
STATUTORY INSTRUMENTS

1994 No. 1931 (S.85)

**PRISONS
YOUNG OFFENDERS
INSTITUTIONS, SCOTLAND**

The Prisons and Young Offenders
Institutions (Scotland) Rules 1994

<i>Made</i>	- - - -	<i>18th July 1994</i>
<i>Laid before Parliament</i>		<i>19th July 1994</i>
<i>Coming into force</i>		
<i>For all purposes except those specified in rule 1(3) and (5)</i>		<i>1st November 1994</i>
<i>For the purposes specified in rule 1(3)</i>		<i>1st October 1994</i>
<i>For the purposes specified in rule 1(5)</i>		<i>1st January 1995</i>

The Secretary of State, in exercise of the powers conferred on him by section 39 of the Prisons (Scotland) Act 1989(1) and of all other powers enabling him in that behalf, hereby makes the following Rules:

(1) 1989 c. 45; section 39 was amended by the 1993 Act, sections 24 and 25, Schedule 5, paragraph 6(6) and Schedule 7; section 39 is to be read with sections 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Act, Schedule 5, paragraph 6(3)), 19(3) and (4) (as amended by the 1993 Act, Schedule 5, paragraph 6(4)), 24 (which was repealed by the 1993 Act, Schedule 7 but was saved by Schedule 6 to that Act in relation to any “existing prisoner” within the meaning specified in paragraph 1 of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) and 41; 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).

PART 1

GENERAL

Citation and commencement

1.—(1) These Rules may be cited as the Prisons and Young Offenders Institutions (Scotland) Rules 1994.

(2) Subject to paragraphs (3), (4) and (5), these Rules shall come into force on 1st November 1994.

(3) The provisions of rules 18(3), 20(2), 41, 44(1), 51(3)(b), 52(2), 54(2), 55(6), 57(3), 63(2), 69(3)(b), 70(3), 74, 91(4), 92(5), 100(6)(c), 113 and 126 shall come into force on 1st October 1994 but only for the purpose of enabling the Secretary of State to make provision by direction for the purposes specified in those rules with effect on and after 1st November 1994.

(4) Rule 133(2) to (5) and Schedule 4 shall come into force on 1st November 1994 but only for the purpose of appointing the members of visiting committees to be established on and after 1st January 1995.

(5) The following provisions of these Rules shall come into force on 1st January 1995:—

- (a) rule 133(2) to (5) and Schedule 4 insofar as not then in force;
- (b) rule 133(1) and (6) to (8);
- (c) rules 134 to 140;
- (d) rule 143 but only insofar as relating to Part II of Schedule 5; and
- (e) Part II of Schedule 5.

Application to young offenders institutions and young offenders

2.—(1) Subject to paragraph (2), these Rules apply to young offenders institutions and—

- (a) to persons on whom detention in a young offenders institution has been imposed under section 207(2) or 415(2) of the Criminal Procedure (Scotland) Act 1975(2); and
- (b) persons sentenced under section 205 of that Act(3) to be detained without limit of time or for life and who are directed or sentenced to be detained in a young offenders institution,

as they apply to prisons and prisoners; and references in these Rules to prison, prisoner, imprisonment or a sentence of imprisonment shall be construed, except where the context otherwise requires, as references to young offenders institutions, young offender, detention or a sentence of detention in a young offenders institution respectively.

(2) The application of these Rules as mentioned in paragraph (1) is subject to the exceptions and modifications set out in Schedule 1.

Interpretation

3.—(1) In these Rules, unless the context otherwise requires, the following expressions shall have the meanings ascribed to them:—

“the Act” means the Prisons (Scotland) Act 1989;

“the 1993 Act” means the Prisoners and Criminal Proceedings (Scotland) Act 1993(4);

(2) 1975 c. 21; sections 207 and 415 were substituted by the Criminal Justice (Scotland) Act 1980 (c. 62), section 45.

(3) Section 205 was substituted by the said Act of 1980, section 43.

(4) 1993 c. 9.

“1952 Rules” means the Prison (Scotland) Rules 1952(5);

“1965 Rules” means the Young Offenders (Scotland) Rules 1965(6);

“appellant” means a prisoner—

- (a) who appeals under section 228 or 442 of the Criminal Procedure (Scotland) Act 1975(7) against his conviction or sentence, or both his conviction and sentence;
- (b) whose case has been referred to the High Court of Justiciary by the Secretary of State pursuant to section 263(1) of the said Act of 1975(8);
- (c) who appeals by way of bill of suspension against his conviction or sentence, or both conviction and sentence, in summary proceedings;
- (d) who appeals under section 8 of the Courts-Martial (Appeals) Act 1968(9) against his conviction or sentence, or both conviction and sentence, or who appeals under section 39(1) of that Act from any decision of the Courts-Martial Appeal Court on an appeal under section 8 of that Act; or
- (e) who is subject to a supervised release order under section 212A of the said Act of 1975(10) and who appeals under section 19 of the 1993 Act,

and for the purpose of this definition a prisoner shall be deemed to be an appellant from the time—

- (i) in the case of an appeal as referred to in sub-paragraph (a), he lodges a written intimation of intention to appeal or a note of appeal in terms of section 231(1) or 233(1) of the said Act of 1975(11) or an application for a stated case or a note of appeal in terms of section 444(1) or 453B(1) of that Act(12);
- (ii) in the case of a reference as referred to in sub-paragraph (b), the Secretary of State refers the case to the High Court of Justiciary;
- (iii) in the case of an appeal as referred to in sub-paragraph (c), he lodges the bill of suspension;
- (iv) in the case of an appeal as referred to in sub-paragraph (d), he presents a petition in terms of section 8(2) of the Courts-Martial (Appeals) Act 1968(13); or
- (v) in the case of an appeal as referred to in sub-paragraph (e), he lodges a note of appeal, until the appeal or, as the case may be, the reference is finally disposed of or abandoned in its entirety;

“chaplain” means the person who is appointed pursuant to section 3(2) of the Act as the chaplain to a prison;

“chaplaincy team” consists of the chaplain and any prison minister and any visiting minister;

(5) S.I. 1952/565, amended by S.I. 1954/240, 1956/671, 1966/1552, 1970/2013, 1976/1889, 1979/1630, 1981/1222, 1984/2058, 1987/2231, 1988/537 and 1993/2227.

(6) S.I. 1965/195, amended by S.I. 1966/1551, 1981/1223 and 1993/2228.

(7) Sections 228 and 442 were substituted by the Criminal Justice (Scotland) Act 1980 (c. 62), Schedule 2, paragraph 1 and Schedule 3, paragraph 1 respectively; section 442 was amended by the 1993 Act, section 42 and Schedule 5, paragraph 1(33).

(8) Section 263(1) was amended by the Criminal Justice (Scotland) Act 1980 (c. 62), Schedule 2, paragraph 22 and Schedule 8.

(9) 1968 c. 20; section 8 was amended by the Armed Forces Act 1971 (c. 33), section 73(2) and Schedule 2, paragraph 1(2), by the Armed Forces Act 1976 (c. 52), section 22(5) and Schedule 9, paragraph 16 and by the Armed Forces Act 1991 (c. 62), Schedule 3.

(10) Section 212A was inserted by the 1993 Act, section 14(1).

(11) Sections 231 and 233 were substituted by the Criminal Justice (Scotland) Act 1980, Schedule 2, paragraphs 3 and 5 respectively; section 231(1) was amended by the Criminal Justice (Scotland) Act 1987 (c. 41), section 45(6)(a); section 233(1) was amended by the 1993 Act, Schedule 5, paragraph 1(9).

(12) Section 444(1) was substituted by the Criminal Justice (Scotland) Act 1980 (c. 62), Schedule 3, paragraph 3(a); section 453B(1) was inserted by the said Act of 1980, Schedule 3, paragraph 13 and amended by the 1993 Act, Schedule 5, paragraph 36(a).

(13) Section 8(2) was amended by the Armed Forces Act 1971 (c. 33), Schedule 2, paragraph 1(2).

“civil prisoner” means a person who is committed to prison—

- (a) by virtue of non-compliance with an order under section 45 of the Court of Session Act 1988⁽¹⁴⁾;
- (b) under section 4 or 6 of the Civil Imprisonment (Scotland) Act 1882⁽¹⁵⁾;
- (c) by virtue of a warrant granted under section 1(1) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1940⁽¹⁶⁾;
- (d) for contempt of court or for non-payment of a fine imposed for contempt of court; or
- (e) for breach of interdict;

“closed visiting facilities” means visiting facilities which adopt special security features including physical barriers between prisoner and visitor;

“clothing” includes footwear, jewellery and other objects worn for personal adornment;

“constable” has the same meaning as in section 51(1) of the Police (Scotland) Act 1967⁽¹⁷⁾;

“employee” means an employee (not being an officer of a prison) appointed by the Secretary of State under section 2(1) of the Act;

“film” has the same meaning as in Part I of the Copyright, Designs and Patents Act 1988⁽¹⁸⁾;

“Governor” means—

- (a) in rule 78 and in any rule in Part 11 (other than rules 102 and 103), the officer who is appointed under section 3 of the Act as the Governor in charge of the prison;
- (b) in rules 4, 5, 11, 21 and 67 and in any rule in Parts 7, 9, 10 and 13 to 16, any officer of a governor grade or, where there is no such officer present for the time being in the prison, the most senior officer who is present in prison at that time; and
- (c) in any other provision in these Rules, any officer;

“legal adviser” means a person who is entitled to practise—

- (a) as a solicitor, an advocate or a barrister in any part of the United Kingdom; or
- (b) as a member of the corresponding profession of solicitor, advocate or barrister in any Member State of the European Community,

and includes the authorised clerk or employee of such a person;

“letter” includes any communication in written form which—

- (a) is directed to a specific person or address; and
- (b) relates to the personal, private or business affairs of, or the business affairs of the employer of, either correspondent,

and includes an envelope containing any such communication;

“life prisoner” means a person serving a sentence of imprisonment for life;

“long-term prisoner” shall be construed in accordance with Part I of the 1993 Act;

“medical officer” means an officer of a prison who is appointed by the Secretary of State under section 3(1) of the Act to be a medical officer of that prison;

“officer” means an officer of the prison appointed by the Secretary of State and includes the Governor;

(14) 1988 c. 36.

(15) 1882 c. 42; sections 4 and 6 were amended by the Sheriff Courts (Scotland) Act 1971 (c. 58), section 4.

(16) 1940 c. 42.

(17) 1967 c. 77.

(18) 1988 c. 48.

“photograph” has the same meaning as in Part I of the Copyright, Designs and Patents Act 1988;

“prison minister” means a person who is appointed by the Secretary of State pursuant to section 9(1) of the Act as a minister to a prison;

“prohibited article” means—

- (a) any drug which is a controlled drug for the purposes of the Misuse of Drugs Act 1971⁽¹⁹⁾;
- (b) any firearm or any ammunition within the meaning of the Firearms Act 1968⁽²⁰⁾;
- (c) any offensive weapon within the meaning of the Prevention of Crime Act 1953⁽²¹⁾;
- (d) any article to which section 1 of the Carrying of Knives etc. (Scotland) Act 1993⁽²²⁾ applies; or
- (e) alcoholic liquor;

“reception”, in relation to a prisoner committed to prison means the process of receiving a prisoner into prison—

- (a) on his removal to prison from court, or any other place, in implementation of the warrant, order or certificate ordering or authorising his detention in custody; or
- (b) on his transfer to any prison from any other prison, or from any remand centre, young offenders institution or other place where he was liable to be detained in custody,

and cognate expressions shall be construed accordingly;

“refugee” means—

- (a) a person who is recognised by Her Majesty’s Government as a refugee within the meaning of the UN Convention relating to the Status of Refugees done at Geneva on 28th July 1951⁽²³⁾ as extended by the Protocol thereto which entered into force on 4th October 1987⁽²⁴⁾ or, as the case may be, the Protocol relating to the status of refugees done at New York on 31st January 1967⁽²⁵⁾; or
- (b) a person who enjoys asylum in the United Kingdom in pursuance of a decision of Her Majesty’s Government though not yet recognised;

“residential officer” means an officer who is required by the Governor to supervise a specific area of living accommodation for prisoners;

“residential unit manager” means an officer who is required by the Governor to manage a number of areas of living accommodation for prisoners;

“security category” means a category assigned in accordance with rule 12;

“short-term prisoner” shall be construed in accordance with Part I of the 1993 Act;

“sound recording” has the same meaning as in Part I of the Copyright, Designs and Patents Act 1988;

“special cell” means a room or cell which is adapted for the temporary accommodation of refractory or violent prisoners and whose features may include special sound-proofing, strengthened fixtures and fittings or the absence of any window;

(19) 1971 c. 38.

(20) 1968 c. 27.

(21) 1953 c. 14.

(22) 1993 c. 13.

(23) Treaty Series No. 39 (1954), Cmnd 9171.

(24) Treaty Series No. 50 (1987), Cmnd 222 (out of print: photocopies are available free of charge from the Scottish Prison Service, Calton House, 5 Redheughs Rigg, Edinburgh).

(25) Treaty Series No. 15 (1969), Cmnd 3906 (out of print: photocopies are available free of charge from the Scottish Prison Service, Calton House, 5 Redheughs Rigg, Edinburgh).

“stateless person” has the meaning assigned to it in article 1 of the Convention relating to the Status of Stateless Persons 1954⁽²⁶⁾;

“training for freedom hostel” means that part of a prison, so designated by the Governor, used for custody of prisoners prior to release who are involved in work and other activities approved by the Governor outwith the prison;

“untried prisoner” means a person who is committed to prison—

- (a) for examination or trial on any criminal charge;
- (b) by virtue of remand in custody under the Extradition Act 1989⁽²⁷⁾; or
- (c) by virtue of detention under Schedule 2 or 3 to the Immigration Act 1971⁽²⁸⁾,

but does not include any such person who is for the time being serving a sentence of imprisonment;

“visiting minister” means a minister who is allowed to visit prisoners of his denomination in terms of section 9(3) of the Act;

“young prisoner” means a prisoner who is under 16 years of age.

(2) Unless the context otherwise requires, any reference in these Rules to a numbered rule is a reference to the rule in these Rules bearing that number; any reference to a numbered Schedule is a reference to the Schedule to these Rules bearing that number and any reference in a rule to a numbered paragraph is a reference to the paragraph bearing that number in that rule.

(3) For the purposes of any reference in these Rules to the term of imprisonment or other detention to which a person has been sentenced, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term.

Elimination of discrimination

4. Subject to the provisions of these Rules or of any direction made for any purpose specified in these Rules, the Governor shall seek to eliminate within the prison discrimination on the grounds of gender, sexual orientation, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, birth, medical condition and economic or other status against particular prisoners or categories of prisoners.

Availability of Rules and directions

5. The Governor shall ensure that a copy of these Rules, and of any direction made for any purpose specified in the Rules, as in force from time to time, shall be readily available for inspection by officers and prisoners in each accommodation block and in the prison library.

PART 2

RECEPTION, RECORDS, CLASSIFICATION AND ALLOCATION

Production of warrant, order, direction or certificate

6. No person shall be received as a prisoner into prison unless there exists and is produced in respect of him a valid warrant, order, direction or certificate authorising his detention in custody.

⁽²⁶⁾ Cmnd 1098 of 1960.

⁽²⁷⁾ 1989 c. 33.

⁽²⁸⁾ 1971 c. 77.

