STATUTORY RULES OF NORTHERN IRELAND

2005 No. 153

PRISON AND YOUNG OFFENDERS CENTRES

The Prison and Young Offenders Centre (Amendment) Rules (Northern Ireland) 2005

Made - - - - 21st March 2005

Laid before Parliament 23rd March 2005

Coming into operation in accordance with Rule 1

The Secretary of State, in exercise of the powers conferred upon him 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**), hereby 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) 2005.

(2) In these Rules "the principal rules" means the Prison and Young Offenders Centre Rules (Northern Ireland) 1995(**3**).

(3) Rule 1, rule 3, insofar as it inserts a definition of "registered nurse" into rule 4 of the principal rules, and rule 8 of these Rules shall come into operation on 13th April 2005.

(4) Rule 2, the remaining provisions of rule 3 and rules 4 to 7 of these Rules shall come into operation on 3rd May 2005.

Amendment of rule 3 of the principal rules

2. After rule 3(6) of the principal rules insert –

"(7) Rules 79E to 79H (complaints by former prisoners) and rules 79I to 79N (complaints to the Ombudsman) apply to former prisoners.(**4**)

(**1**) 1953 c. 18 (N.I.) as amended by S.I.1973/2163. There are other amendments to section 13(1) which are not relevant to the subject matter of these Rules.
(**2**) 1968 c. 29 (N.I.) as amended by S.I. 1973/2163.
(**3**) S.R. 1995/8 as amended by S.R. 1995/264, S.R. 1997/86, S.R. 2000/267, S.R. 2001/221 and S.R. 2004/4.
(**4**) The rules referred to in this rule are inserted below.

Interpretation in the principal rules

3. In rule 4 of the principal rules insert the following at the appropriate places –

""complaint form" means a form made available to prisoners for the purpose of submitting a complaint under Part VIII of these rules;

"former prisoner" means a prisoner, within the meaning of the rules who has been permanently released;

"member of the Senior Civil Service" means a member of either the Home Civil Service or the Northern Ireland Civil Service who is employed in the Northern Ireland Prison Service;

"the Ombudsman" means the person appointed under section 2(2) of the Act to act as the Prisoner Ombudsman for Northern Ireland;

"the Ombudsman's staff" means persons employed in the Northern Ireland Office to assist the Ombudsman;

"registered nurse" means a nurse registered under Article 5 of the Nursing and Midwifery Order 2001(**5**);".

Amendment of rule 32 of the principal rules

4.—(1) In rule 32(2) of the principal rules the words "of a member of the board of visitors or" are omitted.

(2) After paragraph (2) of rule 32 of the principal rules insert:

"(2A) The governor shall inform a member of the board of visitors –

(a) that he has arranged for the restriction of the association of the prisoner, and

(b) of the date, time and location of the first review of the restriction of the prisoner's association.

(2B) The governor shall inform a member of the board of visitors of the matters in paragraph (2A) as soon as practicable and in any event no later than 24 hours after the prisoner's association is restricted.

(2C) The governor shall keep a written record of all contact and attempted contact with members of the board of visitors under this rule.

(2D) Unless it is not reasonably practicable, a member of the board of visitors shall be present at all reviews of the restriction of the association of the prisoner.

(2E) The governor shall as soon as reasonably practicable inform a member of the board of visitors:

(a) of any changes to the date, time or location of the first review of the restriction of the association of the prisoner,

(b) the date, time and location of any subsequent reviews of the restriction of association of the prisoner, and

(c) any changes to the date, time or location of any subsequent reviews.

(2F) The board of visitors shall satisfy itself that:

(a) the procedure in this rule for arranging and reviewing the restriction of the association of the prisoner has been followed, and

(b) the decision of the governor to restrict the association of the prisoner is reasonable in all the circumstances of the case.

(**5**) S.I. 2002/253.

(2G) In order to satisfy itself of the matters in paragraph (2F) the board of visitors shall be entitled to inspect the evidence on which the governor's decision was based, unless such evidence falls within paragraph (2H).

(2H) Evidence falls within this paragraph if:

(a) it should not be inspected by the board of visitors for the purpose of safeguarding national security;

(b) its inspection by the board of visitors would, or would be likely to prejudice the administration of justice;

(c) its inspection by the board of visitors would, or would be likely to endanger the physical or mental health of any individual; or

(d) its inspection by the board of visitors would, or would be likely to endanger the safety of any individual.

(2I) If the board of visitors is not satisfied of any of the matters set out in paragraph (2F) it shall draw this to the attention of the governor, in writing, who must, review the procedure for arranging and reviewing the restriction of the association of the prisoner, review his decision to restrict the association of the prisoner and take such other steps as are reasonable in all the circumstances of the case.

(2J) The governor must take the steps in paragraph (2I) promptly and in any event within seven days and the board of visitors shall not refer a matter to the Secretary of State under paragraph (2K) until the governor has taken the steps in paragraph (2I) or the end of the seven days whichever is earlier.

(2K) If after drawing a matter to the attention of the governor under paragraph (2I) the board of visitors is still not satisfied of any of the matters set out in paragraph (2F) it shall draw this to the attention of the Secretary of State in writing.

(2L) If a matter is referred to the Secretary of State under paragraph (2K) he must consider the matter and take such steps as are reasonable in all the circumstances of the case."

