STATUTORY RULES OF NORTHERN IRELAND

2009 No. 429

PRISONS AND YOUNG OFFENDERS CENTRES

The Prison and Young Offenders Centre (Amendment) Rules (Northern Ireland) 2009

Made - - - - 30th December 2009

To be laid before Parliament

Coming into operation 1st February 2010

The Secretary of State, in exercise of the powers conferred by section 13(1) of the Prison Act (Northern Ireland) 1953(**1**), as extended by section 2 of the Treatment of Offenders Act (Northern Ireland) 1968(**2**) makes the following rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Prison and Young Offenders Centre (Amendment) Rules (Northern Ireland) 2009 and shall come into operation on 1st February 2010.

(2) In these Rules any reference to a rule by number is a reference to that rule so numbered in the Prison and Young Offenders Centre Rules (Northern Ireland) 1995(**3**).

Rule 2 (General principles)

2. In rule 2(1)(b) for "and health" substitute ", health and well-being."

Rule 4 (Interpretation)

3.—(1) Rule 4 (interpretation) shall be amended as follows.

(2) After the definition of "the Act" insert the following—

""the 1997 Order" means the Prescription Only Medicines (Human Use) Order 1997(**4**);

"Assistant Director of Prison Health Care" means the officer of the relevant Health and Social Care trust with responsibility for prison health care;

(**1**) 1953 c. 18 (N.I.).
(**2**) 1968 c. 29 (N.I.).
(**3**) S.R. 1995 No. 8. Relevant amendments are made by S.R. 1995 No. 264, S.R. 1997 No. 86, S.R. 2000 No. 267, S.R. 2001 No. 221, S.R. 2004 No. 4 and S.R. 2005 No. 153.
(**4**) S.I.1997/1830. The "nurse independent prescriber" and "pharmacist independent prescriber" definitions were inserted by article 2(g) and (h) respectively of S.I. 2006/915.

"the Board" means the Regional Health and Social Care Board established under the Health and Social Care (Reform) Act (Northern Ireland) 2009(**5**);".

(3) After the definition of "a governor" insert—

"Health and Social Care trust" means a Health and Social Care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(**6**);

"health care manager" means the officer who is in charge of the health care unit in a prison;

"health care officer" means an officer who has received specialist training in order to provide health care to prisoners;

"health care professional" means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(**7**);

"health care unit" means the unit in a prison where health care is provided to prisoners;".

(4) The definition of "medical officer" is omitted.

(5) For the definition of "member of the Senior Civil Service" substitute "means a member of either the Home Civil Service or of the Northern Ireland Civil Service who is classified as a member of the Senior Civil Service and who works in the Northern Ireland Prison Service;".

(6) After the definition of "member of the Senior Civil Service" insert—

""nurse independent prescriber" has the same meaning as in article 1(2) of the 1997 Order;".

(7) After the definition of "the Ombudsman's staff" insert—

""pharmacist independent prescriber" has the same meaning as in article 1(2) of the 1997 Order;

"prescription only medicine" has the same meaning as in article 1(2) of the 1997 Order;".

(8) After the definition of "public holiday" insert—

""registered general practitioner" means a registered medical practitioner whose name is included on the General Practitioner Register kept by the General Medical Council;

"registered medical practitioner" means a fully registered person within the meaning of the Medical Act 1983(**8**) who holds a licence to practice under that Act;".

(9) After the definition of "registered nurse" insert—

""residential manager" means an officer who is normally required by the governor to supervise a residential unit;

"residential officer" means an officer who is normally required by the governor to work in a residential unit;".

Rule 12 (Cleanliness of the prison)

4. In rule 12(2) for "the medical officer" substitute "a registered nurse or a health care officer".

Rule 14 (Beds and bedding)

5. In rule 14 for "health" substitute "well-being".

(**5**) 2009 c. 1 (N.I.).
(**6**) S.I. 1991/194 (N.I.1).
(**7**) 2002 c. 17. Relevant amendments are made by section 127 of and Schedule 10 to the Health and Social Care Act 2008 (2008 c. 14). Health and Social Services trusts were renamed Health and Social Care trusts by section 1(3) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.
(**8**) 1983 c. 54. Relevant amendments are made by S.I. 2002/3135.

Rule 17 (Prisoners' property on reception)

6.—(1) Rule 17 (prisoners' property on reception) shall be amended as follows.

(2) In paragraph (4) for "the medical officer" substitute "a health care professional".

(3) For paragraph (5) substitute—

"(5) In the absence of a health care professional a health care officer may perform the duty referred to in paragraph (4).".

Rule 20 (Baths)

7. Omit "or medical officer" and for "either" substitute "him".

Rule 21 (Medical examination on reception)

8.—(1) Rule 21 (medical examination on reception) shall be amended as follows.

(2) In the heading for "Medical examination" substitute "Health care screening".