Procedure on reception of prisoners

- 7.—(1) This rule applies in relation to every prisoner on his reception.
- (2) Every prisoner shall be searched in accordance with rule 88.
- (3) The Governor may deliver—
- (a) subject to sub-paragraph (b), any prohibited article in the possession of the prisoner to the police; and
 - (b) any medicines in the possession of the prisoner to the medical officer.
- (4) Subject to paragraph (5), every prisoner shall be required by an officer to take a hot bath or shower.
- (5) The Governor or medical officer may direct that a prisoner shall not be required to take a hot bath or shower, in which event he shall explain the reasons why to the prisoner concerned.

Interview and medical examination of prisoners on reception

- 8.—(1) Every prisoner shall be interviewed by an officer at the time of his reception in order to identify any problems which may require immediate attention.
- (2) Every prisoner shall be examined by the medical officer as soon as may be reasonably practicable following reception and, in any event, no later than 24 hours after reception.

Information to be given to prisoners on reception

- 9.—(1) Paragraphs (2) to (5), (6)(e) and (7) of this rule do not apply in relation to a prisoner who is received into prison on his transfer from any other prison.
- (2) Every prisoner shall be informed by the Governor at the time of his reception how he may inform—
- (a) up to two persons; and
 - (b) his legal adviser,
- of his reception into prison, and the Governor shall make available reasonable facilities for that purpose.
- (3) A prisoner who is a foreign national shall also be informed that he may contact, in addition to the persons mentioned in paragraph (2), a diplomatic representative of his choice.
- (4) A prisoner who is a refugee or stateless person shall also be informed that he may contact, in addition to the persons mentioned in paragraph (2),—
- (a) a diplomatic representative of a state which he considers may look after his interests; and
 - (b) subject to such limit as to numbers as the Governor may reasonably impose, national or international authorities and organisations whose principal purpose is to serve the interests of refugees or stateless persons or to protect the civil rights of such persons.
- (5) A prisoner who is committed to prison on default of the payment of any sum of money due to be paid by him shall be informed by the Governor at the time of his reception of the facilities available to him in terms of rule 65 to arrange the making of such payment as will entitle him to be released from prison.
- (6) On reception every prisoner shall be provided with information in writing by the Governor concerning the following matters:—
- (a) the rules, directions and standing orders which apply in that prison;
 - (b) the prison routine and regime;
 - (c) how the prisoner may make requests and complaints;

- (d) how he may maintain contact with relatives and friends; and
 - (e) the rights of appeal against conviction or sentence, or against both conviction and sentence, which may be available to him in terms of—
 - (i) section 228 or 442 of the Criminal Procedure (Scotland) Act 1975⁽²⁹⁾; or
 - (ii) in the case of a prisoner convicted by a court-martial under the Army Act 1955⁽³⁰⁾, the Air Force Act 1955⁽³¹⁾ or the Naval Discipline Act 1957⁽³²⁾, the Courts-Martial (Appeals) Act 1968⁽³³⁾.
- (7) In the case of any prisoner whose date of release can be calculated at the time of his reception, the Governor shall inform him of that date as soon as may be reasonably practicable and normally within 48 hours.
- (8) The information to be provided to any prisoner in terms of this rule shall be provided in a manner which enables him to understand it.

Registration and records of prisoners

10.—(1) As soon as may be reasonably practicable following his reception the following particulars of every prisoner shall be recorded by the Governor insofar as he considers they are relevant to the identification and management of that prisoner:—

- (a) the religious denomination to which the prisoner has declared himself to belong;
- (b) any distinctive marks on his body;
- (c) his physical measurements; and
- (d) any other personal particulars.

(2) Paragraph (1) does not apply in relation to a prisoner who is received into prison on his transfer from any other prison.

(3) Any information received for the purposes of paragraph (1) shall be updated as necessary during the prisoner's confinement in the prison.

(4) The Governor may at any time during the confinement of a prisoner (other than an untried or civil prisoner) in prison and shall at least once in every 3 years where a prisoner has been in legal custody for such a period—

- (a) photograph; and
- (b) take palm and fingerprints of,

the prisoner.

(5) The Governor may at any time during the period that an untried prisoner is remanded or detained in prison—

- (a) photograph an untried prisoner but only where he receives an application in writing signed by a procurator fiscal or by a Constable of not lower rank than Superintendent which states that photographs of such a prisoner are required for any purpose; and
- (b) take palm and fingerprints of an untried prisoner.

⁽²⁹⁾ 1975 c. 21; sections 228 and 442 were substituted by the Criminal Justice (Scotland) Act 1980 (c. 62), Schedule 2, paragraph 1 and Schedule 3, paragraph 1 respectively; section 442 was amended by the 1993 Act, section 45 and Schedule 5, paragraph 1(33).

⁽³⁰⁾ 1955 c. 18.

⁽³¹⁾ 1955 c. 19.

⁽³²⁾ 1957 c. 53.

⁽³³⁾ 1968 c. 20.

(6) Where an untried prisoner is released before trial or disposal of the proceedings against him, or he is acquitted after trial or, as the case may be, successfully defends any proceedings brought against him under the Extradition Act 1989 or the Immigration Act 1971—

- (a) any photographs of him taken under paragraph (5) together with negatives and copies; and
- (b) any palm and fingerprints taken of him,

shall be forthwith destroyed unless the procurator fiscal requests their retention in connection with any other proceedings.

(7) The Governor shall ensure that information recorded in terms of this rule is kept confidential.

Classification of prisoners

11. Every prisoner may be classified by the Governor according to—

- (a) age;
- (b) sex;
- (c) offence or matter in respect of which he is committed to prison;
- (d) period of sentence or committal; and
- (e) previous record.

Security categories of prisoners

12.—(1) The Governor shall assign in accordance with paragraph (2) or (4) a security category to each prisoner as soon as possible after his reception.

(2) For the purposes of paragraph (1) but subject to paragraph (4), a prisoner shall be assigned the lowest appropriate security category of the list of categories specified in column 1 of Schedule 2 having regard to the criteria specified in relation to each such category in column 2 of that Schedule.

(3) Subject to paragraph (5), the Governor shall keep under review, and shall formally review at least once in every period of 12 months, the security category assigned to each prisoner and may, if appropriate, assign another category in the list in Schedule 2 to the prisoner.

(4) For the purposes of paragraph (1), an untried prisoner shall be assigned either Category A or Category B in the list of categories specified in column 1 of Schedule 2, whichever is the lower appropriate having regard to the criteria specified in relation to those categories in column 2 of that Schedule.

(5) The Governor shall keep under review the security category assigned to an untried prisoner and where appropriate may assign Category A to such a prisoner who is Category B or assign Category B to such a prisoner who is Category A.

(6) Where the Governor assigns category A in the list in Schedule 2 to any prisoner, he shall within 72 hours obtain the approval of the Secretary of State for the continuation of that category in relation to the prisoner.

(7) The Governor shall obtain the prior approval of the Secretary of State if he intends to assign category D in the list in Schedule 2 to any life prisoner.

(8) Following the assignment of a security category, the Governor shall explain to the prisoner concerned, if he asks, why that category is the lowest appropriate and, subject to paragraph (9), shall inform him of the gist of any matter of fact or opinion to which he has had regard in reaching that determination.

(9) Where the Governor considers that any written information or document which he has taken into account in reaching his determination of the security category would, if disclosed to the prisoner, be likely to be damaging on one or more of the following grounds, namely:—

- (a) that it would be likely adversely to affect the health, welfare or safety of the prisoner or any other person;
- (b) that it would be likely to result in the commission of an offence;
- (c) that it would be likely to facilitate an escape from legal custody or the doing of any act prejudicial to the safe keeping of persons in legal custody;
- (d) that it would be likely to impede the prevention or detection of offences or the apprehension or prosecution of suspected offenders; or
- (e) that it would be likely otherwise to damage the public interest,

he shall inform the prisoner, but only so far as is practicable without prejudicing the purposes for which that information is not disclosed, of the gist of that information or document.

Allocation of prisoners

13.—(1) The Secretary of State may set aside particular prisons or parts of prisons for particular groups or categories of prisoners or particular purposes.

(2) Subject to paragraph (1), the Governor may, having regard to—

- (a) the classification of a prisoner;
- (b) the security category of a prisoner; and
- (c) any other matter affecting the management of a prisoner,

allocate within a prison a particular part of that prison in which a prisoner, or any particular group or category of prisoners, may be confined.

(3) At the request of the prisoner following his allocation within any part of the prison, the Governor shall give him an explanation of the reasons why he has been allocated to that part of the prison.

Separation of different categories of prisoners

14. The Governor shall, so far as reasonably practicable, keep civil prisoners, untried prisoners and young prisoners apart from other categories of prisoners.

PART 3

PHYSICAL AND PERSONAL ENVIRONMENT

Accommodation of prisoners in cells and rooms

15.—(1) Subject to the following provisions of this rule, every prisoner shall be accommodated by himself in a cell or room.

(2) Two or more prisoners may be required to share accommodation in a cell or room where—

- (a) the nature of the accommodation in the prison, or the circumstances pertaining in that or any other prison to which these Rules apply, make such sharing necessary; or
- (b) either the Governor or the medical officer considers it desirable.

(3) Where a cell or room is used to accommodate 2 or more prisoners, the prisoners concerned shall be persons whom the Governor or the medical officer considers suitable to associate with each other in that accommodation.

Standard of accommodation

16.—(1) Each cell or room used to accommodate prisoners shall be fitted with means of communication with an officer.

(2) Each cell or room used to accommodate prisoners, and any other part of a prison in which prisoners are otherwise kept, or to which they ordinarily have access, shall be of an adequate size and be lighted, heated, ventilated and furnished as is necessary for the health and safety of prisoners.

(3) Every prisoner shall be required to keep his cell or room in a clean and tidy condition except when he is excused from doing so—

- (a) by the medical officer on medical grounds; or
- (b) by the Governor on any other ground.

Provision of bedding

17.—(1) The Secretary of State shall provide beds and bedding to enable every prisoner to have a separate bed, and bedding sufficient for his warmth and health.

(2) Every prisoner's bedding shall be changed as frequently as is necessary to ensure its cleanliness.

(3) Except with the consent of the Governor, no prisoner shall be permitted to receive or possess bedding other than that which is provided in terms of paragraph (1).

Entitlement of a prisoner to wear his own clothing

18.—(1) Subject to paragraphs (2) and (3), every prisoner may wear his own clothing in prison and on those occasions when he is required or permitted to be outwith the prison.

(2) Paragraph (1) does not apply to a prisoner where—

- (a) particular clothing may be required for the purposes of legal proceedings;
- (b) the medical officer considers that—
 - (i) the prisoner's clothing is prejudicial to his health; or
 - (ii) special clothing is required on medical grounds;
- (c) the Governor considers that the prisoner's clothing—
 - (i) is in poor condition;
 - (ii) may be prejudicial to security, good order or discipline within the prison, or
 - (iii) is incompatible with the facilities at, or management of, the prison;
- (d) special or protective clothing is required for particular work or activities being undertaken by the prisoner; or
- (e) the entitlement of a prisoner to wear his own clothing has been forfeited under rule 100(1)(g).

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

Provision of clothing to prisoners

19.—(1) The Secretary of State shall provide suitable clothing for every prisoner where the prisoner has insufficient clothing or does not wish, or is not permitted in terms of rule 18, to wear his own clothing.

- (2) For the purposes of paragraph (1), suitable clothing shall mean clothing which—
 - (a) is of good condition, appearance and fit; and
 - (b) having regard to the circumstances, is suitable for the health and safety of the prisoner.
- (3) Any clothing provided in terms of paragraph (1) shall—
 - (a) so far as reasonably practicable, be issued by the Governor for use by the prisoner concerned on a personal basis;
 - (b) where required to be worn by the prisoner on occasions when he is outwith the prison, not give any indication that the prisoner is such a person; and
 - (c) be maintained in good repair in accordance with arrangements made by the Governor.
- (4) If the medical officer is of the opinion that any article of clothing belonging to, or provided to, a prisoner requires disinfection—
 - (a) where applicable, any officer may require the prisoner to change out of the article;
 - (b) the prisoner shall be provided with such clean clothing as is necessary; and
 - (c) the Governor shall arrange for the disinfection of the relevant article by such process as is necessary.

Changes of clothing

- 20.**—(1) Subject to paragraph (2), the Governor shall ensure that every prisoner has sufficient clothing, whether of his own or provided pursuant to rule 19(1), to enable the prisoner—
 - (a) to change daily his socks and underwear and such other articles of clothing as may be specified in a direction by the Secretary of State; and
 - (b) to have a clean change of other clothing as often as is necessary for the purposes of health and hygiene.
- (2) Where the Secretary of State considers that it is not practicable, by reason of the circumstances pertaining in, or facilities available at, any prison, to enable prisoners to change daily their socks and underwear or any other article of clothing, he may specify in a direction—
 - (a) that paragraph (1)(a) shall not apply in relation to prisoners in that prison; or
 - (b) that in the application of paragraph (1)(a) to prisoners detained in that prison, the frequency with which prisoners shall be able to change socks and underwear shall be at such lesser frequency as is specified in the direction.

Prisoners' food

- 21.**—(1) The Governor shall ensure that every prisoner is provided with sufficient wholesome and nutritious food and drink, well prepared and presented, which takes into account the prisoner's age, health, and, so far as reasonably practicable, his religious, cultural or other requirements.
- (2) Where the Secretary of State considers that it is not practicable to provide food to prisoners due to exceptional circumstances pertaining in a prison, he may by direction provide that paragraph (1) shall not apply in relation to prisoners in that prison until such time as he considers that it is so practicable.
- (3) The Governor shall ensure, on a daily basis, that—
 - (a) he tastes some food and drink prepared for prisoners for the purpose of checking its quality and condition;
 - (b) he checks that the quantity of food and drink prepared for prisoners is adequate; and

- (c) the conditions under which such food and drink are prepared and served are inspected by an officer.
- (4) If an officer finds any deficiency as a result of any inspection or sampling in terms of paragraph (3), the Governor shall remedy the deficiency as soon as reasonably practicable.
- (5) Except where the Governor or the medical officer so authorises, no prisoner shall receive or possess food or drink other than that which—
 - (a) is provided in terms of this rule; or
 - (b) he is permitted to purchase within the prison.

Personal hygiene

- 22.**—(1) The Governor shall—
- (a) afford every prisoner the opportunity to keep himself clean; and
 - (b) provide every prisoner with such toiletries, including—
 - (i) shaving materials if required; and
 - (ii) in the case of female prisoners, sanitary protection,as are necessary for the prisoner’s health and cleanliness.
- (2) The Governor shall ensure that every prisoner has access at all reasonable times to such facilities for washing and bathing or showering as are necessary for his health and cleanliness and which enable him to bathe or shower at least twice a week.
- (3) A prisoner shall neither be prevented from growing nor be required to remove a moustache or beard, or both, nor shall his hair be cut without his consent, unless the medical officer considers it necessary to do so on medical grounds.

PART 4

HEALTH AND WELFARE

The medical officer

23. The medical officer shall have responsibility for the general care of the health of every prisoner.

Provision of medical services and facilities

24. The Secretary of State shall make arrangements for the provision at every prison to such extent as he considers necessary of appropriate medical services and facilities for the prevention of illness, the care of prisoners suffering from illness or the after-care of such prisoners.

General duty of the medical officer to attend prisoners

25. The medical officer shall attend prisoners who complain of illness at such times, and with such frequency, as he judges necessary in the circumstances.

