a police officer.

(3) A prisoner required to be taken in custody to any court shall, when he appears before the court, wear his own clothing or ordinary civilian clothing provided by the governor.

### Search

**41.**—(1) Every prisoner shall be searched when taken into custody by an officer, on his reception into a prison and subsequently as the governor thinks necessary or as the Secretary of State may direct.

(2) A prisoner shall be searched in as seemly a manner as is consistent with discovering anything concealed.

(3) No prisoner shall be stripped and searched in the sight of another prisoner, or in the sight of a person of the opposite sex.

### Record and photograph

**42.**—(1) A personal record of each prisoner shall be prepared and maintained in such manner as the Secretary of State may direct.

(2) Every prisoner may be photographed on reception and subsequently, but no copy of the photograph [<sup>F6</sup>or any other personal record] shall be given to any person not authorised to receive it.

[<sup>F7</sup>(2A) In this rule “personal record” may include personal information and biometric records (such as fingerprints or other physical measurements).]

#### Textual Amendments

**F6** Words in rule 42(2) inserted (18.4.2005) by [The Prison \(Amendment\) Rules 2005 \(S.I. 2005/869\)](#), rule 1(1), [Sch. 1 para. 2\(a\)](#)

**F7** [Rule 42\(2A\)](#) inserted (18.4.2005) by [The Prison \(Amendment\) Rules 2005 \(S.I. 2005/869\)](#), rule 1(1), [Sch. 1 para. 2\(b\)](#)

### Prisoners' property

**43.**—(1) Subject to any directions of the Secretary of State, an unconvicted prisoner may have supplied to him at his expense and retain for his own use books, newspapers, writing materials and other means of occupation, except any that appears objectionable to the board of visitors or, pending consideration by them, to the governor.

(2) Anything, other than cash, which a prisoner has at a prison and which he is not allowed to retain for his own use shall be taken into the governor's custody. An inventory of a prisoner's property shall be kept, and he shall be required to sign it, after having a proper opportunity to see that it is correct.

[<sup>F8</sup>(2A) Where a prisoner is serving a sentence of imprisonment to which an intermittent custody order relates, an inventory as referred to in paragraph (2) shall only be kept where the value of that property is estimated by the governor to be in excess of £100.]

**Status:** Point in time view as at 18/04/2005.

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(3) Any cash which a prisoner has at a prison shall be paid into an account under the control of the governor and the prisoner shall be credited with the amount in the books of the prison.

(4) Any article belonging to a prisoner which remains unclaimed for a period of more than 3 years after he leaves prison, or dies, may be sold or otherwise disposed of; and the net proceeds of any sale shall be paid to the National Association for the Care and Resettlement of Offenders, for its general purposes.

(5) The governor may confiscate any unauthorised article found in the possession of a prisoner after his reception into prison, or concealed or deposited anywhere within a prison.

#### Textual Amendments

**F8** Rule 43(2A) inserted (26.1.2004) by The Prison (Amendment) Rules 2003 (S.I. 2003/3301), rules 1, 5

#### Money and articles received by post

**44.**—(1) Any money or other article (other than a letter or other communication) sent to a convicted prisoner [<sup>F9</sup>by post] shall be dealt with in accordance with the provisions of this rule, and the prisoner shall be informed of the manner in which it is dealt with.

(2) Any cash shall, at the discretion of the governor, be—

(a) dealt with in accordance with rule 43(3);

(b) returned to the sender; or

(c) in a case where the sender's name and address are not known, paid to the National Association for the Care and Resettlement of Offenders, for its general purposes:

Provided that in relation to a prisoner committed to prison in default of payment of any sum of money, the prisoner shall be informed of the receipt of the cash and, unless he objects to its being so applied, it shall be applied in or towards the satisfaction of the amount due from him.

(3) Any security for money shall, at the discretion of the governor, be—

(a) delivered to the prisoner or placed with his property at the prison;

(b) returned to the sender; or

(c) encashed and the cash dealt with in accordance with paragraph (2).

(4) Any other article to which this rule applies shall, at the discretion of the governor, be—

(a) delivered to the prisoner or placed with his property at the prison;

(b) returned to the sender; or

(c) in a case where the sender's name and address are not known or the article is of such a nature that it would be unreasonable to return it, sold or otherwise disposed of, and the net proceeds of any sale applied in accordance with paragraph (2).

