

2013 No. 2462

PRISONS, ENGLAND AND WALES

YOUNG OFFENDER INSTITUTIONS, ENGLAND AND WALES

**The Prison and Young Offender Institution (Amendment) Rules
2013**

<i>Made</i> - - - -	<i>24th September 2013</i>
<i>Laid before Parliament</i>	<i>30th September 2013</i>
<i>Coming into force</i> - -	<i>1st November 2013</i>

The Secretary of State for Justice makes the following Rules in exercise of the powers conferred by section 47 of the Prison Act 1952(a):

Citation and commencement

1. These Rules may be cited as the Prison and Young Offender Institution (Amendment) Rules 2013 and come into force on 1st November 2013.

Amendment of the Prison Rules 1999

2. The Prison Rules 1999(b) are amended in accordance with Schedule 1 to these Rules.

Amendment of the Young Offender Institution Rules 2000

3. The Young Offender Institution Rules 2000(c) are amended in accordance with Schedule 2 to these Rules.

Transitional provision

4. The amendments made by rules 2 and 3 of these Rules do not apply in respect of conduct which took place before 1st November 2013.

Signed by authority of the Secretary of State

(a) 1952 c.52; section 47 was amended by section 6 of the Criminal Justice and Public Order Act 1994 (c.33). There have been other amendments but none are relevant. Section 66(4) of the Criminal Justice Act 1967 (c.80) provides that any instrument containing rules made under section 47 of the Prison Act 1952 is subject to annulment in pursuance of a resolution of either House of Parliament.

(b) S.I. 1999/728.

(c) S.I. 2000/3371.

SCHEDULE 1

Rule 2

Amendment of the Prison Rules 1999

1. After rule 55A(a) (adjudicator's punishments) insert—

“Requirement to pay for damage to prison property

55AB.—(1) This rule applies where a prisoner is found guilty of an offence under rule 51(17) or 51(17A) in respect of destroying or damaging any part of a prison or any other property belonging to a prison (“the relevant disciplinary offence”).

(2) The governor or, as the case may be, the adjudicator must require the prisoner to pay for the cost of making good the damage from, or replacing any property destroyed as a result of, the commission of the relevant disciplinary offence.

(3) A requirement imposed under paragraph (2) is referred to in this rule and in rules 55B, 61 and 61A as a “compensation requirement”.

(4) The amount required to be paid under a compensation requirement must not exceed the cost of making good the damage from, or replacing any property destroyed as a result of, the commission of the relevant disciplinary offence and, in any event, must not exceed £2,000.

(5) A compensation requirement may be imposed instead of or in addition to any punishment imposed under rule 55 or 55A.

(6) A compensation requirement ceases to have effect after two years from the date on which it was imposed regardless of whether or not the full amount has been paid.”.

2. In rule 55B(b)(review of adjudicator's punishment)—

(1) In paragraph (2)—

- (a) for “Where a punishment is imposed by an adjudicator under rule 55A(1)” substitute “Where an adjudicator imposes a punishment under rule 55A(1), a compensation requirement under rule 55AB(2) or both”;
- (b) after “receipt of the punishment” insert “or the imposition of the compensation requirement, whichever is later”.

(2) For paragraph (4) substitute—

“(4) The review may be of the punishment, the compensation requirement or both (whether or not the prisoner requested a review of both) but must not be a review of the finding of guilt under rule 55A.”.

(3) In paragraph (5)—

- (a) for “punishment imposed” substitute “imposition of the punishment, the compensation requirement or both”;
- (b) after “he may” insert “do such of the following as he considers appropriate”;
- (c) in sub-paragraph (b) omit “or”;
- (d) after sub-paragraph (c) insert—

(a) Rule 55A was inserted by S.I. 2002/2116. There is an amendment but it is not relevant.
(b) Rule 55B was inserted by S.I. 2005/869 and was amended by S.I. 2006/680.

“(d) reduce the amount of the compensation requirement.”.

3. In rule 61(a) (remission and mitigation of punishments and quashing of findings of guilt)—

(1) After paragraph (1) insert—

“(1A) Where a compensation requirement has been imposed by a governor under rule 55AB(2), the Secretary of State may reduce the amount of the requirement.”.

(2) In the title after “punishments” insert “, variation of compensation requirements”.

4. After rule 61 insert—

“Enforcement of compensation requirements

61A.—(1) Where a compensation requirement has been imposed under rule 55AB(2), the governor may debit any amount of money with which the prisoner has been credited in the books of the prison under rule 43(3) in order to recover the whole or part of the amount required to be paid under the compensation requirement.

(2) The amount debited under paragraph (1) on any occasion must not be such as to reduce below £5 the amount with which the prisoner is credited in the books of the prison under rule 43(3).

(3) Where—

- (a) a compensation requirement has been imposed under rule 60AB(2) of the Young Offender Rules 2000(b), and
- (b) the person against whom the compensation requirement was imposed is detained in a prison,

the compensation order may be enforced under paragraph (1) as if it was a compensation requirement imposed under rule 55AB(2).”.

5. In rule 82(c) (contracted out prisons), in paragraphs (1)(b)(iii) and (1A), after “55,” insert “55AB,” and after “61” insert “ and 61A”.

SCHEDULE 2

Rule 3

Amendment of the Young Offender Institution Rules 2000

1. After rule 60A(d) insert—

“Requirement to pay for damage to young offender institution property

60AB.—(1) This rule applies where an inmate is found guilty of an offence under rule 55(18) or 55(19) in respect of destroying or damaging any part of a young offender institution or any other property belonging to a young offender institution (“the relevant disciplinary offence”).