Notification to the medical officer of prisoners requiring attention

26. The Governor shall bring to the attention of the medical officer without delay any prisoner whose physical or mental condition appears to require his attention.

Arrangements for medical care by other medical practitioners or at outside facilities

27.—(1) Where the medical officer considers it appropriate to call into consultation, or refer a prisoner to, another medical practitioner or a specialist, he shall—

- (a) inform the Governor; and
- (b) thereafter make such arrangements as are necessary.

(2) Where the medical officer considers that it is appropriate that another medical practitioner or specialist should visit the prison to attend a prisoner, he shall—

- (a) inform the Governor; and
- (b) thereafter make such arrangements as are necessary.

(3) Where the medical officer considers that the condition of a prisoner's health requires treatment at a medical facility outwith the prison, the Governor shall make such arrangements for the transfer of the prisoner to such facility as he considers appropriate.

Duty of medical officer to visit prisoners subject to cellular confinement

28. Where cellular confinement is imposed on a prisoner in terms of rule 100(1)(d), the medical officer shall visit the prisoner as soon as practicable and thereafter at least once in each period of 24 hours of such confinement.

Duty of medical officer to notify certain matters

29.—(1) Where the medical officer is of the opinion on medical grounds that a prisoner should—

- (a) be confined in specified conditions;
- (b) not participate in specified activities;
- (c) participate in specified activities only in accordance with such conditions as the medical officer considers necessary;
- (d) not be subject to cellular confinement where this has been imposed in terms of rule 100(1)(d); or
- (e) not be placed under a restraint in terms of rule 83,

he shall notify the Governor, who shall give effect to the medical officer's opinion without delay.

(2) The medical officer shall notify the Governor without delay of any matter connected with a prisoner or the treatment of prisoners which appears to him to require attention on medical grounds.

(3) If in respect of any prisoner the medical officer is of the opinion on medical grounds that—

- (a) he is totally and permanently unfit to be detained further in prison;
- (b) the life of the prisoner is likely to be endangered by continued detention in prison; or
- (c) the health of the prisoner is such that he is unlikely to survive his sentence or the period for which he is remanded or detained,

he shall notify the Governor without delay.

(4) The medical officer shall—

- (a) where a matter which he has notified to the Governor pursuant to paragraph (2) remains unattended, report the matter to the Secretary of State; and
- (b) notify the Secretary of State of any case where he has notified the Governor pursuant to paragraph (3).

Notification of relatives and friends of prisoners suffering serious illness, etc

30. In the event that a prisoner becomes seriously ill or sustains serious injury or is admitted to a hospital outwith the prison, the Governor shall, where possible, ask the prisoner if any relative or friend of the prisoner or any other person should be informed of the event and—

- (a) in the case of a young offender who is under 18 years of age,—
 - (i) if the young offender agrees, the Governor shall notify that person accordingly; or
 - (ii) if the young offender does not agree, the Governor may notify that person accordingly; or
- (b) in the case of any other young offender or prisoner, if he agrees, the Governor shall notify that person accordingly.

Transfer to hospital for treatment for mental disorder

31.—(1) Where it appears to the medical officer that a prisoner to whom section 71 of the Mental Health (Scotland) Act 1984(34) applies is suffering from mental disorder such that the grounds are satisfied upon which an application may be made for his admission to a hospital under Part V of the said Act of 1984, he shall obtain reports as mentioned in paragraph (3).

(2) Where it appears to the medical officer that an untried prisoner is suffering from mental disorder such that the grounds are satisfied upon which an application may be made for his admission to a hospital under Part V of the said Act of 1984, he shall obtain in respect of the prisoner reports as mentioned in paragraph (3).

(3) The reports referred to in paragraphs (1) and (2) are reports in respect of the prisoner by 2 medical practitioners (complying with the provisions of section 70(4) of the said Act of 1984), one of whom may be the medical officer.

(4) If the medical reports referred to in paragraphs (1) and (2) are to the effect that the grounds upon which an application may be made for the admission of the prisoner to a hospital under Part V of the said Act of 1984 are satisfied, the Governor shall submit the reports to the Secretary of State.

Records of medical treatment

32.—(1) Subject to paragraph (2), the medical officer shall in respect of each prisoner maintain a record of his health and of all medical treatment given to that prisoner in prison, or at a medical facility outwith prison, during the period the prisoner is committed to that prison.

(2) Where a prisoner is moved from any prison to any other prison, the medical officer of the prison from which he is moved shall send his medical record to the medical officer of the prison to which the prisoner is moved.

(3) For the purposes of this rule, “medical treatment” shall be deemed to include any examination, consultation, diagnosis, operation, treatment or prescription.

Prisoners' welfare

33. The Governor shall ensure that every prisoner is given reasonable assistance and facilities to maintain and develop relationships with his family and friends and with such other persons and agencies outwith the prison as may best offer him assistance during his sentence or period of committal, and in preparation for and after his release.

(34) 1984 c. 36; section 71 was amended by the 1993 Act, section 4(2) and Schedule 7, Part I.

Visits to untried and civil prisoners by medical and dental practitioners

34.—(1) Subject to paragraph (2), the Governor shall at the request of an untried prisoner or a civil prisoner permit him to be visited by a medical or dental practitioner of his own choice for the purpose of receiving treatment.

(2) Where an untried prisoner or a civil prisoner is permitted to be visited by a medical or dental practitioner in terms of this rule, he shall be responsible for the expenses of that visit and any treatment rendered.

PART 5

RELIGION

Facilities for religious practice

35.—(1) Every prisoner shall be allowed to observe the requirements of his religious and moral beliefs subject to and in accordance with the provisions of the Act, these Rules and of any direction made for the purposes of these Rules.

(2) The Governor shall ensure that every prisoner is informed of the facilities or arrangements which exist or may be made for the purposes of paragraph (1).

Duties of members of the chaplaincy team

36.—(1) Each member of the chaplaincy team shall, for the purposes of prisoners of his respective religious denomination,—

- (a) visit each such prisoner as soon as practicable after his reception into prison and at such other times thereafter as the prisoner and the member may agree;
- (b) conduct religious services or meetings at such times as the member after consultation with the Governor considers appropriate;
- (c) with the approval of the Governor, make any other arrangements which the member considers necessary for the provision of religious ministrations to such prisoners.

(2) Subject to the approval of the Governor, any person may—

- (a) act on behalf of the member of the chaplaincy team in his absence; or
- (b) assist the member,

for the purposes of carrying out any of the duties specified in paragraph (1).

(3) A member of the chaplaincy team may make arrangements, with the approval of the Governor, for the purpose of enabling a prisoner to be visited by a minister of any religious denomination or his authorised representative.

Visiting ministers

37. Where a visiting minister is allowed to visit prisoners, the Governor shall make arrangements, so far as practicable, to enable the minister—

- (a) to conduct religious services or meetings for such prisoners; and
- (b) to make any other arrangements which the minister considers necessary for the provision of religious ministrations to such prisoners,

in accordance with such guidance as the Governor may give.

Religious services and visits

38.—(1) Subject to paragraph (2), every prisoner who belongs to a religious denomination may attend such services or meetings of his denomination as may, with the consent of the Governor, be arranged by the chaplain or minister concerned.

(2) The Governor may prevent a prisoner from attending any service or meeting of his religious denomination if, in exceptional circumstances, he considers it is necessary to do so in the interests of good order.

(3) The Governor shall notify the chaplain or the appropriate prison minister as soon as practicable following receipt of any request by a prisoner to receive a visit by the chaplain or, as the case may be, the prison minister.

(4) Any visit to a prisoner by a member of the chaplaincy team shall be held outwith the sight and hearing of an officer except where—

- (a) the member concerned requests otherwise; or
- (b) the Governor considers it would be prejudicial to the interests of security or to the safety of the member for an officer not to be present.

Religious books, items and practices

39.—(1) The Governor shall provide such literature and other materials as he considers appropriate for prisoners' religious needs.

(2) Every prisoner shall, so far as reasonably practicable, be allowed—

- (a) to have in his possession and for his personal use, religious books, items and materials appropriate to his religious denomination; and
- (b) to engage in the practices of his religious denomination.

PART 6

PRIVILEGES AND PRISONERS' PROPERTY

Privileges

40.—(1) The Governor of each prison shall establish, subject to paragraph (3), such system of privileges as may be appropriate to the groups or categories of prisoners detained in the prison.

(2) A system of privileges may include privileges which apply to different classes of prisoners or in respect of different parts of the prison.

(3) A system of privileges established under this rule shall make provision at least in relation to—

- (a) the items of property which the Governor may, in terms of rule 44, allow a prisoner to have in his room or cell;
- (b) the arrangements whereby a prisoner may purchase items within, or outwith, the prison;
- (c) the facilities to which a prisoner may have access and the activities in which he may take part in terms of rule 76;
- (d) the arrangements whereby a prisoner may smoke or have any tobacco in his possession;
- (e) the circumstances in which privileges may be withdrawn from a prisoner; and
- (f) any other matter as may be specified in a direction made by the Secretary of State under and for the purposes of this rule.

(4) A system of privileges shall not make provision which prejudices or derogates from any entitlement or right of a prisoner which is specified in any provision of these Rules, or in any direction made for any purpose specified in these Rules, and any such entitlement or right shall not be regarded as a privilege granted by virtue of this rule and shall not be capable of being forfeited under rule 100(1)(b).

(5) The Governor shall ensure that every prisoner is provided with information, in a manner which enables him to understand it, in relation to—

- (a) the application to him of the system of privileges established under this rule; and
- (b) the circumstances in which privileges may be withdrawn.

(6) Where the Governor—

- (a) withdraws any privilege enjoyed by a prisoner; or
- (b) refuses to grant to any prisoner a privilege which is enjoyed by other prisoners,

he shall give reasons for his decision to the prisoner concerned.

Smoking and possession of tobacco by untried and civil prisoners

41. An untried prisoner or a civil prisoner shall be entitled to keep in his possession and to smoke tobacco subject to such conditions as the Governor may impose in accordance with a direction made by the Secretary of State for the purposes of this rule.

Reception of personal property of prisoners

42.—(1) The items of property belonging to any prisoner which are received into or purchased within prison shall be managed in accordance with this rule and rules 43 and 44.

(2) Subject to the other provisions of these Rules, the Governor may refuse to receive any item of property sent to the prison for a prisoner and, where appropriate, he may return it to the sender.

(3) All items of property belonging to a prisoner which are received into prison other than—

- (a) property purchased by the prisoner within the prison;
- (b) if the prisoner is not assigned security category A, letters or other written communications sent to the prisoner; or
- (c) any of his property which is perishable or edible,

shall be recorded by an officer in the prisoner's record.

(4) Where a record is prepared in terms of paragraph (3), the prisoner concerned shall—

- (a) be given the opportunity to check its accuracy; and
- (b) thereafter, be required to sign it.

Storage or disposal of personal property of prisoners

43.—(1) Subject to paragraph (2), the Governor shall make arrangements for the safe storage of all items of property belonging to a prisoner which have been received into prison, except for items which a prisoner is allowed to keep in his room or cell or on his person.

(2) Where the Governor is of the opinion that any item of property belonging to or which has been sent to a prisoner and which has been received into prison is prejudicial to health, safety, security or good order—

- (a) he shall notify the prisoner; and

- (b) except where it is reasonably practicable for the prisoner to arrange for disposal, he may make arrangements for the disposal or, in the case of anything perishable, the destruction of any such item.

Personal property of prisoners in rooms or cells

44.—(1) Every prisoner shall be entitled to keep in his room or cell such items of property as may be specified in a direction by the Secretary of State.

(2) Without prejudice to paragraph (1), the Governor may allow a prisoner to have in his possession or to keep in his room or cell such items of property as are compatible with—

- (a) the size and furnishings of the room or cell;
- (b) matters of health, safety, security and good order; and
- (c) any other matter which the Governor considers relevant.

Prisoners' money

45.—(1) The Governor may specify in relation to any prisoner or any category of prisoner—

- (a) whether such a prisoner, or such category of prisoner, may have cash in his possession; or
- (b) if any such prisoner is permitted to have cash in his possession, the maximum amount of, or the denominations of, cash which he may possess.

(2) Except for such cash as a prisoner is permitted in terms of paragraph (1) to have in his possession, the Governor shall hold on behalf of a prisoner any money belonging to him, whether accruing to him in terms of rule 74 or otherwise received into prison.

(3) Subject to paragraph (4), a prisoner may withdraw money held on his behalf in terms of paragraph (2) by authorising the Governor to deduct such sums as are required for the purpose of making specific payments to persons outwith prison or for the purpose of purchasing any article in prison or any article to be delivered to prison.

(4) The Governor may specify in relation to any prisoner, or any category of prisoner, the maximum amount which may be so withdrawn—

- (a) during any specified period; and
- (b) for the purposes of purchasing any article in prison or any article to be delivered to prison.

(5) The Governor shall, in respect of each prisoner, keep a record of all money deposited in an account held by him under paragraph (2) and of all money withdrawn therefrom under paragraph (3).

(6) Nothing in this rule shall prevent a prisoner from opening, or continuing to maintain, an account with a bank or a building society but the use of such an account shall be subject to the other provisions of these Rules.

Supplies of books, newspapers, etc to prisoners

46. Subject to rules 42 to 44, a prisoner shall be entitled to arrange, at his own expense or at the expense of a person outwith the prison, the delivery to the prison of such books, newspapers, writing materials and other means of occupation as he may wish to use.

PART 7 COMMUNICATIONS

Current affairs

47.—(1) Subject to paragraph (2), every prisoner may keep himself informed of current affairs by means of—

- (a) books, newspapers, periodicals or a radio; and
- (b) any other medium the Governor may allow.

(2) The Governor may restrict, or impose conditions as to, the exercise of the entitlement referred to in paragraph (1) where he considers it is necessary to do so—

- (a) to protect the prisoner from self-injury; or
- (b) to prevent the prisoner from injuring others.

Prisoners' correspondence

48. Subject to rules 49 to 52, a prisoner may send and receive letters and packages by means of the postal service or otherwise.

Opening and reading of correspondence from and to courts

49.—(1) This rule applies only to letters and packages which—

- (a) are addressed to a court and which a prisoner gives to an officer for the purpose of posting to that court; or
- (b) are sent to a prisoner at the prison by a court.

(2) A prisoner who wishes to send a letter or package to a court shall mark prominently on the outer face of the envelope or packaging the words “Legal Correspondence” as well as his own name.

(3) Any letter or package to which this rule applies shall not be opened by an officer except where paragraph (5) applies.

(4) The contents of any letter or package to which this rule applies shall not be read by an officer.

(5) Any letter or package which a prisoner wishes to send to a court may only be opened where—

- (a) the officer has cause to believe that it contains a prohibited article;
- (b) he has explained to the prisoner concerned why he has such cause; and
- (c) the prisoner concerned is present.

(6) Where a letter or package to which this rule applies is found to contain any prohibited article the Governor shall seize and detain that article.

(7) For the purposes of this rule, “court” includes the European Court of Justice, the European Court of Human Rights, the European Commission of Human Rights and the Parole Board for Scotland.

Opening and reading of correspondence from and to legal advisers

50.—(1) This rule applies only to letters and packages which—

- (a) are addressed to a legal adviser and which a prisoner gives to an officer for the purpose of posting to that legal adviser; or
- (b) are sent to a prisoner at the prison by a legal adviser.