#### Textual Amendments

**F9** Words in rule 44(1) substituted (26.3.2001) by The Postal Services Act 2000 (Consequential Modifications No. 1) Order 2001 (S.I. 2001/1149), art. 1(2), Sch. 1 para. 130



## SPECIAL CONTROL, SUPERVISION AND RESTRAINT AND DRUG TESTING

### Removal from association

**45.**—(1) Where it appears desirable, for the maintenance of good order or discipline or in his own interests, that a prisoner should not associate with other prisoners, either generally or for particular purposes, the governor may arrange for the prisoner's removal from association accordingly.

(2) A prisoner shall not be removed under this rule for a period of more than 3 days without the authority of a member of the board of visitors or of the Secretary of State. An authority given under this paragraph shall be for a period not exceeding one month, but may be renewed from month to month except that, in the case of a person aged less than 21 years who is detained in prison such an authority shall be for a period not exceeding 14 days, but may be renewed from time to time for a like period.

(3) The governor may arrange at his discretion for such a prisoner as aforesaid to resume association with other prisoners, and shall do so if in any case the medical officer or a medical practitioner such as is mentioned in rule 20(3) so advises on medical grounds.

(4) This rule shall not apply to a prisoner the subject of a direction given under rule 46(1).

### Close supervision centres

**46.**—(1) Where it appears desirable, for the maintenance of good order or discipline or to ensure the safety of officers, prisoners or any other person, that a prisoner should not associate with other prisoners, either generally or for particular purposes, the Secretary of State may direct the prisoner's removal from association accordingly and his placement in a close supervision centre of a prison.

(2) A direction given under paragraph (1) shall be for a period not exceeding one month, but may be renewed from time to time for a like period [<sup>F10</sup>, and shall continue to apply notwithstanding any transfer of a prisoner from one prison to another].

(3) The Secretary of State may direct that such a prisoner as aforesaid shall resume association with other prisoners, either within a close supervision centre or elsewhere.

(4) In exercising any discretion under this rule, the Secretary of State shall take account of any relevant medical considerations which are known to him.

[<sup>F11</sup>(5) A close supervision centre is any cell or other part of a prison designated by the Secretary of State for holding prisoners who are subject to a direction given under paragraph (1).]

#### Textual Amendments

**F10** Words in rule 46(2) inserted (1.8.2000) by [The Prison \(Amendment\) Rules 2000 \(S.I. 2000/1794\)](#), rule 1, [Sch. para. 2\(a\)](#)

**F11** Rule 46(5) inserted (1.8.2000) by [The Prison \(Amendment\) Rules 2000 \(S.I. 2000/1794\)](#), rule 1, [Sch. para. 2\(b\)](#)

### Use of force

**47.**—(1) An officer in dealing with a prisoner shall not use force unnecessarily and, when the application of force to a prisoner is necessary, no more force than is necessary shall be used.

(2) No officer shall act deliberately in a manner calculated to provoke a prisoner.

*Status: Point in time view as at 18/04/2005.*

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### Temporary confinement

**48.**—(1) The governor may order a refractory or violent prisoner to be confined temporarily in a special cell, but a prisoner shall not be so confined as a punishment, or after he has ceased to be refractory or violent.

(2) A prisoner shall not be confined in a special cell for longer than 24 hours without a direction in writing given by a member of a board of visitors or by an officer of the Secretary of State (not being an officer of a prison). Such a direction shall state the grounds for the confinement and the time during which it may continue.

### Restraints

**49.**—(1) The governor may order a prisoner to be put under restraint where this is necessary to prevent the prisoner from injuring himself or others, damaging property or creating a disturbance.

(2) Notice of such an order shall be given without delay to a member of the board of visitors, and to the medical officer or to a medical practitioner such as is mentioned in rule 20(3).

(3) On receipt of the notice, the medical officer, or the medical practitioner referred to in paragraph (2), shall inform the governor whether there are any medical reasons why the prisoner should not be put under restraint. The governor shall give effect to any recommendation which may be made under this paragraph.