(3) In paragraph (1) for "the medical officer or other approved medical practitioner" substitute "a registered nurse or a health care officer".

(4) For paragraph (2) substitute—

"(2) Where possible an appropriate health care professional shall conduct a detailed health assessment of each prisoner within 72 hours of the examination conducted under paragraph (1).".

(5) Paragraph (3) is omitted.

(6) In paragraph (4) for "the medical officer" substitute "a registered nurse or a health care officer" and for "the chief medical officer" substitute "a registered general practitioner, the health care manager and the Board".

Rule 26 (Transfer)

9.—(1) Rule 26 (transfer) shall be amended as follows.

(2) Paragraph (2) is omitted.

(3) In paragraph (3) for "the medical officer" substitute "a health care professional" and for "of that" to the end substitute "of that opinion and shall make a record of that opinion".

Rule 27 (Temporary release)

10. In paragraph (2) for "medical treatment" substitute "health care".

Rule 28 (Discharge)

11. Paragraph (2) is omitted.

Rule 29 (Death or serious illness of prisoner)

12. In paragraph (3) for "the medical officer" where it first appears substitute "the health care manager" and for "the chief medical officer" substitute "the Assistant Director of Prison Health Care" and for "the medical officer" where it next appears substitute "a registered general practitioner" and in sub-paragraph (c) for "disease" substitute "illness".

Rule 32 (Restriction of association)

13.—(1) Rule 32 (restriction of association) shall be amended as follows.

(2) In paragraph (1) after "discipline," insert "or to ensure the safety of officers, prisoners or any other person".

(3) After paragraph (1) insert—

"(1A) Where a prisoner's association is restricted to ensure the safety of officers, prisoners or any other person, the prisoner may be accommodated in a cell equipped to aid the retrieval of any unauthorised or prohibited article which he may have in his possession.".

(4) In paragraph (2) for "48" substitute "72".

(5) In paragraph (4) for "such a prisoner" to the end substitute "a prisoner who is subject to restriction of association to resume full or increased association with other prisoners at any time, and in exercising that discretion the governor shall fully consider any recommendation that the prisoner resumes full or increased association on health and well-being grounds made by a registered general practitioner or a registered nurse or a health care officer".

Rule 36 (Inquiry into charge)

14. In paragraph (7) for "officer" substitute "governor".

Rule 38 (Offences against prison discipline)

15.—(1) Rule 38 (offences against prison discipline) shall be amended as follows.

(2) After paragraph (19) insert—

"(19A) is found with any substance in a sample taken under rule 48B which demonstrates that he has alcohol in his body (but subject to rule 39A);

(19B) is found with any substance in a sample taken under rule 48C which demonstrates that a drug has, whether in prison or while on temporary release under rule 27, been administered to him by himself or by another person (but subject to rule 39B);

(19C) refuses to provide a sample under either rule 48B or rule 48C;".

Rule 39 (Governor's awards)

16. In rule 39(4) (governor's awards) omit the words "forfeiture of remission" to "in the case of".

Defences to alcohol and drugs offences

17. After rule 39 (offences against prison discipline) insert the following rules—

"**Defences to rule 39(19A)**

39A. It shall be a defence for a prisoner charged with an offence under rule 38(19A) 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.

Defences to rule 39(19B)

39B. It shall be a defence for a prisoner charged with an offence under rule 38(19B) to show that—

(a) the 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 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 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.".

Rule 41 (Provisions in relation to particular awards)

18. In paragraph (2) for "the medical officer" substitute "an appropriate health care professional".

Rule 45 (Petition against awards)

19. Rule 45 (petition against awards) is omitted.

Rule 47 (Temporary confinement)

20.—(1) Rule 47 (temporary confinement) shall be amended as follows.

(2) At the end of the heading insert "for refractory or violent prisoners".

(3) In paragraph (1) for "protected room" substitute "observation cell.".

(4) In paragraph (2) for "the medical officer" in each place where it appears substitute "an appropriate health care professional" and for "protected room" substitute "observation cell".

(5) After paragraph (2) insert the following —

"(2A) The governor shall consult with a registered general practitioner or the health care manager in relation to the intended removal of any prisoner to an observation cell.".

(6) Paragraph (3) is omitted.

(7) In paragraph (5) for "protected room" substitute "observation cell" and for "the medical officer" substitute "an appropriate health care professional".

Rule 48 (Restraints)

21.—(1) Rule 48 (restraints) shall be amended as follows.

(2) In paragraph (2) for "the medical officer" substitute "the Assistant Director of Prison Health Care".

(3) In paragraph (3) for "the medical officer" in each place where it appears substitute "the Assistant Director of Prison Health Care".

(4) In paragraph (4) for "medical grounds" substitute "health care grounds" and for "the medical officer" substitute "a registered general practitioner".

(5) In paragraph (7) for "the medical officer" substitute "a registered general practitioner".

(6) In paragraph (8) for "the medical officer" substitute "a registered general practitioner".