(2) A prisoner who wishes to send a letter or package to a legal adviser shall mark prominently on the outer face of the envelope or packaging the words “Legal Correspondence” as well as his own name.

(3) Any letter or package to which this rule applies shall not be opened by an officer except where paragraph (5) applies.

(4) The contents of any letter or package to which this rule applies shall not be read by an officer except where paragraph (6) applies.

(5) Any letter or package to which this rule applies may only be opened by an officer where—

- (a) the officer has cause to believe that it contains a prohibited article;
- (b) he has explained to the prisoner concerned why he has such cause; and
- (c) the prisoner concerned is present.

(6) The contents of any letter or package to which this rule applies may only be read by an officer in exceptional circumstances where the Governor has reasonable cause to believe that the contents of the letter endanger the security of the prison or the safety of any person, or relate to a criminal activity.

(7) Where the Governor is of the opinion that the contents of any letter or package to which this rule applies may be read in terms of paragraph (6)—

- (a) the prisoner shall be informed that the letter or written material shall be read and the reasons why; and
- (b) the letter or written material shall be read by the Governor or an officer specially authorised by him for the purpose.

(8) Where a letter or package to which this rule applies is found to contain a prohibited article or any article which the prisoner is not authorised to possess or keep in terms of these Rules, the Governor shall deal with the article in terms of rule 81 or 82, whichever is appropriate.

Opening and reading of other correspondence

51.—(1) Any letter or package, other than one to which rule 49 or 50 applies, which a prisoner wishes to send or which is addressed to him may be opened by an officer.

(2) The contents of any such letter or package may only be read by an officer where he considers that they may be, or may contain anything, in contravention of the restrictions specified in any direction by the Secretary of State made for the purposes mentioned in rule 52(2).

(3) Where a letter or package is found to contain anything in contravention of such restrictions, an officer may—

- (a) prevent the letter or package, or anything contained in it, being sent or, as the case may be, received by the prisoner; and
- (b) deal with the letter or package, or anything contained in it, in accordance with such arrangements as may be specified in a direction by the Secretary of State for these purposes.

Restrictions on prisoners' correspondence

52.—(1) A prisoner's entitlement under rule 48 to send and receive letters and packages, other than letters and packages to which rule 49 or 50 applies, shall be subject to such restrictions as are mentioned in paragraph (2).

(2) The restrictions mentioned in this paragraph are such restrictions as may be specified in a direction by the Secretary of State for any of the following purposes:—

- (a) to prescribe in relation to the reading by an officer in terms of rule 51(2) of the contents of any letter or package—
 - (i) the circumstances when this may occur, and
 - (ii) the officers who may be authorised to do so;
- (b) to prescribe any restrictions as to the number of letters and packages which a prisoner may send;
- (c) to prescribe the persons, authorities and organisations to whom a prisoner is prohibited from sending any letters and packages;
- (d) to prescribe particular restrictions and conditions which shall apply where a prisoner wishes to send letters and packages to prescribed persons, authorities and organisations whom the prisoner is not otherwise prohibited from corresponding with; and
- (e) to prescribe the nature and description of letters, written material and items of property in general which a prisoner may not send or receive.

Provision of writing materials and payment of postage

53.—(1) Subject to the following paragraphs, every prisoner shall be allowed to send one letter every week, the postage for which shall be paid for by the Secretary of State, and the Governor shall provide the prisoner with the necessary writing materials for this purpose.

(2) The writing materials which shall be provided by the Governor shall comprise—

- (a) a ballpoint pen;
- (b) 1 sheet of writing paper and a reasonable number of further sheets if the prisoner so requires; and
- (c) an envelope.

(3) The Governor may, for the purposes of paragraph (1), allow the prisoner to send more than one letter every week at the expense of the Secretary of State if it appears to him that this is justified in the prisoner's circumstances.

Communication by telephone

54.—(1) A prisoner may have the use of a telephone subject to the provisions of paragraph (2).

(2) A prisoner's entitlement to the use of a telephone shall be subject to the provisions of any direction which the Secretary of State may make in relation to—

- (a) the groups or categories of prisoners who may have the use of a telephone;
- (b) the times of day and circumstances in which a telephone may be available for use;
- (c) the conditions applicable to the use of such a telephone; and
- (d) the logging, monitoring and recording by any means by an officer of telephone calls made by a prisoner.

(3) Where an officer informs a prisoner that he may not have the use of a telephone by virtue of the provisions of any direction as mentioned in paragraph (2), he shall also inform the prisoner of the reasons for that decision.

Visits by persons of a prisoner's choice

55.—(1) Subject to paragraph (6) and rule 56, this rule applies to visits to a prisoner by any person with whom the prisoner wishes to communicate.

(2) Subject to paragraph (3) and rules 63 and 64, the Governor shall allow a prisoner, at such times as the Governor considers reasonable, either—

- (a) not less than 30 minutes in any period of 7 consecutive days; or
- (b) not less than 2 hours in any period of 28 consecutive days,

for the purposes of receiving visits in terms of this rule.

(3) Subject to rules 63 and 64, the Governor shall allow a young prisoner (who is not also an untried prisoner), at such times as the Governor considers reasonable, not fewer than 2 visits, each of not less than 30 minutes, in any period of 7 consecutive days.

(4) The number of persons who shall be allowed to visit a prisoner at any time shall be at the discretion of the Governor.

(5) 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) no officer shall listen to any conversation between the prisoner and his visitor except where the Governor otherwise directs.

(6) Where the Secretary of State considers that it is not practicable to allow prisoners the minimum periods for visits specified in paragraph (2) due to the circumstances pertaining in, or facilities available at, any prison, he may by direction provide that paragraph (2) shall apply in relation to prisoners of that prison subject to such reduced minimum periods as may be specified in the direction.

(7) A prisoner shall only be entitled to receive a visit from a person who is a prisoner at another prison in exceptional circumstances and if the Governors of the respective prisons both give consent and, in the event that either or both Governors refuse consent, the prisoners concerned shall be given an explanation of the reasons for such refusal.

(8) This rule does not apply to visits which a prisoner may receive by virtue of rules 36 to 38 and 58 to 62, and the entitlement of a prisoner to receive visits in terms of this rule is separate from any entitlement under those rules.

Visits to untried and civil prisoners by persons of a prisoner's choice

56.—(1) Subject to paragraph (5), this rule applies to visits to an untried prisoner or a civil prisoner by any person with whom the prisoner wishes to communicate.

(2) An untried prisoner or a civil prisoner—

- (a) shall be allowed to receive—
 - (i) a visit of at least 30 minutes' duration in terms of this rule on any day of the week other than a Saturday or Sunday; and
 - (ii) where the prisoner has not received a visit on every day of the preceding Monday to Friday, a visit of at least 30 minutes' duration on a Saturday or a Sunday; and
- (b) at the discretion of the Governor may receive a visit of such duration as he thinks fit on a Saturday or a Sunday.

(3) For the purposes of this rule—

- (a) a visit may take place during such hours and, subject to the other provisions of this rule, under such conditions as the Governor may specify;
- (b) the number of persons who shall be allowed to visit a prisoner at any time shall be at the discretion of the Governor.

(4) Where an untried prisoner or a civil prisoner receives a visit in terms of this rule—

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

(b) no officer shall listen to any conversation between the prisoner and his visitor except where the Governor otherwise directs.

(5) Where the Secretary of State considers that it is not practicable to allow untried prisoners or civil prisoners the minimum period for visits specified in paragraph (2) due to circumstances pertaining in, or facilities available at, any prison, he may by direction provide that paragraph (2) shall apply in relation to untried prisoners or civil prisoners in that prison subject to such reduced minimum period as may be specified in the direction.

(6) This rule does not apply to visits which a prisoner may receive by virtue of rules 36 to 38 and 58 to 62, and the entitlement of a prisoner to receive visits in terms of this rule is separate from any entitlement under those rules.

Entitlement to accumulated visits

57.—(1) This rule applies to a prisoner who—

- (a) is a life prisoner or is serving a sentence of imprisonment for a term of more than 12 months and has served at least 6 months of that sentence;
- (b) is moved from a prison to any other prison, whether or not for the purpose of enabling him to use any accumulated unused allowance of visits; and
- (c) has accumulated an unused allowance of visits in terms of rule 55 at the prison from which he is moved which is not less than the amount of visits which he would have been entitled to receive at that prison in terms of that rule in a period of 6 months.

(2) Subject to paragraph (3), a prisoner to whom this rule applies shall be entitled to carry forward the accumulated period of unused allowance and to use that accumulated allowance at the prison to which he is moved in addition to his allowance in terms of rule 55 at that prison.

(3) The exercise by a prisoner of his entitlement under paragraph (2) shall be subject to any direction by the Secretary of State in relation to the following:—

- (a) the circumstances in which a prisoner who is moved from a prison to any other prison may not be allowed to carry forward, or may be restricted from carrying forward, any accumulated allowance of visits; and
- (b) the conditions which may be imposed (including conditions as to the period in which an accumulated allowance must be used) by the Governor where a prisoner is entitled to carry forward such an allowance.

Visits by legal advisers

58.—(1) A prisoner shall be entitled to receive a visit from his legal adviser at any reasonable time for the purposes of consulting about any legal matter in which the prisoner is or may be directly interested.

(2) Where a prisoner receives a visit by a legal adviser in terms of this rule the visit—

- (a) may take place within the sight of an officer; but
- (b) shall take place outwith the hearing of any officer.

Visits by procurators fiscal

59.—(1) A procurator fiscal or any person authorised by him may, for the purpose of discharging his public duties, visit and examine a prisoner at any reasonable time.

(2) A visit to a prisoner by a procurator fiscal or any person authorised by him may take place in such area of the prison and under such conditions as the Governor may specify except that such a visit shall take place—

- (a) within the sight of an officer; but
- (b) outwith the hearing of any officer.

Visits by police constables

60.—(1) A police constable may, on production of the written authority of either a procurator fiscal or the Chief Constable,—

- (a) visit any prisoner for the purposes of interviewing him if he is willing to be interviewed;
- (b) see any prisoner for the purposes of identification; or
- (c) see any prisoner for the purpose of charging him with any offence.

(2) A visit to a prisoner in terms of sub-paragraph (a) of paragraph (1) may take place in such area of the prison and under such conditions as the Governor may specify except that such a visit shall take place—

- (a) within the sight of an officer; and
- (b) within the hearing of an officer.

Visits by representatives of diplomatic services and national or international authorities or organisations

61.—(1) A prisoner who is a foreign national shall be entitled to communicate with and receive a visit at any reasonable time from a diplomatic representative of his choice.

(2) A prisoner who is a refugee or stateless person shall be entitled to communicate with and receive a visit at any reasonable time from—

- (a) a diplomatic representative of a state which he considers may look after his interests; or
- (b) subject to such limit as to numbers of authorities or organisations as the Governor may reasonably impose, an authorised representative of national or international authorities or organisations whose principal purpose is to serve the interests of refugees or stateless persons or to protect the civil rights of such persons.

(3) Any prisoner shall be entitled to receive a visit at any reasonable time from an authorised representative of the Scottish Council for Civil Liberties.

(4) 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) no officer shall listen to any conversation between the prisoner and the visitor unless either the prisoner or the visitor otherwise requests.

Special visits to certain prisoners in connection with further proceedings

62.—(1) This rule applies to a prisoner who—

- (a) is an untried prisoner;
- (b) is a civil prisoner;
- (c) is an appellant;
- (d) has been remanded in custody following conviction to await sentence or further inquiry; or
- (e) is serving a sentence of imprisonment and who is—
 - (i) subject to a further charge; or

(ii) the respondent in an appeal by the Lord Advocate or the prosecutor under section 228A or 442(1)(c) of the Criminal Procedure (Scotland) Act 1975⁽³⁵⁾,

but shall apply to such a prisoner only for so long as the proceedings in respect of the further charge or the appeal are pending against him.

(2) A prisoner to whom this rule applies shall be allowed a visit at any reasonable time to consult a registered medical practitioner or any other person for the purposes of—

- (a) in the case of an untried prisoner, the proceedings in respect of which he is remanded in custody or complying with a condition of bail which requires the deposit of a sum of money pursuant to section 1(3) of the Bail etc (Scotland) Act 1980⁽³⁶⁾;
- (b) in the case of a civil prisoner, the proceedings in respect of which he is committed to prison;
- (c) in the case of an appellant, the appeal or, as the case may be, the reference;
- (d) in the case of a prisoner mentioned in paragraph (1)(d), preparing representations to the court which will pass sentence or otherwise dispose of his case; or
- (e) in the case of a prisoner mentioned in paragraph (1)(e), the proceedings in respect of the further charge or, as the case may be, the appeal.

(3) The number of persons who shall be allowed to visit a prisoner at any time shall be at the discretion of the Governor.

(4) 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) no officer shall listen to any conversation between the prisoner and his visitor—
 - (i) in the case of a visit by a registered medical practitioner, under any circumstances; and
 - (ii) in the case of any other visitor, except where the Governor otherwise directs.

General conditions applicable to visits under Part 7

63.—(1) The Governor may—

- (a) prohibit a prisoner from receiving a visit from any person in particular in terms of this Part of these Rules; or
- (b) terminate any visit which is taking place,

where he considers that it is necessary to do so in the interests of security, discipline or the prevention of disorder or crime.

(2) The entitlement of a prisoner to receive visits in terms of this Part of these Rules shall be subject to such restrictions and conditions as may be specified in a direction by the Secretary of State for the following purposes:—

- (a) to allow the use of video cameras for the monitoring of the visitors area during visits to prisoners;
- (b) to impose restrictions as to the introduction of, or possession or consumption of, food and drink during such visits; and
- (c) to provide for the issuing of visitors' permits.

⁽³⁵⁾ 1975 c. 21; sections 228A and 442(1)(c) were inserted by the 1993 Act, section 42.

⁽³⁶⁾ 1980 c. 4.

Closed visiting facilities

64.—(1) The Governor may, for any reason specified in paragraph (2), order that any visits which a prisoner receives for the purposes of rules 36 to 38, 55, 56 and 60 to 62 shall be held in closed visiting facilities.

- (2) The Governor may make an order under paragraph (1) for any of the following reasons:—
- (a) he is of the opinion that there are reasonable grounds for suspecting that the prisoner—
 - (i) has previously obtained; or
 - (ii) is likely in the future to attempt to obtain, any prohibited article from a visitor;
 - (b) the prisoner's behaviour makes it necessary for the purposes of security and control for any visit to be received in closed visiting facilities;
 - (c) any visit to the prisoner has been terminated in terms of rule 63(1)(b) due to the conduct of the visitor;
 - (d) a person who wishes to visit the prisoner has previously been refused access to the prison; or
 - (e) he is of the opinion that it is necessary to ensure, in relation to a visit for the purposes of rule 62, that the visit is genuinely required for any purpose specified in rule 62(2).

(3) The Governor may make an order under paragraph (1) in relation to any particular visit received in terms of any rule mentioned in paragraph (1) or in relation to every visit received in terms of any of those rules, but any order made in relation to every such visit shall be reviewed by the Governor not less than once in every 3 months and may be revoked by the Governor at any time.

(4) No order under paragraph (1) shall be made as a punishment in respect of a breach of discipline within the meaning of Part 10 of these Rules.

Arrangements for securing release of prisoners committed to prison in default of payments

- 65.—(1) This rule applies to any prisoner who is committed to prison—
- (a) in default of payment of any sum which he is required to pay by virtue of any order of a court; and
 - (b) in circumstances where he may secure his release on payment of any sum.