(4) A prisoner shall not be kept under restraint longer than necessary, nor shall he be so kept for longer than 24 hours without a direction in writing given by a member of the board of visitors or by an officer of the Secretary of State (not being an officer of a prison). Such a direction shall state the grounds for the restraint and the time during which it may continue.

(5) Particulars of every case of restraint under the foregoing provisions of this rule shall be forthwith recorded.

(6) Except as provided by this rule no prisoner shall be put under restraint otherwise than for safe custody during removal, or on medical grounds by direction of the medical officer or of a medical practitioner such as is mentioned in rule 20(3). No prisoner shall be put under restraint as a punishment.

(7) Any means of restraint shall be of a pattern authorised by the Secretary of State, and shall be used in such manner and under such conditions as the Secretary of State may direct.

### Compulsory testing for controlled drugs

**50.**—(1) This rule applies where an officer, acting under the powers conferred by section 16A of the Prison Act 1952 <sup>M6</sup> (power to test prisoners for drugs), requires a prisoner to provide a sample for the purpose of ascertaining whether he has any controlled drug in his body.

(2) In this rule "sample" means a sample of urine or any other description of sample specified in the authorisation by the governor for the purposes of section 16A of the Prison Act 1952.

(3) When requiring a prisoner to provide a sample, an officer shall, so far as is reasonably practicable, inform the prisoner:

- (a) that he is being required to provide a sample in accordance with section 16A of the Prison Act 1952; and
- (b) that a refusal to provide a sample may lead to disciplinary proceedings being brought against him.

(4) An officer shall require a prisoner to provide a fresh sample, free from any adulteration.

(5) An officer requiring a sample shall make such arrangements and give the prisoner such instructions for its provision as may be reasonably necessary in order to prevent or detect its adulteration or falsification.

(6) A prisoner who is required to provide a sample may be kept apart from other prisoners for a period not exceeding one hour to enable arrangements to be made for the provision of the sample.

(7) A prisoner who is unable to provide a sample of urine when required to do so may be kept apart from other prisoners until he has provided the required sample, save that a prisoner may not be kept apart under this paragraph for a period of more than 5 hours.

(8) A prisoner required to provide a sample of urine shall be afforded such degree of privacy for the purposes of providing the sample as may be compatible with the need to prevent or detect any adulteration or falsification of the sample; in particular a prisoner shall not be required to provide such a sample in the sight of a person of the opposite sex.

#### Marginal Citations

**M6** 1952 c. 52; section 16A was inserted by section 15 of the [Criminal Justice and Public Order Act 1994](#) (c. 33).

#### [<sup>F12</sup>Observation of prisoners by means of an overt closed circuit television system

**50A.**—(1) Without prejudice to his other powers to supervise the prison, prisoners and other persons in the prison, whether by use of an overt closed circuit television system or otherwise, the governor may make arrangements for any prisoner to be placed under constant observation by means of an overt closed circuit television system while the prisoner is in a cell or other place in the prison if he considers that—

- (a) such supervision is necessary for—
  - (i) the health and safety of the prisoner or any other person;
  - (ii) the prevention, detection, investigation or prosecution of crime; or
  - (iii) securing or maintaining prison security or good order and discipline in the prison;and
- (b) it is proportionate to what is sought to be achieved.

(2) If an overt closed circuit television system is used for the purposes of this rule, the provisions of rules 35C and 35D shall apply to any material obtained.]

#### Textual Amendments

**F12** Rule 50A inserted (24.10.2000) by [The Prison \(Amendment\) \(No. 2\) Rules 2000 \(S.I. 2000/2641\)](#), rules 1, 6

#### [<sup>F13</sup>Compulsory testing for alcohol

**50B.**—(1) This rule applies where an officer, acting under an authorisation in force under section 16B of the Prison Act 1952 (power to test prisoners for alcohol), requires a prisoner to provide a sample for the purpose of ascertaining whether he has alcohol in his body.

