SCOTTISH STATUTORY INSTRUMENTS

2000 No. 187

PRISONS
YOUNG OFFENDERS INSTITUTIONS

The Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2000

Made - - - - *14th June 2000*
Laid before the Scottish Parliament - - - - *16th June 2000*

Coming into force in accordance with rule 1(2)

The Scottish Ministers, in exercise of the powers conferred upon them by section 39 of the Prisons (Scotland) Act 1989(**1**) and of all other powers enabling them in that behalf, hereby make the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2000.

(2) These Rules shall come into force on 7th July 2000 except for rule 22(2) which shall come into force on 28th July 2000.

(3) In these Rules, a reference to "the principal Rules" is a reference to the Prisons and Young Offenders Institutions (Scotland) Rules 1994(**2**).

(**1**) 1989 c. 45; section 39 was amended by the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9) ("the 1993 Act"), sections 24 and 25, Schedule 5, paragraph 6(6) and Schedule 7, by the Criminal Justice and Public Order Act 1994 (c. 33) ("the 1994 Act"), sections 116(4) and 130(4) and by the Crime and Disorder Act 1998 (c. 37), Schedule 8, paragraph 71; section 39 is to be read with sections 3A(5), (6) and (7) (which was inserted by the Crime and Punishment (Scotland) Act 1997 (c. 48) ("the 1997 Act")), section 43(2), 8(1) and (2), 11(1), 12 (as amended by the 1993 Act, Schedule 5, paragraph 6(2)), 14(1) (as amended by the 1993 Act Schedule 5, paragraph 6(3)), 19(3) and (4) (as amended by the 1993 Act, Schedule 5, paragraph 6(4)), 24 (which was repealed by the 1993 Act, Schedule 7 but was saved by Schedule 6 to that Act in relation to any "existing prisoner" within the meaning specified in paragraph 1 of Schedule 6), 33A (which was inserted by the 1994 Act, section 116(3)), 41(2B) (which was inserted by the 1994 Act, section 153(3)), 41B(1) (which was inserted by the 1994 Act, section 151(2)) and 41C(1) (which was inserted by the 1997 Act, section 42) of the 1989 Act; section 39 is also to be read with sections 107(4), 110(7) and 114(3) of the 1994 Act; section 39 was extended by the Courts Martial (Appeals) Act 1968 (c. 20), section 52 (as amended by the 1989 Act, Schedule 2, paragraph 10). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**2**) S.I. 1994/1931, amended by S.I. 1996/32, 1997/2007, 1998/1589, 1998/2504 and 1999/374.

Amendment of rule 3 of the principal Rules

2.—(1) Rule 3 of the principal Rules (interpretation)(**3**) is amended in accordance with the following paragraphs of this rule.

(2) In paragraph (1), in the definition of "appellant"—

(a) in paragraph (b), for the words "section 263(1) of the Criminal Procedure (Scotland) Act 1975 or section 124(3) of the said Act of 1995" there are substituted the words "section 124(3) of the Criminal Procedure (Scotland) Act 1995(**4**) or by the Scottish Criminal Cases Review Commission pursuant to section 194B(1) of the Criminal Procedure (Scotland) Act 1995(**5**);"; and

(b) in sub-paragraph (iii) after the words "Secretary of State" there are inserted the words "or, as the case may be, the Scottish Criminal Cases Review Commission".

(3) In paragraph (1), in the definition of "Governor" in sub-paragraph (b) after the words "13 to 16" there are inserted the words "and, unless otherwise expressly provided for, in directions made under rules 51(3)(b), 52(2), 54(2), 63(3) and 74".

Amendment of rule 18 of the principal Rules

3.—(1) Rule 18 of the principal Rules (entitlement of a prisoner to wear his own clothing)(**6**) is amended in accordance with the following paragraphs of this rule.

(2) In the heading, for the words "a prisoner", there are substituted the words "an untried prisoner".

(3) For paragraph (1) there is substituted the following paragraph:—

"(1) Subject to paragraph (2), every untried prisoner may wear his own clothing in prison and on those occasions when he is required or permitted to be outside the prison.".

(4) In paragraph (2), for the words "Paragraph (1) does not apply to a prisoner where-" there are substituted the words "Paragraph (1) does not apply to an untried prisoner where-".