(2) A prisoner to whom this rule applies shall be entitled to communicate at any reasonable time with any person for the purpose of arranging payment of the sum which would secure his release.

PART 8

WORK, EDUCATION, EARNINGS AND RECREATION

Application of Part 8

- 66.—(1) Rules 67 to 70, 72(3) and 73(2) shall not apply to untried and civil prisoners.
(2) Rules 67 to 70, 72(3), 73(2) and 74 shall not apply to young prisoners.

Arrangements for work, education etc.

67.—(1) As soon as practicable after the reception into prison of a prisoner, the Governor shall obtain in respect of the prisoner reports about his particular needs and wishes concerning work, education etc.

(2) Following receipt of such reports, the Governor shall in consultation with the prisoner determine a programme of work, educational activities and counselling for the prisoner with the objective of improving the prospects for his successful resettlement in the community, and his morale, attitude and self respect.

Prisoners' work

68.—(1) Subject to the following provisions of this Part, every prisoner shall be required to work in prison.

(2) No prisoner shall be required to work, or to do work which is of a particular class, at any time when he is excused from working, or from doing any particular class of work—

- (a) by the medical officer on medical grounds; or
- (b) by the Governor on any other ground.

(3) A prisoner shall be excused from the requirement to work at a time when he is undertaking an educational class arranged in terms of rule 72 or is undertaking counselling provided in terms of rule 73.

(4) Except with the authority of the Governor, no prisoner shall work in the service of another prisoner or of an officer.

Conditions of work or activities in lieu of work

69.—(1) No prisoner shall be required to work, or take part in an educational class arranged in terms of rule 72 in lieu of work, for more than 40 hours a week (excluding meal breaks).

(2) Every prisoner shall be entitled to a minimum of one day each week as a rest day on which he shall not be required to work or take part in an educational class in lieu of work.

(3) Insofar as it may be reasonably practicable, having regard to the requirements of the prison regime, a prisoner who has declared himself to belong to a religious denomination shall—

- (a) be entitled to take his rest day on his recognised day of religious observance; and
- (b) not be required to work or take part in an educational class arranged in terms of rule 72 in lieu of work on such other days in a year as are recognised days of religious observance for his religious denomination and are specified in a direction made by the Secretary of State.

(4) Every prisoner shall be entitled to work in association with other prisoners except when the Governor otherwise orders in accordance with rule 80.

Work opportunities

70.—(1) The Governor shall provide a range of work which, so far as reasonably practicable, takes into account—

- (a) the interests and need of prisoners to obtain skills and experience which will be of use to them after their release; and
- (b) the requirements of the operation and maintenance of the prison.

(2) The range of work which the Governor may provide may include—

- (a) vocational training; and
- (b) work placements outside the prison.

(3) The Secretary of State may, in relation to such work placements outside the prison, specify in a direction—

- (a) the groups or categories of prisoners who may be allowed to undertake such work;

- (b) the circumstances in which, and the conditions subject to which, such work may be provided to any eligible group or category of prisoners; and
- (c) the conditions which shall apply to any prisoner or group or category of prisoners undertaking such work.

Work undertaken by untried and civil prisoners

71.—(1) An untried prisoner or a civil prisoner shall not be required to work in prison but may undertake, if he so chooses and with the agreement of the Governor, such work or an educational class arranged in terms of rule 72.

(2) Where an untried prisoner or a civil prisoner undertakes work, he shall be entitled to be paid earnings in accordance with rule 74.

(3) Except with the authority of the Governor and with the consent of the prisoner, no untried prisoner or civil prisoner shall work in the service of another prisoner or of an officer.

Education

72.—(1) The Governor shall arrange a programme of educational classes to provide prisoners, so far as reasonably practicable, with an opportunity to pursue their interests and needs.

(2) In relation to young prisoners, the Governor shall arrange a programme of educational classes which meet their needs and can assist them to develop their potential.

(3) Where an educational class is undertaken by a prisoner in terms of this rule and for that purpose the prisoner is excused from the requirement to work in terms of rule 68, the educational class shall be treated as an activity which may be undertaken in lieu of work.

Counselling

73.—(1) The Governor may arrange provision of counselling appropriate to the needs of prisoners.

(2) Where counselling is provided to a prisoner in terms of this rule and for that purpose the prisoner is excused from the requirement to work in terms of rule 68, the counselling shall be treated as an activity in lieu of work.

Earnings

74. Where—

- (a) a prisoner undertakes work in terms of rule 68 or 71; or
- (b) a prisoner (other than an untried or civil prisoner) takes part in an educational class arranged in terms of rule 72 or any counselling provided in terms of rule 73,

he shall be entitled to be paid earnings at such rates and in accordance with such conditions as may be specified in a direction by the Secretary of State.

Exercise and time in the open air

75.—(1) Every prisoner shall be given the opportunity—

- (a) to take exercise for not less than one hour every day; and
- (b) to spend time in the open air at least once every day.

(2) Every prisoner shall be entitled to take exercise in terms of paragraph (1) in association with other prisoners except when the Governor otherwise orders in accordance with rule 80.

(3) Where the Secretary of State considers that it is not practicable to give prisoners the opportunity to take exercise or spend time in the open air due to exceptional circumstances pertaining in a prison, he may by direction provide that paragraph (1) shall not apply in relation to prisoners in that prison until such time as he considers that it is so practicable.

Recreation

76.—(1) The Governor shall provide reasonable facilities and opportunities to enable prisoners to participate in recreational activities outwith normal working hours.

(2) The Governor shall make arrangements for lending library services for the use of prisoners which take into account so far as reasonably practicable their educational, informational and recreational interests.

Prohibition on prisoners' carrying on any trade, profession or vocation from prison

77.—(1) Subject to paragraph (2), no prisoner shall be permitted to carry on any trade, profession or vocation from the prison.

(2) Paragraph (1) shall not be construed as preventing a prisoner—

- (a) from taking such steps, whether by means of correspondence, telephone calls or visits, as are necessary to protect the value of any interest he has in any property or business; or
- (b) from writing articles or books intended for publication, whether or not such articles or books are written by the prisoner in a professional or vocational capacity, but any such activity shall only be permissible insofar as it is compatible with these Rules or any direction made for the purpose of these Rules and the prison regime in general.

PART 9

SECURITY AND CONTROL

Supervision of the prison and control of prisoners

78.—(1) Subject to the provisions of these Rules, the Governor shall be responsible for—

- (a) the supervision of the whole prison; and
- (b) the control of prisoners confined therein.

(2) The Governor shall as far as practicable visit and inspect daily those parts of the prison where prisoners are employed or accommodated.

Control of prisoners

79.—(1) In the control of prisoners, an officer shall seek—

- (a) to influence by example and leadership; and
- (b) to enlist the willing cooperation of prisoners.

(2) An officer in dealing with a prisoner shall not use force unnecessarily and, when the application of force to a prisoner is necessary, no more force than is necessary shall be used.

(3) No officer shall act in a manner deliberately calculated to provoke a prisoner.

Removal from association

80.—(1) Where it appears to the Governor desirable for the purpose of—

- (a) maintaining good order or discipline;
- (b) protecting the interests of any prisoner; or
- (c) ensuring the safety of other persons,

he may order in writing that a prisoner shall be removed from association with other prisoners, either generally or during any period the prisoner is engaged or taking part in a prescribed activity.

(2) If the Governor makes an order under paragraph (1) in relation to a prescribed activity, he may specify only one prescribed activity in the order.

(3) In this rule, “prescribed activity” means—

- (a) work required to be undertaken in terms of rule 68;
- (b) educational classes undertaken in terms of rule 72;
- (c) counselling provided in terms of rule 73;
- (d) taking exercise and spending time in the open air by virtue of rule 75; or
- (e) recreational activities.

(4) If the Governor makes an order under paragraph (1), he shall—

- (a) specify in the order whether the removal from association is—
 - (i) in general; or
 - (ii) in relation to a prescribed activity;
- (b) if the removal is in relation to a prescribed activity, specify which activity the order relates to;
- (c) specify in the order the reasons why he is making it;
- (d) record in the order the date and time it is made; and
- (e) explain to the prisoner the reasons why the order is made.

(5) A prisoner who has been removed from association generally by virtue of an order made by the Governor in terms of paragraph (1) shall not be subject to such removal for a period in excess of 72 hours from the time of the order without the written authority of the Secretary of State.

(6) An authority granted by the Secretary of State under paragraph (5) shall have effect for a period not exceeding one month but may, on the application of the Governor, be renewed from month to month by the Secretary of State.

(7) A prisoner who has been removed from association in relation to a prescribed activity by virtue of an order under paragraph (1) shall not be subject to removal for a period in excess of 72 hours but the Governor may make a further order in relation to the same prescribed activities under paragraph (1), which shall be reviewed by him on a weekly basis thereafter.

(8) The Governor may order that a prisoner who is subject to removal from association under this rule may resume association with other prisoners and shall do so if the medical officer so advises on medical grounds.

(9) If a prisoner is moved by the Secretary of State from any prison to any other prison in terms of section 10 of the Act⁽³⁷⁾, any order under paragraph (1), or any authority under paragraph (5), made or granted in relation to the prisoner whilst confined in the former prison shall cease to have effect, but without prejudice to the power of the Governor of the prison to which the prisoner is moved to make a new order under paragraph (1).

(37) Section 10 was substituted by the 1993 Act, section 22.

Prohibited articles

81.—(1) Subject to paragraph (2), no prisoner shall have in his possession, or conceal or deposit anywhere within a prison, any prohibited article.

(2) A prisoner may be allowed to receive alcoholic liquor or controlled drugs under a written order of the medical officer specifying—

- (a) the quantity and description of the liquor or drugs to be given; and
- (b) the name of the prisoner for whose use it is intended.

(3) No person shall—

- (a) convey or throw into, or conceal or deposit in, a prison;
- (b) convey to a prisoner, whether inside or outside a prison; or
- (c) conceal or deposit in any place with a view to its coming into the possession of a prisoner, any prohibited article.

(4) The Governor may seize and detain any prohibited article which is—

- (a) found in the possession of a prisoner or a visitor; or
- (b) conveyed or thrown into, or concealed or deposited in, the prison,

in contravention of this rule.

Unauthorised property

82.—(1) No prisoner shall have in his possession, or conceal or deposit anywhere within a prison, any property which he has not been authorised to possess or keep in terms of these Rules or by any officer.

(2) No prisoner shall have in his possession any property in a part of the prison which he has been authorised to possess only in some other part of the prison.

(3) Subject to paragraph (4), no person shall—

- (a) convey or throw into, or conceal or deposit in, a prison;
- (b) convey to a prisoner, whether inside or outside a prison; or
- (c) conceal or deposit in any place with a view to its coming into the possession of a prisoner, any article whatsoever.

(4) Paragraph (3) does not apply to any property which—

- (a) the Governor has authorised a person—
 - (i) to convey into, or deposit in, the prison; or
 - (ii) to convey to a prisoner whether inside or outside a prison; or
- (b) consists of a letter or package addressed to a prisoner and sent to the prison by means of the postal service or otherwise.

(5) The Governor may seize and detain—

- (a) any property which a prisoner is not authorised to possess or keep in accordance with these Rules or by any officer and which is found in the possession of a prisoner, or concealed or deposited anywhere in the prison; or
- (b) any article or property conveyed or thrown into, or concealed or deposited in, prison in contravention of paragraph (3).

(6) No prisoner (other than untried and civil prisoners) shall be allowed to smoke or have any tobacco in his possession except as a privilege granted by virtue of rule 40 and provided that the prisoner is at least 16 years old.

Orders as to the use of restraints

83.—(1) In this rule and rule 84, “restraint” means a body belt.

(2) The Governor may order that a prisoner be placed under a restraint where it appears to him that it is necessary to do so in order to restrain a prisoner—

- (a) who threatens to injure, or is in the course of injuring, himself or other persons; or
- (b) who threatens to damage, or is in the course of damaging, property; or
- (c) who threatens to create, or is in the course of creating, a disturbance.

(3) Where the Governor makes an order under paragraph (2), he shall give notice of the order to the medical officer as soon as possible.

(4) On receipt of a notice under paragraph (3), the medical officer shall inform the Governor whether he concurs in the order and if he does not concur the Governor shall order the restraint to be removed immediately.

(5) The medical officer may order that a prisoner be placed under a restraint where it appears to him that it is necessary to do so in order to prevent self-injury.

(6) Where the medical officer makes an order under paragraph (5), he shall give notice of the order to the Governor as soon as possible.

(7) No prisoner shall be placed under a restraint as a punishment.

Conditions of use of restraints

84.—(1) A prisoner shall not be placed under a restraint—

- (a) any longer than is necessary; and
- (b) without prejudice to sub-paragraph (a), for a period of more than 24 hours except with the authority of the Secretary of State.

(2) An authority given under paragraph (1) shall—

- (a) state the grounds for continued use of the restraint and the time during which it may continue to be used; and
- (b) require the medical officer to visit the prisoner at regular intervals.

(3) A restraint—

- (a) shall be applied in such a manner; and
- (b) when applied, shall be temporarily removed in such circumstances,

as may be specified in a direction by the Secretary of State.

(4) A prisoner who is placed under a restraint shall be visited by an officer at least once in every 15 minutes during the period he is under restraint.

(5) The medical officer shall examine a prisoner who is placed under a restraint immediately following—

- (a) the placing of the restraint; and
- (b) its removal (other than for a temporary purpose).

(6) The Governor shall forthwith—

- (a) record particulars of every case of a prisoner placed under a restraint; and

- (b) give notice to the Secretary of State of those particulars.

Temporary confinement

85.—(1) The Governor may order the temporary confinement in a special cell of any prisoner who is refractory or acting in a violent manner.

- (2) No prisoner shall be confined in a special cell pursuant to paragraph (1)—

- (a) as a punishment; or
- (b) for any longer than necessary and, in any event, no longer than a continuous period of 24 hours.

- (3) Where the Governor makes an order under paragraph (1), he shall—

- (a) give notice of the order to the medical officer as soon as possible; and
- (b) record the particulars of the case.

(4) A prisoner who is temporarily confined pursuant to an order under paragraph (1) shall be visited—

- (a) by the medical officer where a prisoner has been so confined for a continuous period in excess of 15 hours; and
- (b) by an officer at least once in every 15 minutes during the period of the prisoner's temporary confinement.

Control of admission of visitors

86.—(1) An officer may, prior to admitting any visitor to the prison, ask the visitor—

- (a) to state his name and address and the purpose of his visit; and
- (b) to deposit for the duration of the visit any article in his possession which the officer considers may be prejudicial to security, good order or safety.

(2) An officer may, where he suspects that the visitor may have concealed anything which may be prejudicial to security, good order or safety, ask the visitor to consent to a search of—

- (a) his person and any of his personal possessions; and
- (b) his open mouth by visual examination of it without the use of force or any instrument.

(3) For the purposes of paragraph (2), a search shall not be construed as involving removal of any of the visitor's clothing other than an outer coat, jacket, headgear and gloves.

(4) Without prejudice to section 41(3) of the Act, an officer may, in the event that a visitor refuses to comply with paragraph (1) or give consent for the purposes of paragraph (2), refuse to admit the visitor.