(2) When requiring a prisoner to provide a sample an officer shall, so far as is reasonably practicable, inform the prisoner—

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- (a) that he is being required to provide a sample in accordance with section 16B of the Prison Act 1952; and
  - (b) that a refusal to provide a sample may lead to disciplinary proceedings being brought against him.
- (3) An officer requiring a sample shall make such arrangements and give the prisoner such instructions for its provision as may be reasonably necessary in order to prevent or detect its adulteration or falsification.
- (4) Subject to paragraph (5) a prisoner who is required to provide a sample may be kept apart from other prisoners for a period not exceeding one hour to enable arrangements to be made for the provision of the sample.
- (5) A prisoner who is unable to provide a sample of urine when required to do so may be kept apart from other prisoners until he has provided the required sample, except that a prisoner may not be kept apart under this paragraph for a period of more than 5 hours.
- (6) A prisoner required to provide a sample of urine shall be afforded such degree of privacy for the purposes of providing the sample as may be compatible with the need to prevent or detect any adulteration or falsification of the sample; in particular a prisoner shall not be required to provide such a sample in the sight of a person of the opposite sex.]

#### Textual Amendments

**F13** Rule 50B inserted (18.4.2005) by The Prison (Amendment) Rules 2005 (S.I. 2005/869), rule 1(1), Sch. 1 para. 3

### OFFENCES AGAINST DISCIPLINE

#### Offences against discipline

- 51.** A prisoner is guilty of an offence against discipline if he—
- (1) commits any assault;
  - [<sup>F14</sup>(1A) commits any racially aggravated assault;]
  - (2) detains any person against his will;
  - (3) denies access to any part of the prison to any officer or any person (other than a prisoner) who is at the prison for the purpose of working there;
  - (4) fights with any person;
  - (5) intentionally endangers the health or personal safety of others or, by his conduct, is reckless whether such health or personal safety is endangered;
  - (6) intentionally obstructs an officer in the execution of his duty, or any person (other than a prisoner) who is at the prison for the purpose of working there, in the performance of his work;
  - (7) escapes or absconds from prison or from legal custody;
  - (8) fails to comply with any condition upon which he is temporarily released under rule 9;
  - [<sup>F15</sup>(9) is found with any substance in his urine which demonstrates that a controlled drug has, whether in prison or while on temporary release under rule 9, been administered to him by himself or by another person (but subject to rule 52);]
  - [<sup>F16</sup>(10) is intoxicated as a consequence of consuming any alcoholic beverage (but subject to rule 52A);]

[<sup>F17</sup>(11) consumes any alcoholic beverage whether or not provided to him by another person (but subject to rule 52A);]

(12) has in his possession—

- (a) any unauthorised article, or
- (b) a greater quantity of any article than he is authorised to have;

(13) sells or delivers to any person any unauthorised article;

(14) sells or, without permission, delivers to any person any article which he is allowed to have only for his own use;

(15) takes improperly any article belonging to another person or to a prison;

(16) intentionally or recklessly sets fire to any part of a prison or any other property, whether or not his own;

(17) destroys or damages any part of a prison or any other property, other than his own;

[<sup>F18</sup>(17A) causes racially aggravated damage to, or destruction of, any part of a prison or any other property, other than his own;]

(18) absents himself from any place he is required to be or is present at any place where he is not authorised to be;

(19) is disrespectful to any officer, or any person (other than a prisoner) who is at the prison for the purpose of working there, or any person visiting a prison;

(20) uses threatening, abusive or insulting words or behaviour;

[<sup>F19</sup>(20A) uses threatening, abusive or insulting racist words or behaviour;]

(21) intentionally fails to work properly or, being required to work, refuses to do so;

(22) disobeys any lawful order;

(23) disobeys or fails to comply with any rule or regulation applying to him;

(24) receives any controlled drug, or, without the consent of an officer, any other article, during the course of a visit (not being an interview such as is mentioned in rule 38);

[<sup>F20</sup>(24A) displays, attaches or draws on any part of a prison, or on any other property, threatening, abusive or insulting racist words, drawings, symbols or other material;]

(a) (25) (a) attempts to commit,

(b) incites another prisoner to commit, or

(c) assists another prisoner to commit or to attempt to commit, any of the foregoing offences.