(5) For paragraph (3) there is substituted the following paragraph:—

"(3) Where the Scottish Ministers consider, in relation to any prison to which these Rules apply, that it is not appropriate to permit untried prisoners, or particular categories of untried prisoner, to wear their own clothing in that prison, they may specify in a direction that paragraph (1) shall not apply in relation to any untried prisoner, or any category of untried prisoner, in that prison.".

Insertion of new rule 18A into the principal Rules

4. After rule 18 of the principal Rules (entitlement of an untried prisoner to wear his own clothing) there is inserted the following rule:—

"**Circumstances in which a prisoner other than an untried prisoner may wear his own clothing**

18A.—(1) The Governor may permit a prisoner other than an untried prisoner to wear his own clothing in prison and on those occasions when he is required or permitted to be outside the prison.

(**3**) Rule 3 was amended by S.I. 1996/32, rule 2, S.I. 1998/1589, rule 3 and S.I. 1999/374, rule 3.
(**4**) Section 124(3) was repealed by the Crime and Punishment (Scotland) Act 1997 (c. 48), Schedule 3.
(**5**) Section 194B was inserted by the Crime and Punishment (Scotland) Act 1997, section 25.
(**6**) Rule 18 was amended by S.I. 1999/374, rule 11(2).

(2) In considering whether or not to exercise his discretion in accordance with paragraph (1) above, the Governor shall take into account the matters set out in sub-paragraphs (a) to (d) of rule 18(2) as well as any other matters that appear to him to be relevant.

(3) A permission given by the Governor may be withdrawn at any time if the Governor considers it appropriate.".

Amendment of rule 19 of the principal Rules

5.—(1) Rule 19 of the principal Rules (provision of clothing to prisoners)(**7**) is amended in accordance with paragraph (2) of this rule.

(2) In paragraph (1), after the words "rule 18", there are inserted the words "or rule 18A".

Amendment of rule 49 of the principal Rules

6.—(1) Rule 49 of the principal Rules (opening and reading of correspondence from and to courts)(**8**) is amended in accordance with paragraph (2) of this rule.

(2) In paragraph (7), for the word "and", there are substituted the words ", the Scottish Criminal Cases Review Commission and".

Amendment of rule 62A of the principal Rules

7.—(1) Rule 62A of the principal Rules (visits by Members of Parliament)(**9**) is amended in accordance with the following paragraphs of this rule.

(2) In the heading there are inserted at the end the words ", members of the Scottish Parliament, and representatives of the European Parliament".

(3) In paragraphs (1), (2) and (3), after the words "a member of Parliament", there are inserted the words ", a member of the Scottish Parliament".

(4) In paragraph (2)(b), after the words "the member of Parliament," there are inserted the words "member of the Scottish Parliament,".

Insertion of new rule 62DD into the principal Rules

8. After rule 62D of the principal Rules (visits by members of the Parole Board for Scotland)(**10**) there is inserted the following rule:—

"**Visits by members or employees of the Scottish Criminal Cases Review Commission**

62DD.—(1) A prisoner may receive a visit from one or two members or employees of the Scottish Criminal Cases Review Commission for the purpose of assisting the Commission in the exercise of any of its functions.

(2) Where a prisoner receives a visit in terms of this rule —

(a) the visit shall take place within the sight of an officer; but

(b) shall take place outwith the hearing of any officer unless the member or employee of the Commission or the prisoner otherwise requests.".

(**7**) Rule 19 was amended by S.I. 1999/374, rule 10(2).
(**8**) Rule 49 was amended by S.I. 1999/374, rule 15(2).
(**9**) Rule 62A was inserted by S.I. 1998/1589, rule 28.
(**10**) Rule 62D was inserted by S.I. 1998/1589, rule 28.

Amendment of rule 70 of the principal Rules

9.—(1) Rule 70 of the principal Rules (work opportunities) is amended in accordance with paragraph (2) of this rule.

(2) In paragraph (2)—

(a) the word "and" at the end of sub-paragraph (a) is omitted; and

(b) after paragraph (b) there are inserted the words

"; and

(c) voluntary work outside the prison.".

Amendment of rule 80 of the principal Rules

10.—(1) Rule 80 of the principal Rules (removal from association) is amended in accordance with the following paragraphs of this rule.