- (5) Where a visitor consents to a search in terms of paragraph (2)(a)—

- (a) the officer carrying out the search shall be of the same sex as the visitor;
- (b) the search shall be carried out outwith the sight of any prisoner or other visitors, or of officers who are not of the same sex as the visitor; and
- (c) the search shall be carried out as expeditiously and decently as possible.

(6) Without prejudice to rule 63(1), any officer may terminate a visit and remove the visitor from the prison where—

- (a) the officer has reasonable grounds for suspecting that the visitor is bringing in or taking out, or attempting to bring in or take out, anything which may be prejudicial to security, good order or safety; or

(b) the visitor's conduct is prejudicial to good order or discipline.

(7) Where an officer refuses admission to a visitor or terminates a visit in terms of this rule, he shall record particulars of the matter, including his reasons.

(8) The Governor shall ensure that a notice explaining the effect of the provisions of this rule and of any directions regarding introduction or prohibited articles shall be displayed prominently in the visitors' area of the prison.

Viewing of prisons

87.—(1) No person shall be permitted to view a prison unless authorised by any enactment or by the Governor or the Secretary of State.

(2) No person viewing the prison shall be permitted to take a photograph, make any film, sound recording or sketch or communicate with a prisoner unless authorised by any enactment or by the Governor or the Secretary of State.

(3) Without prejudice to paragraph (2), no person viewing the prison shall be permitted to take a photograph of a prisoner unless he has obtained the prisoner's prior consent.

Searching of prisoners

88.—(1) Every prisoner may be searched by an officer in accordance with the provisions of this rule.

(2) A search of a prisoner may take the form of—

- (a) an examination of the prisoner's person and clothing but without removal of the clothing;
- (b) the removal and examination of the prisoner's clothing;
- (c) the visual examination of the external parts of his body following removal of the prisoner's clothing; or
- (d) if the prisoner agrees, the visual examination of his open mouth without the use of force or any instrument.

(3) A search of a prisoner shall be carried out—

- (a) only by an officer who is of the same sex;
- (b) as expeditiously and decently as possible;
- (c) in the case of a search of the type mentioned in paragraph (2)(b) and (c)—
 - (i) by 2 officers of the same sex; and
 - (ii) outwith the sight of any other prisoner; and
- (d) in accordance with any other conditions as may be specified in a direction by the Secretary of State.

(4) A prisoner may be searched at such times and in such circumstances as the Governor considers necessary.

(5) Subject to paragraph (2)(d), the power to search conferred by this rule shall not be construed as authorising the physical examination of a prisoner's body orifices.

Searching of prisoners' property and cells

89.—(1) Any item of property belonging to a prisoner may be searched by an officer at any time.

(2) The room or cell of every prisoner, including any item of property kept in it, shall be searched at such times as the Governor considers necessary.

Custody outside prison

90.—(1) A prisoner required to be taken in legal custody anywhere outside a prison shall be kept in the custody or under the control of an officer or a constable.

(2) A prisoner being taken to or from a prison shall be—

- (a) exposed to public view as little as possible; and
- (b) protected so far as reasonably practicable from insult, curiosity and publicity in any form.

(3) Where a prisoner is allowed or is required to be present at any court, he shall wear his own clothing or ordinary civilian clothing provided by the Governor.

Special escorted leave

91.—(1) In this rule, “special escorted leave” means leave of absence from the prison of a prisoner for the purpose of being escorted to his home or other approved place for a visit not exceeding 2 hours, excluding travelling time.

(2) On the application of an eligible prisoner, the Governor may grant special escorted leave if he is of the opinion that, having regard to the relevant criteria applicable to the granting of such leave and to any operational requirements, it is appropriate to do so.

(3) For the purposes of this rule, a prisoner is an eligible prisoner if at the time of his application he—

- (a) is confined in a prison, or a category of prison, or a particular part of a prison, to which this rule applies;
- (b) is a life prisoner or is serving a sentence for a term of more than 1 year;
- (c) is and has been for at least 3 months—
 - (i) assigned security category C; or
 - (ii) in the case of a prisoner who is serving a sentence or period of detention for an indeterminate period, assigned that category but who is for certain purposes treated as if he were assigned security category D; and
- (d) if serving a sentence for a term of more than 1 year, has served at least one third of the term of imprisonment which he is serving at the time of his application.

(4) For the purposes of special escorted leave in terms of this rule, the Secretary of State may specify in a direction—

- (a) the prisons, categories of prisons, or parts of prisons to which this rule applies;
- (b) the manner in which the Governor shall consider an application for special escorted leave;
- (c) the criteria about which the Governor must be satisfied before he may grant special escorted leave;
- (d) the conditions which may be imposed in relation to any approval of such an application; and
- (e) the timing and duration of special escorted leave and the frequency with which it may be granted to an eligible prisoner.

Escorted exceptional day absence

92.—(1) In this rule, “escorted exceptional day absence” means leave of absence under escort from the prison, for a period not exceeding 1 day, of a prisoner for the purpose of enabling him—

- (a) to visit a near relative who it appears to the Governor is dangerously ill;
- (b) to attend the funeral of a deceased near relative;

(c) to attend at any place for any other reason where the Governor is of the opinion there are exceptional circumstances.

(2) On the written application of a prisoner, the Governor may grant, subject to and in accordance with the provisions of this rule and any operational requirements, escorted exceptional day absence to the prisoner if he is satisfied that the purpose of the application is genuine and appropriate.

(3) If the prisoner concerned is for the time being assigned security category A, the Governor shall obtain the prior written consent of the Secretary of State to the granting of escorted exceptional day absence.

(4) Where the Governor grants escorted exceptional day absence, the prisoner concerned shall be escorted by an officer or officers throughout the period of his absence from the prison.

(5) For the purposes of escorted exceptional day absence in terms of this rule, the Secretary of State may specify in a direction—

- (a) the criteria about which the Governor must be satisfied before granting leave of absence for the purpose specified in paragraph (1)(a);
- (b) the persons who are to be treated as near relatives of the prisoner; and
- (c) the proceedings, services or ceremonies which a prisoner may attend for the purpose specified in paragraph (1)(b).

Production of prisoners to court etc.

93.—(1) Subject to paragraph (2), where any prisoner is directed under section 29 of the Criminal Justice Act 1961(**38**) to be taken to any court or other place, he shall be kept in custody while being so taken, while at that place, and while being taken back to prison.

(2) Paragraph (1) shall not apply if the Governor considers it appropriate that a prisoner who is assigned security category D need not be escorted, in which event the Governor shall grant him unescorted exceptional day release in terms of rule 123.

PART 10

DISCIPLINE

Conduct constituting a breach of discipline

94. In this part, “breach of discipline” shall be interpreted in accordance with Schedule 3 to these Rules.

Reports of breaches of discipline and removal from association

95.—(1) Every suspected breach of discipline shall be reported forthwith in writing to the Governor by the officer to whose notice it has come.

(2) Subject to paragraphs (3) and (4), when the Governor receives a report in terms of paragraph (1), he may order in writing that the prisoner be removed from association with other prisoners in general pending adjudication of the charge of breach of discipline.

(3) A prisoner shall not be subject to such removal for a period in excess of 72 hours from the time of the order except where there are exceptional circumstances and the written authority of the Secretary of State has been obtained.

(38) 1961 c. 39; section 29 was amended by the Criminal Law Act 1977 (c. 45), Schedule 12, by the Criminal Justice (Scotland) Act 1980 (c. 62), Schedule 7, paragraph 8 and by the Criminal Justice Act 1982 (c. 48), Schedule 14, paragraph 12.

- (4) An authority granted by the Secretary of State under paragraph (3) shall—
- (a) have effect for a period not exceeding one month but may, on the application of the Governor, be renewed from month to month by the Secretary of State; and
 - (b) in any case cease to have effect when the charge has been adjudicated.

Disciplinary charges

96.—(1) Where a prisoner is to be charged with a breach of discipline, the charge shall be brought as soon as possible and in any event, save in exceptional circumstances, within 48 hours of the discovery of the act or omission giving rise to the charge.

(2) Every charge of a breach of discipline shall be brought by serving a written notice of the charge on the prisoner and any such notice shall be served no later than 2 hours before the time when it is to be inquired into by the Governor.

Inquiry into disciplinary charges

97.—(1) Subject to paragraph (4), every charge of breach of discipline shall be inquired into by the Governor not later, save in exceptional circumstances, than the next day after it is brought or, where the next day is a Sunday or a public holiday, the day after that Sunday or public holiday.

(2) The Governor shall satisfy himself before commencing an inquiry into any charge that the prisoner concerned has had sufficient time to prepare his case.

(3) The Governor shall adjourn an inquiry, for such period of time as may be reasonably necessary, where he is satisfied that the prisoner requires further time to prepare his case or that there exist other reasonable grounds for an adjournment.

- (4) Every prisoner against whom a charge is brought shall be given a full opportunity of—
- (a) hearing what is alleged against him;
 - (b) presenting his own case and, subject to paragraph (5), calling witnesses on his own behalf; and
 - (c) cross-examining any other witnesses.

(5) The Governor may refuse to allow a prisoner to call any witness if, having discussed the matter with the prisoner, he is reasonably satisfied that the evidence which the witness is likely to give will be of no relevance or value in determining whether the charge is proven.

(6) A prisoner may, as he wishes, be seated or may stand during the inquiry.

(7) The Governor may, on the application of a prisoner, permit him to be represented at the inquiry by a person who is entitled to practise in any part of the United Kingdom as a solicitor, an advocate or a barrister where in exceptional circumstances he considers such representation is necessary or desirable.

Adjudication of charges

98.—(1) Subject to paragraph (2), the Governor shall be entitled to take into account any evidence, in whatever form, at the inquiry into any charge of breach of discipline.

(2) The Governor may only take into account the evidence of any person who has not given oral evidence at the inquiry if the prisoner concerned agrees.

(3) At the conclusion of an inquiry into any such charge, the Governor shall consider whether the charge has been proven beyond any reasonable doubt.

(4) If the Governor finds a prisoner guilty of a breach of discipline, he shall afford the prisoner an opportunity to make a plea in mitigation before considering whether to impose a punishment in terms of rule 100.

Breaches of discipline occurring immediately before or during transfer

99.—(1) If a report is made under rule 95(1) by an officer in relation to a person liable to be detained in a young offenders institution who is moved from that institution to any prison, or a person detained in any prison who is moved to any other prison, and the suspected breach comes to the reporting officer's notice within 3 days (or 4 days if that period would include a Sunday or a public holiday) of the day on which the person is moved from the institution or prison concerned, the Governor of the prison to which the person is moved may, if there was insufficient time to investigate and adjudicate the matter at the institution or prison concerned, receive the report and deal with the matter as if it had occurred after reception of the person in that prison.

(2) If a report is made under rule 95(1) by an officer in relation to a person detained in a young offenders institution who is moved to a prison, or a person detained in any prison who is moved to any other prison, and the suspected breach related to a period during which the person was in the course of being moved, the Governor of the prison to which the person is moved shall receive the report and deal with the matter as if it had occurred after reception of the person in that prison.

Governor's punishments

100.—(1) If he finds a prisoner guilty of a breach of discipline, the Governor may impose one or more of the following punishments:—

- (a) a caution;
- (b) forfeiture of any privileges granted under the system of privileges applicable to a prisoner for a period not exceeding 14 days;
- (c) stoppage of or deduction from earnings for a period not exceeding 56 days and of an amount not exceeding 28 days' earnings;
- (d) except in the case of a young prisoner, cellular confinement for a period not exceeding 3 days;
- (e) in the case of a short-term or long-term prisoner whose sentence or period of detention was imposed on or after 1st October 1993, but subject to paragraphs (3) to (5), an award of additional days not exceeding 14 days;
- (f) in the case of a prisoner who is an existing prisoner within the meaning of paragraph 1 of Schedule 6 to the 1993 Act who is serving a sentence of imprisonment for a term of more than 5 days, forfeiture of remission of sentence for a period not exceeding 14 days;
- (g) in the case of a prisoner guilty of escaping or attempting to escape, forfeiture of the entitlement to wear his own clothing under rule 18 for any period as may be specified;
- (h) in the case of an untried prisoner or a civil prisoner, forfeiture of either or both of the entitlements referred to in rules 41 and 46 for any period as may be specified; or
- (i) forfeiture of the entitlement to withdraw money in terms of rule 45(3) for any period not exceeding 14 days.

(2) If an untried prisoner who is committed to prison for examination or trial on any criminal charge is found guilty of a breach of discipline—

- (a) the Governor may make an award of additional days under paragraph (1)(e) notwithstanding that the prisoner has not (or had not at the time of the breach being committed) been sentenced; but

- (b) any such award shall have effect only if the prisoner subsequently becomes a short-term or long-term prisoner whose sentence commences, by virtue of section 218(1) or 431(1) of the Criminal Procedure (Scotland) Act 1975(39), on a date earlier than the date on which the sentence is passed.
- (3) Subject to paragraphs (4) and (5), if a prisoner is found guilty of more than one breach of discipline arising out of an incident, punishments under this rule (except for cellular confinement imposed under paragraph (1)(d)) may be ordered to run consecutively.
- (4) Subject to paragraph (5), if a prisoner is found guilty of more than one breach of discipline arising out of an incident, awards of additional days under paragraph (1)(e) may be ordered to run consecutively but the total awarded shall not exceed 28 days.
- (5) Notwithstanding paragraph (1)(e), in the case of a short-term or long-term prisoner who is found guilty of a breach of discipline, an award of additional days shall not exceed one-sixth of his sentence, either—
- (a) in respect of that breach; or
 - (b) when aggregated with the total of any award or awards of additional days which the prisoner may have been or is awarded under paragraph (1)(e) or (4).
- (6) Where cellular confinement is imposed on a prisoner under paragraph (1)(d)—
- (a) the Governor shall inform the medical officer as soon as possible;
 - (b) any entitlement of the prisoner in terms of these Rules shall not, by reason only of the imposition of such confinement, be affected except insofar as expressly provided in a direction made for the purposes of sub-paragraph (c); and
 - (c) the prisoner shall serve the period of confinement in accordance with the provisions of, and subject to any conditions imposed by, a direction made by the Secretary of State.
- (7) In the case of a civil prisoner who is a prisoner committed to prison for contempt of court or for non-payment of a fine imposed for contempt of court—
- (a) paragraph (1)(e) shall apply as if it read—
 - “(e) in the case of a prisoner who is committed to prison on or after 1st October 1993 for contempt of court or for non-payment of a fine imposed for contempt of court, but subject to paragraphs (4) and (5), an award of additional days not exceeding 14 days;”;
 - (b) paragraph (1)(f) shall apply as if it read—
 - “(f) in the case of a prisoner who is committed to prison before 1st October 1993 for a period of more than 5 days for contempt of court or for non-payment of a fine imposed for contempt of court, forfeiture of remission of the period of committal for a period not exceeding 14 days;”;
 - (c) paragraph (5) shall apply as if—
 - (i) the words “short-term or long-term prisoner” read “prisoner who is committed to prison for contempt of court or for non-payment of a fine imposed for contempt of court”; and
 - (ii) the words “his sentence” read “his period of committal”.
- (8) Except as indicated in paragraph (7), paragraphs (1)(e) and (f), (4) and (5) shall not apply to civil prisoners.

(39) 1975 c. 21; sections 218 and 431 were amended by the Criminal Justice (Scotland) Act 1980 (c. 62), Schedule 7, paragraphs 40 and 70 respectively and Schedule 8 and by the 1993 Act, section 41.