#### Textual Amendments

**F14** Rule 51(1A) inserted (1.8.2000) by [The Prison \(Amendment\) Rules 2000 \(S.I. 2000/1794\)](#), rule 1, [Sch. para. 3\(a\)](#)

**F15** Rule 51(9) substituted (18.4.2005) by [The Prison \(Amendment\) Rules 2005 \(S.I. 2005/869\)](#), rule 1(1), [Sch. 1 para. 4\(a\)](#)

**F16** Rule 51(10) substituted (18.4.2005) by [The Prison \(Amendment\) Rules 2005 \(S.I. 2005/869\)](#), rule 1(1), [Sch. 1 para. 4\(b\)](#)

**F17** Rule 51(11) substituted (18.4.2005) by [The Prison \(Amendment\) Rules 2005 \(S.I. 2005/869\)](#), rule 1(1), [Sch. 1 para. 4\(c\)](#)

**F18** Rule 51(17A) inserted (1.8.2000) by [The Prison \(Amendment\) Rules 2000 \(S.I. 2000/1794\)](#), rule 1, [Sch. para. 3\(b\)](#)

**F19** Rule 51(20A) inserted (1.8.2000) by [The Prison \(Amendment\) Rules 2000 \(S.I. 2000/1794\)](#), rule 1, [Sch. para. 3\(c\)](#)

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**F20** Rule 51(24A) inserted (1.8.2000) by [The Prison \(Amendment\) Rules 2000 \(S.I. 2000/1794\)](#), rule 1, [Sch. para. 3\(d\)](#)

### [<sup>F21</sup> Interpretation of rule 51

**51A.**—(2) For the purposes of rule 51 words, behaviour or material are racist if they demonstrate, or are motivated (wholly or partly) by, hostility to members of a racial group (whether identifiable or not) based on their membership (or presumed membership) of a racial group, and “membership”, “presumed”, “racial group” and “racially aggravated”, shall have the meanings assigned to them by section 28 of the Crime and Disorder Act 1998.]

#### Textual Amendments

**F21** Rule 51A inserted (1.8.2000) by [The Prison \(Amendment\) Rules 2000 \(S.I. 2000/1794\)](#), rule 1, [Sch. para. 4](#)

### Defences to rule 51(9)

- 52.** It shall be a defence for a prisoner charged with an offence under rule 51(9) to show that:
- (a) the controlled drug had been, prior to its administration, lawfully in his possession for his use or was administered to him in the course of a lawful supply of the drug to him by another person;
  - (b) the controlled drug was administered by or to him in circumstances in which he did not know and had no reason to suspect that such a drug was being administered; or
  - (c) the controlled drug was administered by or to him under duress or to him without his consent in circumstances where it was not reasonable for him to have resisted.

### [<sup>F22</sup> Defences to rule 51(10) and rule 51(11)

**52A.** It shall be a defence for a prisoner charged with an offence under rule 51(10) or (11) to show that—

- (a) the alcohol was consumed by him in circumstances in which he did not know and had no reason to suspect that he was consuming alcohol;
- (b) the alcohol was consumed by him without his consent in circumstances where it was not reasonable for him to have resisted; or
- (c) the alcohol was provided to him pursuant to a written order under rule 25(1).]

#### Textual Amendments

**F22** Rule 52A inserted (18.4.2005) by [The Prison \(Amendment\) Rules 2005 \(S.I. 2005/869\)](#), rule 1(1), [Sch. 1 para. 5](#)

### Disciplinary charges

**53.**—(1) Where a prisoner is to be charged with an offence against discipline, the charge shall be laid as soon as possible and, save in exceptional circumstances, within 48 hours of the discovery of the offence.

- (2) Every charge shall be inquired into by the governor [<sup>F23</sup>or, as the case may be, the adjudicator].

[<sup>F24</sup>(3) Every charge shall be first inquired into not later, save in exceptional circumstances or in accordance with rule 55A(5), than:

- (a) where it is inquired into by the governor, the next day, not being a Sunday or public holiday, after it is laid;
- (b) where it is referred to the adjudicator under rule 53A(2), 28 days after it is so referred.]

(4) A prisoner who is to be charged with an offence against discipline may be kept apart from other prisoners pending the governor's first inquiry [<sup>F25</sup>or determination under rule 53A].

#### Textual Amendments

- F23** Words in rule 53(2) added (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 2\(a\)](#)
- F24** Rule 53(3) substituted (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 2\(b\)](#)
- F25** Words in rule 53(4) added (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 2\(c\)](#)

#### [<sup>F26</sup>Determination of mode of inquiry

**53A.**—(1) Before inquiring into a charge the governor shall determine whether it is so serious that additional days should be awarded for the offence, if the prisoner is found guilty.

