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S T A T U T O R Y I N S T R U M E N T S

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**2002 No. 2116**

**PRISONS**

**The Prison (Amendment) Rules 2002**

*Made* - - - - - *14th August 2002*

*Laid before Parliament* *14th August 2002*

*Coming into force* - - *15th August 2002*

The Secretary of State, in exercise of the powers conferred upon him by section 47 of the Prison Act 1952(a), hereby makes the following Rules:

1. These Rules may be cited as the Prison (Amendment) Rules 2002 and shall come into force on 15th August 2002.
2. The Prison Rules 1999(b) shall have effect subject to the amendments set out in the Schedule to these Rules.

Home Office  
14th August 2002

*Hilary Benn*  
Parliamentary Under-Secretary of State

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(a) 1952 c. 52; section 47 was affected by an amendment to section 52(2) of that Act by section 66(4) of the Criminal Justice Act 1967 (c. 80) and was extended by section 85(2) and (4) of the Criminal Justice Act 1991 (c. 53).

(b) S.I. 1999/728, as amended by S.I. 2000/1794, 2000/2641 and 2001/1149.

## SCHEDULE

Rule 2

### AMENDMENTS TO THE PRISON RULES 1999

1. In rule 2(1) (interpretation), the following definition shall be added:

“adjudicator” means a person approved by the Secretary of State for the purpose of inquiring into a charge which has been referred to him;”.
2. In rule 53 (disciplinary charges):
  - (a) at the end of paragraph (2), there shall be added:

“or, as the case may be, the adjudicator”;
  - (b) for paragraph (3) there shall be substituted the following paragraph:

“(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.”;
  - (c) at the end of paragraph (4), there shall be added:

“or determination under rule 53A”.
3. After rule 53, there shall be inserted the following rule:

**“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.”.

4. In rule 54 (rights of prisoners charged):
  - (a) at the end of paragraph (1) there shall be added the words “or, as the case may be, the adjudicator”;
  - (b) after paragraph (2) there shall be added the following paragraph:

“(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.”.
5. In rule 55 (governor's punishments):
  - (a) in paragraph (1)(d), the words “and of an amount not exceeding 42 days earnings” shall be omitted;
  - (b) in paragraph (1)(e), for the words “14 days” there shall be substituted the words “21 days”;
  - (c) paragraph (1)(f) shall be omitted;
  - (d) after paragraph (1)(g), there shall be added the following sub-paragraph:

“(h) removal from his wing or living unit for a period of 28 days.”;
  - (e) in paragraph (2), the words “An award of” shall be omitted;
  - (f) in paragraph (3), for the words “, in the case of an award of additional days, the total period added shall not exceed 42 days and, in the case of an award of cellular confinement, the total period shall not exceed 14 days”, there shall be substituted the words “in the case of a punishment of cellular confinement, the total period shall not exceed 21 days”.

6. After rule 55 there shall be inserted the following rule:

**“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.”.

7. In rule 57 (offences committed by young persons):

- (a) in paragraph (1), after the words “rule 55”, there shall be inserted the words “or, as the case may be, rule 55A”;
- (b) in paragraph (1)(b), the words “and the maximum amount shall be 21 days” shall be omitted;
- (c) in paragraph (1)(c), for the words “7 days” there shall be substituted the words “ten days”;
- (d) after paragraph (1)(c) there shall be added the following sub-paragraph:
  - “(d) the maximum period of removal from his cell or living unit shall be 21 days.”;
- (e) in paragraph (2):
  - (i) for the words “section 13 of the Criminal Justice Act 1982” there shall be substituted the words “section 99 of the Powers of Criminal Courts (Sentencing) Act 2000”;
  - (ii) for the words “continue to have effect as if made pursuant to rule 55” there shall be substituted the words:
    - “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”.

8. In rule 59(1) (prospective award of additional days), after the words “additional days may be awarded” there shall be inserted the words “by the adjudicator”.

9. After rule 59, there shall be inserted the following rule:

**“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.”.

10. In rule 60 (suspended punishments), after paragraph (2) there shall be added the following paragraph:

“(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.”.

11. In paragraph (1)(b)(i) of rule 82 (contracted out prisons), there shall be inserted references to rules 53A, 57 and 60.

## EXPLANATORY NOTE

(*This note is not part of the Rules*)

These Rules amend the Prison Rules 1999 by providing for an adjudicator, approved by the Secretary of State, to inquire into charges of serious offences against discipline set out in those Rules. Where the governor determines that a charge is sufficiently serious, he must refer it to the adjudicator, who is to inquire into the offence no later than 28 days after it has been referred. At an inquiry into a charge that has been referred to the adjudicator, the prisoner who has been charged is given the opportunity to be legally represented. If the adjudicator finds a prisoner guilty, he has the power to impose upon him any punishment which the governor can impose, and can also impose an award of up to 42 additional days to be served in prison. These Rules also remove from the governor the power to impose any additional days as a punishment on a prisoner found guilty by him, and add to his powers in certain other respects.

£1.75

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Printed and published in the UK by The Stationery Office Limited  
under the authority and superintendence of Carol Tullo, Controller of  
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.  
E1350 9/2002 121350 19585

ISBN 0-11-042737-8



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