Suspended punishments

101.—(1) The power of the Governor to impose a punishment under rule 100(1) (other than a caution) includes power to direct that the punishment shall not take effect unless, during such period of the prisoner’s sentence as shall be specified in the direction (not being more than 6 months (or 3 months in the case of an untried prisoner) from the date of the direction), the prisoner commits another breach of discipline and a direction is given under paragraph (2).

(2) Where a prisoner is found guilty of a breach of discipline committed during the period specified in a direction by the Governor under paragraph (1) then the Governor dealing with that breach may—

- (a) direct that the suspended punishment shall take effect;
- (b) reduce the period or the amount of the suspended punishment and direct that it shall take effect as so reduced;
- (c) vary the original direction by substituting for the period specified a period expiring not later than six months from the date of variation; or
- (d) give no direction with respect to the suspended punishment.

PART 11

REQUESTS AND COMPLAINTS

Requests to speak to an officer of the Secretary of State, a member of the visiting committee, a sheriff or a justice of the peace

102.—(1) Where a prisoner makes a request to speak to—

- (a) an officer of the Secretary of State;
- (b) a member of the visiting committee, or
- (c) a sheriff or a justice of the peace visiting the prison in terms of section 15 of the Act,

the request shall be recorded by the officer to whom it is made and conveyed without delay to the Governor.

(2) The Governor shall inform any such person as mentioned in sub-paragraphs (a) to (c) of paragraph (1) as soon as reasonably practicable of any request by a prisoner to speak to him.

Requests and complaints to the visiting committee

103. Every prisoner intimating to an officer his desire to write a letter of request or complaint to the visiting committee shall be supplied with paper for the purpose, and the Governor shall ensure that every such letter is posted without delay.

Requests and complaints to the residential officer

104.—(1) A prisoner who desires to make a request or complaint concerning any matter, other than one specified in rules 102, 103, 108, 110, 111 and 112, may do so subject to and in accordance with the following provisions of this rule.

(2) Subject to paragraph (3), such a request or complaint—

- (a) may be made orally or in writing; but
- (b) shall be made by the prisoner to the residential officer in the first instance.

(3) If the prisoner intends to make a complaint against any officer or employee he must make the complaint in writing.

(4) If a prisoner requires assistance with the making of the written request or complaint, an officer appointed by the Governor for the purpose shall provide such assistance as is reasonably practicable in the circumstances.

(5) Subject to paragraph (6), the residential officer shall give a reply to the prisoner within 24 hours of receiving the request or complaint and shall give a written reply to any request or complaint which was made in writing.

(6) If the residential officer is unable to reply within the period specified in paragraph (5), he shall inform the prisoner within that period when he considers he will be able to reply and shall thereafter give a written reply as soon as reasonably practicable.

(7) This rule does not affect any right of a prisoner to make any request or complaint at any time to any person or body other than the Secretary of State and any officer of the prison.

Requests and complaints to the residential unit manager

105.—(1) If a prisoner has made a request or complaint in terms of rule 104 and is dissatisfied with the reply given, he may refer the request or complaint in writing to the residential unit manager.

(2) If the prisoner requires assistance with the making of the written request or complaint, an officer appointed by the Governor for the purpose shall provide such assistance as is reasonably practicable in the circumstances.

(3) Subject to paragraph (4), the residential unit manager shall give a written reply within 24 hours of receiving the written request or complaint.

(4) If the residential unit manager is unable to reply within the period specified in paragraph (3), he shall inform the prisoner within that period when he considers he will be able to reply and shall thereafter give a reply as soon as reasonably practicable.

(5) When the residential unit manager gives his reply he shall inform the prisoner of his right to refer the request or complaint to the internal complaints committee if he is dissatisfied with his reply.

Referral of requests and complaints to the internal complaints committee

106.—(1) If a prisoner is dissatisfied with the reply given in relation to a request or complaint by the residential unit manager in terms of rule 105(3) or (4), he may make a written referral of the request or complaint to the internal complaints committee (“the committee”) consisting of not fewer than 3 officers or employees.

(2) If the prisoner requires assistance with the making of the written request or complaint, an officer appointed by the Governor for the purpose shall provide such assistance as is reasonably practicable in the circumstances.

(3) The request or complaint shall be inquired into by the committee not later than 7 days after the date on which the referral is made.

(4) The prisoner making the referral may—

(a) attend the inquiry and make representations to the committee;

(b) be assisted at the inquiry by—

(i) an officer or an employee, a member of the visiting committee, or any person who ordinarily works at the prison but who is not employed by the Secretary of State; or

(ii) where the officer acting as chairman of the committee is satisfied that there are exceptional circumstances, another prisoner at the prison concerned,

if the person concerned has agreed to assist the prisoner;

- (c) subject to paragraphs (5) and (6), call witnesses to give evidence in support of his request or complaint; and
 - (d) ask questions of any person giving evidence at the inquiry.
- (5) If a prisoner making a referral intends—
- (a) to call witnesses to give evidence in support of his request or complaint; or
 - (b) to be assisted by any person as mentioned in paragraph (4)(b),
- he shall give written notice of that intention and the reasons why he considers this is necessary.
- (6) The officer acting as chairman of the committee may refuse to allow a prisoner to call a particular witness if, having discussed the matter with the prisoner, he is reasonably satisfied that the evidence which the witness is likely to give will be of no relevance or value in considering the request or complaint and, in that event, the officer shall inform the prisoner concerned prior to the hearing.
- (7) Subject to paragraphs (8) and (9), at the conclusion of the inquiry, the committee shall—
- (a) consider and decide upon such recommendations as it sees fit in relation to the request or complaint;
 - (b) inform the prisoner of its decision at that time; and
 - (c) confirm the decision in writing as soon as reasonably practicable thereafter.
- (8) Subject to paragraph (9), if the committee is unable to give a decision at the time of the inquiry, it shall inform the prisoner of the decision in writing within 48 hours of the conclusion of the inquiry.
- (9) If in exceptional circumstances the committee is unable to inform the prisoner of its decision within the period specified in paragraph (8), it shall inform the prisoner—
- (a) within that period of the reasons for the delay and when the committee considers it will be able to give its decision; and
 - (b) of its decision as soon as reasonably practicable thereafter.
- (10) The officer acting as chairman of the committee shall inform the Governor of the decision.
- (11) The Governor shall take such action as is possible in order to give effect to any recommendation the committee may make in relation to the request or complaint.

Referral of requests and complaints to the Governor

- 107.**—(1) If a prisoner is dissatisfied with the decision of the internal complaints committee in terms of rule 106 in relation to a request or a complaint which he referred to it, he may refer the request or complaint to the Governor.
- (2) If the prisoner requires assistance with the making of the written request or complaint, an officer appointed by the Governor for the purpose shall provide such assistance as is reasonably practicable in the circumstances.
- (3) The Governor shall consider the request or complaint within 7 days of the date on which it is referred except where it is not reasonably practicable for him to do so.
- (4) The Governor may, at the request of the prisoner, discuss the request or complaint with the prisoner.
- (5) If the Governor refuses a request by a prisoner to discuss the request or complaint, he shall inform the prisoner of his reasons and record that decision in writing.
- (6) After considering the referral, the Governor may—
- (a) reject the request or complaint; or

(b) substitute or amend any recommendation made by the internal complaints committee in terms of rule 106(7) or make any other recommendation as he considers appropriate and give effect to the recommendations as substituted or amended.

(7) The Governor shall inform the prisoner of his decision in writing and of the prisoner's right to refer the request or complaint to the Secretary of State in terms of rule 109.

Requests and complaints to the Governor in relation to confidential matters

108.—(1) Notwithstanding rules 104 to 107, a prisoner who desires to make a request or complaint to the Governor concerning any confidential matter which is of an exceptionally sensitive or serious nature may do so in writing subject to and in accordance with the following provisions of this rule.

(2) The prisoner shall, if he desires to make such a request or complaint, give a sealed envelope containing the written request or complaint to the residential officer, who shall convey the request or complaint without delay to the Governor.

(3) If the Governor is of the opinion that the request or complaint is not of an exceptionally sensitive or serious nature, he shall inform the prisoner without delay that he must make the request or complaint in accordance with rule 104.

(4) Subject to paragraph (3), the Governor shall consider the request or complaint and inform the prisoner of his decision within 7 days of the date on which the request or complaint was made except where it is not reasonably practicable for him to do so.

Referral of requests and complaints to the Secretary of State

109.—(1) Except in relation to any matter specified in rule 110, or an appeal made under rule 111(2)(b), the Secretary of State shall be under no obligation to consider a request or complaint by a prisoner unless it has been referred to him in terms of this rule.

(2) Subject to paragraph (1), a prisoner may refer a request or complaint to the Secretary of State in writing if he is dissatisfied with the decision of the Governor in terms of rule 107 or 108 in relation to that request or complaint.

(3) If the prisoner requires assistance with the making of the written request or complaint, an officer appointed by the Governor for the purpose shall provide such assistance as is reasonably practicable in the circumstances.

(4) The Secretary of State shall give a written decision within 14 days of the date on which a request or complaint has been referred to him except where it is not reasonably practicable for him to do so.

(5) After considering the referral, the Secretary of State may—

(a) reject the request or complaint; or

(b) substitute or amend any recommendation made, substituted or amended by the Governor in terms of rule 107(6) or give any other instruction to the Governor he considers appropriate,

and shall inform the prisoner and the Governor of his decision.

(6) Following receipt of the Secretary of State's decision, the Governor shall take such action as is necessary in order to give effect to any instruction which the Secretary of State has made in relation to the request or complaint.

Requests, complaints and representations to the Secretary of State in relation to certain matters

110.—(1) Notwithstanding rule 109, a prisoner who desires to make any request or complaint, or representations, in relation to any matter mentioned in paragraph (2) may do so in writing directly to the Secretary of State.

(2) This rule applies to the following matters—

- (a) a request or complaint by a prisoner in connection with a transfer out of the United Kingdom under the Repatriation of Prisoners Act 1984⁽⁴⁰⁾;
- (b) a request to be transferred to another part of the United Kingdom or to any of the Channel Islands or the Isle of Man under section 26 or 27 of the Criminal Justice Act 1961⁽⁴¹⁾;
- (c) a complaint which involves any allegation against the Governor; and
- (d) representations to the Secretary of State as regards any matter concerning a prisoner's release on licence under the Act or Part I of the 1993 Act or his return to prison or detention by virtue of the Act or Part I of the 1993 Act.

Appeals in relation to disciplinary proceedings

111.—(1) A prisoner who is found guilty of any breach of discipline may appeal in accordance with this rule—

- (a) against such a finding of guilt and any punishment imposed in respect of the breach; or
- (b) in the case of any punishment imposed under rule 100(1), against the punishment only.

(2) A prisoner may make such an appeal—

- (a) where any officer other than the Governor in charge of the prison adjudicated the charge, by appealing in writing to the internal complaints committee; or
- (b) where the Governor in charge of the prison adjudicated the charge, by appealing to the Secretary of State.

(3) Where a prisoner makes an appeal in terms of paragraph (2)(a) to the internal complaints committee—

- (a) the appeal shall be dealt with as a complaint made under rule 106; and
- (b) if recommended to do so by the committee, the Governor may—
 - (i) quash any finding of guilt; or
 - (ii) remit or mitigate any punishment (other than a punishment imposed under subparagraph (b), (d), (g) or (i) of rule 100(1) where the period for which the punishment was imposed has expired by the date of the decision of the appeal).

(4) If a prisoner who has appealed in terms of paragraph (2)(a) to the internal complaints committee is dissatisfied with the decision of the committee and refers the matter to the Governor under rule 107, or subsequently to the Secretary of State under rule 109—

- (a) the powers of the Governor under rule 107(6) shall include the same powers as mentioned in paragraph (3)(b); and
- (b) the powers of the Secretary of State under rule 109(5) shall include the power to instruct the Governor—
 - (i) to quash any finding of guilt;

⁽⁴⁰⁾ 1984 c. 47.

⁽⁴¹⁾ 1961 c. 39; section 26 was amended by the Criminal Law Act 1977 (c. 45), Schedule 12, by the Criminal Justice (Scotland) Act 1980 (c. 62), Schedule 7, paragraph 7 and by the Criminal Justice Act 1982 (c. 48), Schedule 14, paragraph 11.

- (ii) to remit or mitigate any punishment (other than a punishment imposed under subparagraph (b), (d), (g) or (i) of rule 100(1) where the period for which the punishment was imposed has expired by the date of the decision of the appeal); or
- (iii) to substitute another punishment which is, in the Secretary of State's opinion, less severe.

- (5) Where a prisoner makes an appeal in terms of paragraph (2)(b) to the Secretary of State—
- (a) the appeal shall be dealt with as a complaint referred to him under rule 109; and
 - (b) the powers of the Secretary of State under rule 109(5) shall include the same powers as mentioned in paragraph (4)(b).

(6) Following the conclusion of the appeals procedure in relation to an appeal in accordance with this rule, a prisoner shall not be entitled to make any further request, complaint or appeal under this Part of these Rules in relation to the same matter to which the breach of discipline in question related, except for any request which he may make in terms of rule 112 in relation to a punishment imposed in terms of rule 100(1)(e) or (f).

Requests for restoration of forfeited remission or rescinding awards of additional days

- 112.**—(1) Without prejudice to rule 111(1), if a prisoner desires to make a request for the—
- (a) remission or mitigation of any award of additional days which has been made in terms of rule 100(1)(e); or
 - (b) restoration of any remission of sentence which has been forfeited in terms of rules 100(1)(f),

he may make that request in writing directly to the Governor.

- (2) The Governor shall consider the request and may grant it, either in whole or in part, if—
- (a) the prisoner's conduct has been exemplary for a sustained period of time; or
 - (b) whether or not his conduct has been exemplary for a sustained period, the grant of the request is justified by particularly meritorious conduct demonstrated at any time subsequent to the award of additional days or the forfeiture of remission of sentence.

(3) The Governor shall inform the prisoner of his decision in writing within 7 days of the date on which the request was made.

Direction with respect to requests, complaints and appeals

113. The Secretary of State may provide in a direction such conditions with respect to the form and manner in which—

- (a) any request, complaint and appeal as mentioned in rules 104 to 112 may be made or referred; and
- (b) any reply or decision in relation to such a request, complaint and appeal may be given,

as he considers appropriate.

PART 12

FEMALE PRISONERS

Separation of male and female prisoners

114. Female prisoners shall be accommodated in rooms or cells which are entirely separate from rooms or cells used for the accommodation of male prisoners.

Pregnancy and confinement

115.—(1) The medical officer shall notify the Governor if he considers that a prisoner is pregnant or if a prisoner is likely to give birth prior to the expiration of her sentence or period of committal.

(2) The Governor shall not notify any friend or relative of the prisoner of her pregnancy without her consent except where—

- (a) in the case of a young offender who is under 18 years of age, the Governor considers it appropriate to do so; or
- (b) in any other case, the prisoner is incapable of giving consent by reason of illness and the Governor has no reason to think that such consent would be refused.

(3) A prisoner who is pregnant shall—

- (a) not be required to undertake any work of a strenuous nature in the later stages of her pregnancy;
- (b) be provided with food and drink which take into account any dietary requirements during pregnancy; and
- (c) where by virtue of her condition she requires to be removed from association with other prisoners, be kept under supervision to such extent as is reasonably practicable or be required to share accommodation in a room or cell with a suitable prisoner where the Governor and the medical officer consider this is appropriate.