- (2) Where the governor determines:
  - (a) that it is so serious, he shall:
    - (i) refer the charge to the adjudicator forthwith for him to inquire into it;
    - (ii) refer any other charge arising out of the same incident to the adjudicator forthwith for him to inquire into it; and
    - (iii) inform the prisoner who has been charged that he has done so;
  - (b) that it is not so serious, he shall proceed to inquire into the charge.
- (3) If:
  - (a) at any time during an inquiry into a charge by the governor; or
  - (b) following such an inquiry, after the governor has found the prisoner guilty of an offence but before he has imposed a punishment for that offence,

it appears to the governor that the charge is so serious that additional days should be awarded for the offence if (where sub-paragraph (a) applies) the prisoner is found guilty, the governor shall act in accordance with paragraph (2)(a)(i) to (iii) and the adjudicator shall first inquire into any charge referred to him under this paragraph not later than, save in exceptional circumstances, 28 days after the charge was referred.]

#### Textual Amendments

- F26** Rule 53A inserted (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 3](#)

*Status: Point in time view as at 18/04/2005.*

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**Rights of prisoners charged**

54.—(1) Where a prisoner is charged with an offence against discipline, he shall be informed of the charge as soon as possible and, in any case, before the time when it is inquired into by the governor [<sup>F27</sup>or, as the case may be, the adjudicator].

(2) At an inquiry into a charge against a prisoner he shall be given a full opportunity of hearing what is alleged against him and of presenting his own case.

[<sup>F28</sup>(3) At an inquiry into a charge which has been referred to the adjudicator, the prisoner who has been charged shall be given the opportunity to be legally represented.]

**Textual Amendments**

**F27** Words in rule 54(1) added (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 4\(a\)](#)

**F28** Rule 54(3) added (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 4\(b\)](#)

**Governor’s punishments**

55.—(1) If he finds a prisoner guilty of an offence against discipline the governor may, subject to paragraph (2) and to rule 57, impose one or more of the following punishments:

- (a) caution;
- (b) forfeiture for a period not exceeding 42 days of any of the privileges under rule 8;
- (c) exclusion from associated work for a period not exceeding 21 days;
- (d) stoppage of or deduction from earnings for a period not exceeding 84 days <sup>F29</sup>...;
- (e) cellular confinement for a period not exceeding [<sup>F30</sup>21 days];
- <sup>F31</sup>(f) .....
- (g) in the case of a prisoner otherwise entitled to them, forfeiture for any period of the right, under rule 43(1), to have the articles there mentioned;

[<sup>F32</sup>(h) removal from his wing or living unit for a period of 28 days.]

(2) <sup>F33</sup>... A caution shall not be combined with any other punishment for the same charge.

(3) If a prisoner is found guilty of more than one charge arising out of an incident, punishments under this rule may be ordered to run consecutively but [<sup>F34</sup>in the case of a punishment of cellular confinement, the total period shall not exceed 21 days].

(4) In imposing a punishment under this rule, the governor shall take into account any guidelines that the Secretary of State may from time to time issue as to the level of punishment that should normally be imposed for a particular offence against discipline.

**Textual Amendments**

**F29** Words in rule 55(1)(d) omitted (15.8.2002) by virtue of [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 5\(a\)](#)

**F30** Words in rule 55(1)(e) substituted (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 5\(b\)](#)

**F31** Rule 55(1)(f) omitted (15.8.2002) by virtue of [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 5\(c\)](#)



- F32** Rule 55(1)(h) added (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 5\(d\)](#)
- F33** Words in rule 55(2) omitted (15.8.2002) by virtue of [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 5\(e\)](#)
- F34** Words in rule 55(3) substituted (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 5\(f\)](#)

### [<sup>F35</sup>Adjudicator's punishments

**55A.**—(1) If he finds a prisoner guilty of an offence against discipline the adjudicator may, subject to paragraph (2) and to rule 57, impose one or more of the following punishments:

- (a) any of the punishments mentioned in rule 55(1);
- (b) in the case of a short-term prisoner or long-term prisoner, an award of additional days not exceeding 42 days.