(2) The governor or, as the case may be, the adjudicator must require the inmate to pay for the cost of making good the damage from, or replacing any property destroyed as a result of, the commission of the relevant disciplinary offence.

(3) A requirement imposed under paragraph (2) is referred to in this rule and in rules 60B, 64 and 64A as a “compensation requirement”.

(a) Rule 61 was amended by S.I. 2005/869 and S.I. 2008/597.

(b) S.I. 2000/3371.

(c) Rule 82 was amended by S.I. 2007/2954 and S.I. 2007/3149.

(d) Rule 60A was inserted by S.I. 2002/2117. There is an amendment to rule 60A but it is not relevant.

(4) The amount required to be paid under a compensation requirement must not exceed the cost of making good the damage from, or replacing any property destroyed as a result of, the relevant disciplinary offence and, in any event, must not exceed £2,000.

(5) A compensation requirement may be imposed instead of or in addition to any punishment imposed under rule 60, 60A or 65.

(6) A compensation requirement ceases to have effect after two years from the date on which it was imposed regardless of whether or not the full amount has been paid.”.

2. In rule 60B(a) (review of adjudicator’s punishment)—

(1) In paragraph (2)—

- (a) for “Where a punishment is imposed by an adjudicator under rule 60A(1) or rule 65(1A)” substitute “Where an adjudicator imposes a punishment under rule 60A(1) or rule 65(1A), a compensation requirement under rule 60AB(2), or both”;
- (b) after “receipt of the punishment” insert “or the imposition of the compensation requirement, whichever is later”.

(2) For paragraph (4) substitute—

“(4) The review may be of the punishment, the compensation requirement or both (whether or not the inmate requested a review of both) but must not be a review of the finding of guilt.”.

(3) In paragraph (5)—

- (a) for “punishment imposed” substitute “imposition of the punishment, the compensation requirement or both”;
- (b) after “he may” insert “do such of the following as he considers appropriate”;
- (c) in sub-paragraph (b) omit “or”;
- (d) after sub-paragraph (c) insert—
“(d) reduce the amount of the compensation requirement.”.

3. In rule 64(b) (remission and mitigation of punishments and quashing of findings of guilt)—

(1) After paragraph (1) insert—

“(1A) Where a compensation requirement has been imposed by a governor under rule 60AB(2), the Secretary of State may reduce the amount of the requirement.”.

(2) In the title after “punishments” insert “, variation of compensation requirements”.

4. After rule 64 (remission and mitigation of punishments and quashing of findings of guilt) insert—

“Enforcement of compensation requirements

64A.—(1) Where a compensation requirement has been imposed under rule 60AB(2), the governor may debit any amount of money with which the inmate has been credited in the books of the young offender institution under rule 48(2) in order to recover the whole or part of the amount required to be paid under the compensation requirement.

(2) The amount debited under paragraph (1) on any occasion must not be such as to reduce below £5 the amount with which the inmate is credited in the books of the young offender institution under rule 48(2).”.

5. In rule 86(c) (contracted out young offender institutions), in paragraphs (1)(b)(iii) and (1A), after “60,” insert “60AB,” and after “64” insert “, 64A”.

(a) Rule 60B was inserted by S.I. 2005/897 and was amended by S.I. 2006/860.
(b) Rule 64 was amended by S.I. 2005/897 and S.I. 2008/599.
(c) Rule 86 was amended by S.I. 2007/2953 and S.I. 2007/3220.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Rules amend the Prison Rules 1999 (“the 1999 Rules”) and the Young Offender Institution Rules 2000 (“the 2000 Rules”).

Under the 1999 Rules prison disciplinary charges are inquired into by either governors or, in certain circumstances, by adjudicators who are District Judges. Equivalent arrangements exist in respect of young offender institutions.

Paragraph 1 of Schedule 1 inserts new rule 55AB into the 1999 Rules to require governors or, as the case may be, adjudicators to impose a requirement (a “compensation requirement”) on prisoners to pay for the destruction of or damage to prison property where prisoners have been found guilty of causing the destruction or damage at an adjudication. The amount must not exceed the cost of the destruction or damage and, in any event, must not exceed £2,000. The compensation requirement ceases to have effect after two years from when it was imposed regardless of whether the prisoner has paid the full amount due.

Paragraph 2 of Schedule 1 amends rule 55B of the 1999 Rules so that a prisoner may seek a review of the amount ordered to be paid under a compensation requirement. The reviewer may vary the amount required to be paid by the prisoner.

Paragraph 3 of Schedule 1 amends rule 61 of the 1999 Rules so that, where a compensation requirement has been imposed by a governor, the Secretary of State may reduce the amount to be paid.

Paragraph 4 of Schedule 1 inserts new rule 61A into the 1999 Rules; new rule 61A provides the governor with a power to debit money from the money held by the prison for the prisoner in order to recover the amount to be paid under the compensation requirement. The governor must ensure that the prisoner is left with not less than £5 in their prison account after any amount has been debited. Paragraph 4 also provides that a compensation requirement imposed against an inmate in a young offender institution under the 2000 Rules may be enforced as though it were imposed under the 1999 Rules where the person against whom the compensation requirement was imposed is detained in a prison.

Paragraph 5 of Schedule 1 amends rule 82 of the 1999 Rules so that, in contracted out prisons, the director or governor is empowered to exercise the powers conferred on governors in new rules 55AB and 61A.

Schedule 2 makes equivalent amendments to the 2000 Rules.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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