Amendment of rule 45 of the principal rules

5.—(1) In rule 45(1) of the principal rules the words "or by the board of visitors" are omitted.

(2) In rule 45(2)(b) of the principal rules the words "or board of visitors" are omitted.

Amendment of rule 48 of the principal rules

6.—(1) In rule 48(2) of the principal rules the words "a member of the board of visitors," are omitted.

(2) After rule 48(3) of the principal rules insert –

"(3A) The governor shall inform a member of the board of visitors:

(a) that he has ordered that a prisoner be put under restraint, and

(b) of the date, time and location of the first review of the order.

(3B) The governor shall inform a member of the board of visitors of the matters in paragraph (3A) as soon as practicable and in any event no later than 24 hours after the order that the prisoner be put under restraint is made.

(3C) The governor shall keep a written record of all contact and attempted contact with members of the board of visitors under this rule.

(3D) Unless it is not reasonably practicable, a member of the board of visitors shall be present at all reviews of the order that a prisoner be put under restraint.

(3E) The governor shall as soon as reasonably practicable inform a member of the board of visitors:

(a) of any changes to the date, time or location of the first review of the order that the prisoner be put under restraint,

(b) the date, time and location of any subsequent reviews of the order that the prisoner be put under restraint, and

(c) any changes to the date, time or location of any subsequent reviews.

(3F) The board of visitors shall satisfy itself that:

(a) the procedure under this rule for making and reviewing the order to put the prisoner under restraint has been followed, and

(b) the decision of the governor to make the order putting the prisoner under restraint is reasonable in all the circumstances of the case.

(3G) In order to satisfy itself of the matters in paragraph (3F) the board of visitors shall be entitled to inspect the evidence on which the governor's decision was based, unless such evidence falls within paragraph (3H).

(3H) Evidence falls within this paragraph if:

(a) it should not be inspected by the board of visitors for the purpose of safeguarding national security;

(b) its inspection by the board of visitors would, or would be likely to prejudice the administration of justice;

(c) its inspection by the board of visitors would, or would be likely to endanger the physical or mental health of any individual; or

(d) its inspection by the board of visitors would, or would be likely to endanger the safety of any individual.

(3I) If the board of visitors is not satisfied of any of the matters set out in paragraph (3F) it shall draw this to the attention of the governor, in writing, who must, review the procedure for arranging and reviewing the order to put the prisoner under restraint, review his decision to make the order putting the prisoner under restraint and take such other steps as are reasonable in all the circumstances of the case.

(3J) The governor must take the steps in paragraph (3I) promptly and in any event within seven days and the board of visitors shall not refer a matter to the Secretary of State under paragraph (3K) until the governor has taken the steps in paragraph (3I) or the end of the seven days whichever is earlier.

(3K) If after drawing a matter to the attention of the governor under paragraph (3I) the board of visitors is still not satisfied of any of the matters set out in paragraph (3F) it shall draw this to the attention of the Secretary of State in writing.

(3L) If a matter is referred to the Secretary of State under paragraph (3K) he must consider the matter and take such steps as are reasonable in all the circumstances of the case."

(3) In Rule 48(7) of the principal rules the word "both" and the words "and a member of the board of visitors" are omitted.

Amendment of Part VIII of the principal rules

7. For rules 74 to 79 of the principal rules substitute –

"**Prisoner requests**

74.—(1) A prisoner may make any request relating to his imprisonment to an officer, a governor, a member of the board of visitors, or an officer of the Secretary of State visiting the prison.

(2) Any such request shall be recorded by the person to whom it is made and it shall be reported to the governor as soon as possible.

(3) A prisoner may make a request orally or in writing.

(4) Every request shall be considered by, or on behalf of, the governor, and a reply given as soon as possible.

Complaints by prisoners: subject matter of complaints

75.—(1) A prisoner may complain, using the procedure set out in rules 76 to 79B about the following matters:

(a) his treatment by any person employed in the Northern Ireland Prison Service, including provision for his health and welfare while in prison, and treatment includes an omission;

(b) the facilities available to him at the prison; and

(c) the cleanliness and adequacy of prison premises.

(2) If a prisoner submits a complaint which does not deal with a matter set out in paragraph (1) the prisoner's class officer shall write to the prisoner, within seven days of receiving the completed complaint form, informing him that his complaint is not appropriate to be dealt with under the procedure set out in rules 76 to 79B.

Complaints by prisoners: first stage

76.—(1) A prisoner makes a complaint by submitting a completed complaint form to his class officer.

(2) On receipt of the completed complaint form the class officer shall pass it to the appropriate person within three days unless the class officer is the appropriate person, in which case he shall retain it.

(3) Subject to rule 79B (complaints by prisoners: treatment of vexatious etc. complaints)(**6**), the appropriate person must consider the complaint and provide a response to the complaint as soon as possible and in any event no more than seven days after receiving the completed complaint form.

(4) Subject to paragraph (6), the appropriate person shall respond to the complaint by completing the appropriate part of the completed complaint form and returning it to the class officer.

(5) Subject to paragraph (6), on receiving a completed complaint form under paragraph (4) the class officer shall return it to the prisoner within 24 hours of receiving it from the appropriate person.

(6) If the class officer is the appropriate person he shall respond to the complaint by completing the appropriate part of the completed complaint form and returning it to the prisoner.

(**6**) Rule 79B is inserted below.