(2) A caution shall not be combined with any other punishment for the same charge.

(3) If a prisoner is found guilty of more than one charge arising out of an incident, punishments under this rule may be ordered to run consecutively but, in the case of an award of additional days, the total period added shall not exceed 42 days and, in the case of a punishment of cellular confinement, the total period shall not exceed 21 days.

(4) This rule applies to a prisoner who has been charged with having committed an offence against discipline before the date on which the rule came into force, in the same way as it applies to a prisoner who has been charged with having committed an offence against discipline on or after that date, provided the charge is referred to the adjudicator no later than 60 days after that date.

(5) Rule 53(3) shall not apply to a charge where, by virtue of paragraph (4), this rule applies to the prisoner who has been charged.]

### Textual Amendments

- F35** Rule 55A inserted (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 6](#)

### [<sup>F36</sup>Review of adjudicator's punishment

**55B.**—(1) A reviewer means a Senior District Judge (Chief Magistrate) approved by the Lord Chancellor for the purposes of conducting a review under this rule or any deputy of such a judge as nominated by that judge.

(2) Where a punishment is imposed by an adjudicator under rule 55A(1), a prisoner may, within 14 days of receipt of the punishment, request in writing that a reviewer conducts a review.

(3) The review must be commenced within 14 days of receipt of the request and must be conducted on the papers alone.

(4) The review must only be of the punishment imposed and must not be a review of the finding of guilt under rule 55A.

(5) On completion of the review, if it appears to the reviewer that the punishment imposed was manifestly unreasonable he may—

- (a) reduce the number of any additional days awarded;
- (b) for whatever punishment has been imposed by the adjudicator, substitute another punishment which is, in his opinion, less severe; or

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(c) quash the punishment entirely.

(6) A prisoner requesting a review shall serve any additional days awarded under rule 55A(1) (b) unless and until they are reduced.]

#### Textual Amendments

**F36** Rule 55B inserted (18.4.2005) by [The Prison \(Amendment\) Rules 2005 \(S.I. 2005/869\)](#), rule 1(1), [Sch. 1 para. 6](#)

#### Forfeiture of remission to be treated as an award of additional days

**56.**—(1) In this rule, “existing prisoner” and “existing licensee” have the meanings assigned to them by paragraph 8(1) of Schedule 12 to the Criminal Justice Act 1991 <sup>M7</sup>.

(2) In relation to any existing prisoner or existing licensee who has forfeited any remission of his sentence, the provisions of Part II of the Criminal Justice Act 1991 shall apply as if he had been awarded such number of additional days as equals the numbers of days of remission which he has forfeited.

#### Marginal Citations

**M7** 1991 c. 53.

#### Offences committed by young persons

**57.**—(1) In the case of an offence against discipline committed by an inmate who was under the age of 21 when the offence was committed (other than an offender in relation to whom the Secretary of State has given a direction under section 13(1) of the Criminal Justice Act 1982 <sup>M8</sup> that he shall be treated as if he had been sentenced to imprisonment) rule 55 <sup>F37</sup>or, as the case may be, rule 55A] shall have effect, but—

- (a) the maximum period of forfeiture of privileges under rule 8 shall be 21 days;
- (b) the maximum period of stoppage of or deduction from earnings shall be 42 days <sup>F38</sup>...;
- (c) the maximum period of cellular confinement shall be <sup>F39</sup>[ten days];

<sup>F40</sup>(d) the maximum period of removal from his cell or living unit shall be 21 days.]

(2) In the case of an inmate who has been sentenced to a term of youth custody or detention in a young offender institution, and by virtue of a direction of the Secretary of State under <sup>F41</sup>[section 99 of the Powers of Criminal Courts (Sentencing) Act 2000], is treated as if he had been sentenced to imprisonment for that term, any punishment imposed on him for an offence against discipline before the said direction was given shall, if it has not been exhausted or remitted, <sup>F42</sup>[continue to have effect:

- (a) if imposed by a governor, as if made pursuant to rule 55;
- (b) if imposed by an adjudicator, as if made pursuant to rule 55A].