(2) In paragraph (5) for the words "without the written authority of the Secretary of State", there are substituted the words ", except where the Scottish Ministers have granted written authority on the application of the Governor, prior to the expiry of the said period of 72 hours".

(3) For paragraph (6) there is substituted the following paragraph:—

"(6) An authority granted by the Scottish Ministers under paragraph (5) shall have effect for a period of one month commencing from the expiry of the period of 72 hours mentioned in paragraph (5) but the Scottish Ministers may, on any subsequent application of the Governor, renew the authority for further periods of one month commencing from the expiry of the previous authority.".

(4) After paragraph (8) there is inserted the following paragraph:—

"(8A) The Governor may allow a prisoner who has been removed from association under this rule to associate with other prisoners who have been removed from association under this rule, for the purpose of engaging or taking part in a prescribed activity.".

Amendment of rule 85A of the principal rules

11.—(1) Rule 85A of the principal Rules (temporary confinement to cell)(**11**) is amended in accordance with paragraph (2) of this rule.

(2) In paragraph (2), for the words "half an" there is substituted the word "one".

Amendment of rule 91 of the principal Rules

12.—(1) Rule 91 of the principal Rules (special escorted leave)(**12**) is amended in accordance with paragraph (2) of this rule.

(2) In paragraph (3)(c)(ii) the words "a life prisoner" are omitted.

Amendment of rule 95 of the principal rules

13.—(1) Rule 95 of the principal Rules (reports of breaches of discipline and removal from association)(**13**) is amended in accordance with the following paragraphs of this rule.

(**11**) Rule 85A was inserted by S.I. 1998/1589, rule 37.
(**12**) Rule 91 was amended by S.I. 1996/32, rule 21.
(**13**) Rule 95 was amended by S.I. 1996/32, rule 23(a) and 23(b).

(2) In paragraph (3), for the words "the written authority of the Scottish Ministers", there are substituted the words ", on the application of the Governor, the written authority of the Scottish Ministers has been obtained prior to the expiry of the 72 hour period".

(3) In paragraph (4), for sub-paragraph (a), there is substituted the following sub-paragraph:—

"(a) have effect for a period of one month commencing from the expiry of the said period of 72 hours but the Scottish Ministers may, on any subsequent application of the Governor, renew the authority for further periods of one month commencing from the expiry of the previous authority.".

(4) After paragraph (4) there is inserted the following paragraph:—

"(5) Where a prisoner has been removed from association under this rule, a medical officer shall visit that prisoner as soon as practicable and thereafter as often as is necessary but at least once in every 7 days.".

Amendment of rule 100 of the principal Rules

14.—(1) Rule 100 of the principal Rules (Governor's punishments)(**14**) is amended in accordance with paragraph (2) of this rule.

(2) In rule 100(1)(g), for the words "a prisoner", there are substituted the words "an untried prisoner".

Amendment of rule 100A of the principal Rules

15.—(1) Rule 100A of the principal Rules (awards of additional days)(**15**) is amended in accordance with the following paragraphs of this rule.

(2) In paragraph (6), after the words "total awarded", there are inserted the words "at the inquiry".

(3) After paragraph (8) there is inserted the following paragraph:—

"(9) Where an award or awards of additional days have effect by virtue of paragraph (8) and the award or the aggregate of the awards exceeds one-sixth of the prisoner's sentence, the award or the aggregate shall be deemed to be one-sixth of the prisoner's sentence.".

Amendment of rule 120 of the principal Rules

16.—(1) Rule 120 of the principal Rules (short home leave and Christmas and summer leave)(**16**) is amended in accordance with paragraph (2) of this rule.

(2) In paragraph (3)(a), after the words "particular hall", there are inserted the words "or part".

Amendment of rule 120A of the principal Rules

17.—(1) Rule 120A of the principal Rules (local leave)(**17**) is amended in accordance with paragraph (2) of this Rule.

(2) In paragraph (3)(a), after the words "particular hall", there are inserted the words "or part".

(**14**) Rule 100 was substituted by S.I. 1998/2504, rule 3.
(**15**) Rule 100A was inserted by S.I. 1998/2504, rule 3.
(**16**) Rule 120 was substituted by S.I. 1998/1589, rule 49.
(**17**) Rule 120A was inserted by S.I. 1996/32, rule 41.