#### Textual Amendments

**F37** Words in rule 57(1) inserted (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 7\(a\)](#)

**F38** Words in rule 57(1)(b) omitted (15.8.2002) by virtue of [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 7\(b\)](#)

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- F39** Words in rule 57(1)(c) substituted (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 7\(c\)](#)
- F40** Rule 57(1)(d) added (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 7\(d\)](#)
- F41** Words in rule 57(2) substituted (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 7\(e\)\(i\)](#)
- F42** Words in rule 57(2) substituted (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 7\(e\)\(ii\)](#)

#### Marginal Citations

**M8** 1982 c. 48.

### Cellular confinement

**58.** When it is proposed to impose a punishment of cellular confinement, the medical officer, or a medical practitioner such as is mentioned in rule 20(3), shall inform the governor whether there are any medical reasons why the prisoner should not be so dealt with. The governor shall give effect to any recommendation which may be made under this rule.

### Prospective award of additional days

**59.—(1)** Subject to paragraph (2), where an offence against discipline is committed by a prisoner who is detained only on remand, additional days may be awarded [<sup>F43</sup>by the adjudicator] notwithstanding that the prisoner has not (or had not at the time of the offence) been sentenced.

(2) An award of additional days under paragraph (1) shall have effect only if the prisoner in question subsequently becomes a short-term or long-term prisoner whose sentence is reduced, under section 67 of the Criminal Justice Act 1967 <sup>M9</sup>, by a period which includes the time when the offence against discipline was committed.

#### Textual Amendments

**F43** Words in rule 59(1) inserted (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 8](#)

#### Marginal Citations

**M9** 1967 c. 80.

### [<sup>F44</sup>Removal from a cell or living unit

**59A.** Following the imposition of a punishment of removal from his cell or living unit, a prisoner shall be accommodated in a separate part of the prison under such restrictions of earnings and activities as the Secretary of State may direct.]

#### Textual Amendments

**F44** Rule 59A inserted (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, Sch. para. 9

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## Suspended punishments

**60.**—(1) Subject to any directions given by the Secretary of State, the power to impose a disciplinary punishment (other than a caution) shall include power to direct that the punishment is not to take effect unless, during a period specified in the direction (not being more than six months from the date of the direction), the prisoner commits another offence against discipline and a direction is given under paragraph (2).

(2) Where a prisoner commits an offence against discipline during the period specified in a direction given under paragraph (1) the person dealing with that offence may—

- (a) direct that the suspended punishment shall take effect;
- (b) reduce the period or amount of the suspended punishment and direct that it shall take effect as so reduced;
- (c) vary the original direction by substituting for the period specified a period expiring not later than six months from the date of variation; or
- (d) give no direction with respect to the suspended punishment.

[<sup>F45</sup>(3) Where an award of additional days has been suspended under paragraph (1) and a prisoner is charged with committing an offence against discipline during the period specified in a direction given under that paragraph, the governor shall either:

- (a) inquire into the charge and give no direction with respect to the suspended award; or
- (b) refer the charge to the adjudicator for him to inquire into it.]

### Textual Amendments

**F45** Rule 60(3) added (15.8.2002) by [The Prison \(Amendment\) Rules 2002 \(S.I. 2002/2116\)](#), rule 1, [Sch. para. 10](#)

## Remission and mitigation of punishments and quashing of findings of guilt

**61.**—(1) [<sup>F46</sup>Except in the case of a finding of guilt made, or a punishment imposed, by an adjudicator under rule 55A(1)] the Secretary of State may quash any finding of guilt and may remit any punishment or mitigate it either by reducing it or by substituting another award which is, in his opinion, less severe.

[<sup>F47</sup>(2) Subject to any directions given by the Secretary of State, the governor may, on the grounds of good behaviour, remit or mitigate any punishment already imposed by an adjudicator, governor or the board of visitors.]

### Textual Amendments

**F46** Words in [rule 61\(1\)](#) inserted (18.4.2005) by [The Prison \(Amendment\) Rules 2005 \(S.I. 2005/869\)](#), rule 1(1), [Sch. 1 para. 7\(a\)](#)

**F47** [Rule 61\(2\)](#) substituted (18.4.2005) by [The Prison \(Amendment\) Rules 2005 \(S.I. 2005/869\)](#), rule 1(1), [Sch. 1 para. 7\(b\)](#)

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