(4) The medical officer shall arrange for the transfer of any prisoner who is pregnant to a hospital outwith the prison for the purposes of giving birth.

Accommodation of female prisoners' babies

116.—(1) Subject to paragraph (2), the Governor may permit a female prisoner to have her baby with her in prison, and everything necessary for the baby's maintenance and care, including a suitable cot, shall be provided by the Governor.

(2) Subject to any direction by the Secretary of State for the purposes of this rule, the Governor may in granting permission under paragraph (1) impose such conditions as he thinks fit.

(3) A female prisoner who is permitted to have her baby with her in prison may, with the consent of the Governor, arrange, at her expense or at the expense of some other person, for the provision of additional articles or food for the baby's maintenance or care.

PART 13

TRANSFER AND DISCHARGE OF PRISONERS

Pre-release preparation

117. The Governor shall at the appropriate time discuss with every prisoner his immediate needs on release and may also arrange for any other person to see the prisoner to discuss such needs.

Medical examination prior to transfer or release

118.—(1) The medical officer shall examine any prisoner who is receiving medical treatment or is for the time being fit under his supervision before that prisoner is—

- (a) taken from prison to any place; or
- (b) released from prison.

(2) No prisoner as mentioned in paragraph (1) shall be taken from prison to any place (other than a hospital in an emergency) until the medical officer certifies that he is fit to travel.

(3) Subject to paragraph (4), no prisoner as mentioned in paragraph (1) who is due to be released shall be discharged from prison until the medical officer certifies that he is fit to travel.

(4) Paragraph (3) shall not apply where the prisoner does not consent to remain in prison after the time he is due to be released.

Provision of clothing and return of property on release of prisoner

119.—(1) At the time of his release, a prisoner shall be entitled to the return of all clothing and other items of property belonging to him which have been accepted into or purchased within prison and which have not been disposed of or destroyed pursuant to rule 43(2).

(2) Where at the time of his release, a prisoner has insufficient clothing of his own, the Governor shall provide suitable clothing for his immediate needs following release.

PART 14

TEMPORARY RELEASE

Short home leave, Christmas and summer leave and pre-Training for Freedom leave

120.—(1) In this rule—

- (a) “short home leave” means temporary release from a prison of a prisoner for the purpose of enabling him to visit his home or other approved place for a period not exceeding 48 hours, excluding travelling time;
- (b) “Christmas and summer leave” means temporary release from a prison of a prisoner for the purpose of enabling him to visit his home or other approved place for a period of up to 5 days, excluding travelling time, at Christmas or during the summer; and
- (c) “pre-Training for Freedom leave” means temporary release from a prison of a prisoner who has been approved for transfer to a training for freedom hostel, for the purpose of enabling him to visit his home or other approved place for a period not exceeding 5 days, excluding travelling time, prior to transfer to such a hostel.

(2) On the application of an eligible prisoner and subject to rule 126, the Governor may grant the prisoner short home leave, Christmas and summer leave or pre-Training for Freedom leave if he

is of the opinion that, having regard to the relevant criteria applicable to the granting of such leave, it is appropriate to do so.

(3) For the purposes of this rule, a prisoner is an eligible prisoner only if at the time of his application he

- (a) is confined at a prison or in a particular hall of a prison to which this rule applies;
- (b) is a life prisoner or is serving a sentence for a term of more than 1 year;
- (c) is assigned security category D and has been assigned that category for at least 6 weeks prior to his application; and
- (d) is not disqualified from consideration for any reason specified in rule 124.

Long home leave

121.—(1) In this rule, “long home leave” means the temporary release of a prisoner for the purpose of enabling him to visit his home or other approved place for a period not exceeding 5 days, excluding travelling time.

(2) On the application of an eligible prisoner and subject to rule 126, the Governor may grant the prisoner long home leave if he is of the opinion that, having regard to the relevant criteria applicable to the granting of such leave, it is appropriate to do so.

(3) For the purposes of this rule, a prisoner is an eligible prisoner only if at the time of his application he—

- (a) is confined at a prison or in a particular hall of a prison to which this rule applies;
- (b) is serving a sentence for a term of more than 1 year and has not less than 2 months to serve before his earliest date of release;
- (c) is assigned security category D and has been assigned that category for at least 6 weeks prior to his application; and
- (d) is not disqualified from consideration for any reason specified in rule 124.

Pre-parole/pre-life licence leave

122.—(1) In this rule, “pre-parole/pre-life licence leave” means temporary release of an eligible prisoner for the purposes of enabling him to visit his home or other approved place for a period not exceeding 3 days prior to the date fixed for his release on licence.

(2) On the application of an eligible prisoner and subject to rule 126, the Governor may grant the prisoner pre-parole/pre-life licence leave if he is of the opinion that—

- (a) the period of leave will materially assist preparations for the prisoner’s release; and
- (b) having regard to the relevant criteria applicable to the granting of such leave, it is appropriate to do so.

(3) For the purposes of this rule, a prisoner is an eligible prisoner only if at the time of his application—

- (a) he is not disqualified from consideration for any reason specified in rule 124;
- (b) he is assigned security category D;
- (c) he has not previously been granted long home leave in terms of rule 121; and
- (d) he is—

- (i) an “existing life prisoner” within the meaning of paragraph 1 of Schedule 6 to the 1993 Act and the Parole Board for Scotland has recommended his release on licence in terms of section 25 or 26(42) of the Act;
- (ii) an “existing prisoner” or an “existing child detainee” within the meaning of paragraph 1 of Schedule 6 to the 1993 Act who is serving a sentence of imprisonment or detention for a period of 18 months or more and the Parole Board for Scotland has recommended his release on licence in terms of section 22 or 25 of the Act;
- (iii) a life prisoner whose sentence was imposed on or after 1st October 1993 and the Parole Board for Scotland has recommended his release on licence in terms of section 1 of the 1993 Act;
- (iv) a long-term prisoner and the Parole Board for Scotland has recommended his release on licence in terms of section 1, 6 or 7 of the 1993 Act, and the Secretary of State has on the basis of that recommendation decided that the prisoner should be released on licence; or
- (v) a discretionary life prisoner within the meaning of section 2 of the 1993 Act and the Secretary of State has decided to refer the prisoner’s case to the Parole Board for Scotland.

Unescorted exceptional day release of prisoners in security category D

123.—(1) In this rule “unescorted exceptional day release” means the temporary release for a period not exceeding 1 day of an eligible prisoner who is for the time being assigned security category D for the purpose of enabling him—

- (a) to visit a near relative who it appears to the Governor is dangerously ill;
- (b) to attend the funeral of a deceased near relative;
- (c) to visit a parent who is either too old or too ill to travel to the prison; or
- (d) to attend at any place for any other reason where the Governor is of the opinion there are exceptional circumstances.

(2) For the purposes of this rule, a prisoner is an eligible prisoner only if at the time of his application he is—

- (a) not an untried or a civil prisoner; and
- (b) not disqualified from consideration for any reason specified in rule 124.

(3) The Governor may grant unescorted exceptional day release on the written application of an eligible prisoner.

Circumstances where prisoners are disqualified from consideration for temporary release

124. A prisoner shall be disqualified from being considered for temporary release in terms of rules 120 to 123 if he is for the time being—

- (a) an appellant;
- (b) subject to proceedings under the Extradition Act 1989;
- (c) in the opinion of the medical officer, suffering from mental disorder; or
- (d) in the opinion of the medical officer, otherwise unfit.

(42) Sections 22, 25 and 26 were repealed by the 1993 Act, Schedule 7, but saved for certain purposes by Schedule 6 of that Act.

Recall of prisoners granted temporary release

125. The Secretary of State may make an order recalling to prison any prisoner who has been granted temporary release, whether the conditions upon which he has been granted such release have been broken or not.

Direction with respect to temporary release

126. For the purposes of temporary release consisting of any form of leave or release specified in rules 120 to 123, the Secretary of State may specify in a direction—

- (a) the prisons or any halls within particular prisons to which any of those rules applies;
- (b) the manner in which the Governor shall consider an application for any such form of temporary release;
- (c) the relevant criteria about which the Governor must be satisfied before he may grant any such form of temporary release;
- (d) the conditions which may be imposed in relation to any approval of such an application;
- (e) the timing and duration of any such form of temporary release and the frequency with which it may be granted to an eligible prisoner; and
- (f) the persons who are to be treated as a near relative of the prisoner.

PART 15

OFFICERS AND EMPLOYEES

General duty of officers and employees

127. It shall be the duty of every officer and employee—

- (a) to conform to these Rules;
- (b) to obey any lawful instructions of the Governor or of the Secretary of State; and
- (c) to inform the Governor promptly of any breach of these Rules or any abuse or impropriety which comes to his knowledge.

Transactions with prisoners or in connection with the prison

128.—(1) No officer or employee shall take part in any business or pecuniary transaction with, or on behalf of, a prisoner, except with the authority of the Secretary of State.

(2) Except with the authority of the Governor, no officer or employee shall—

- (a) bring in or take out, or attempt to bring in or take out, or knowingly allow to be brought in or taken out, to or for any prisoner; or
- (b) deposit in any place with intent that it shall come into the possession of any prisoner,

any article whatsoever.

Fees and gratuities

129. No officer or employee shall—

- (a) receive any unauthorised fee, gratuity or other consideration in connection with his duties as an officer or employee;

- (b) directly or indirectly, have any interest in any contract in connection with the prison or any other prison; or
- (c) receive any fee, gratuity or other consideration from or on behalf of any contractor at, or any person tendering for a contract in connection with, the prison or any other prison.

Searches of officers and employees

130.—(1) If the Governor has reasonable grounds for suspecting that any officer or employee may have concealed, either on his person or in any place within the prison, anything which is or may be prejudicial to security, good order or safety, he may order the carrying out of a search—

- (a) of the officer or employee; and
 - (b) of any article of property belonging to the officer or employee which is in his possession whilst he is in the prison, or which is kept by him in his locker or any other place within the prison.
- (2) The power of search conferred by paragraph (1) shall—
- (a) not be construed as authorising the Governor to require an officer or employee to remove any of his clothing other than an outer coat, jacket, headgear and gloves; and
 - (b) include power to use reasonable force where necessary.
- (3) A search of an officer or employee shall be carried out within the prison—
- (a) by at least 2 officers who shall be of the same sex as the officer or employee being searched;
 - (b) outwith the sight of any other person; and
 - (c) as expeditiously and decently as possible.

Communications to the press etc.

131.—(1) No officer or employee shall make, directly or indirectly, any unauthorised communication to a representative of the press or any other person concerning matters which have become known to him in the course of his duties.

(2) No officer or employee shall, without the authority of the Governor or, in such circumstances as the Secretary of State may specify in a direction, publish any matter or make any public pronouncement relating to the administration of any institution to which the Act applies or to any person who may be lawfully confined therein.

Code of Discipline

132. The Secretary of State may approve a Code of Discipline to have effect in relation to officers and employees, or such categories of officers and employees as it may specify, setting out the offences against discipline, the awards which may be made in respect of them and the procedure for dealing with charges and any appeals against findings of guilt or disciplinary awards.

PART 16

VISITING COMMITTEES

Constitution of visiting committees

133.—(1) On and after 1st January 1995 there shall be a visiting committee constituted in accordance with this rule for each prison specified in column 1 of Schedule 4 to these Rules.

(2) The members of a visiting committee for each prison specified in column 1 of Schedule 4 shall be appointed in accordance with this rule by the regional council and district council specified in column 2 of that Schedule in relation to that prison and each such council shall appoint the number of members of the committee specified in column 3 of that Schedule in relation to that council.

(3) Not less than one-third of the total number of members required to be appointed under paragraph (2) to a visiting committee shall be persons who are not members of the council which appoints them.

(4) Any person with a direct financial interest in any contract for the supply of goods or services to the prison or any other prison shall not be eligible for appointment to the visiting committee for that prison.

(5) The member or members of a visiting committee to be appointed by a council in terms of paragraph (2) shall be appointed with effect from 1st January 1995 at a meeting of the council held at any time prior to that date.

(6) A member of a visiting committee shall cease to hold office if—

- (a) he resigns;
- (b) either the council who appointed the member or the Secretary of State terminate the member's appointment if either is satisfied that—
 - (i) the member has failed satisfactorily to perform his duties;
 - (ii) the member is for any other reason incapable of carrying out his duties;
 - (iii) subsequent to his appointment, the member has been convicted of such a criminal offence, or his conduct has been such, that it is not fitting that he should remain a member; or
 - (iv) the member has a direct financial interest contrary to the terms of rule 140; or
- (c) having been appointed a member whilst also a member of the council, the council terminate his appointment by reason of his having ceased to be a member of the council.

(7) The chairman of a visiting committee shall report to the council responsible for appointing any member of the visiting committee any circumstances which he considers might reasonably give cause for termination in terms of paragraph (6) of the appointment of the member appointed by that council.

(8) If for any reason the requisite number of members of a visiting committee is not appointed at the proper time in terms of paragraph (5), or if for any cause a vacancy occurs in a visiting committee, the council responsible for the appointment may at any time and as soon as possible after the vacancy occurs appoint a person to fill the vacancy.

Proceedings of visiting committees

134.—(1) At the first meeting of a visiting committee, the members shall—

- (a) elect from the membership, a chairman and a deputy chairman each for a period of 3 years, and thereafter shall fill any vacancy in that office promptly; and
- (b) appoint a person (not being an officer of the Secretary of State) to act as a clerk to the Committee.

(2) The chairman of the visiting committee shall report to the Secretary of State the names and addresses of the members of the committee immediately after the first meeting and, thereafter, whenever a change in these details or in the membership occurs.

(3) The visiting committee for a prison shall meet at the prison at least once in every period of 3 months.

(4) A visiting committee may appoint from its membership sub-committees and may delegate specific duties to any such sub-committee for the purpose of carrying out its functions.

(5) A visiting committee shall fix a quorum of not less than one-third of the total number of members required to be appointed to that committee for the purpose of its proceedings, and for the proceedings of any sub-committee appointed under paragraph (4).

(6) The proceedings of a visiting committee shall not be invalidated by any vacancy in the membership or any defect in the appointment of a member.

(7) A visiting committee shall keep minutes of its proceedings and shall send a copy of such minutes to the Governor and to the Secretary of State.

General duties of visiting committees and members of committees

135.—(1) A visiting committee shall co-operate with the Secretary of State and the Governor in promoting the efficiency of the prison and shall inquire into and report to the Secretary of State upon any matter into which he may ask it to inquire.

(2) The visiting committee shall—

(a) immediately bring to the notice of the Governor any circumstances relating to the administration of the prison or the condition of any prisoner which appear to it to be expedient to report for his consideration; and

(b) bring such circumstances to the notice of the Secretary of State if it appears to the committee that the Governor has not remedied any matter which he has been notified of within such period as appears to the committee to be reasonable.

(3) The visiting committee shall from time to time inquire into the state of the prison premises and shall—

(a) inspect, in particular, the food and drink provided to prisoners; and

(b) in relation to any such inquiry—

(i) record particulars of every visit made, together with any deficiencies found during such visits, in the committee's minute book; and

(ii) promptly send a copy of such particulars to the Secretary of State and to the Governor.

(4) The visiting committee shall also discharge such other duties as the Secretary of State may from time to time assign to it.

(5) No person who is or has been a member of a visiting committee shall disclose any information mentioned in paragraph (6) which he holds or has held as a member.

(6) The information referred to in paragraph (5) is any information obtained—

(a) by any member of a visiting committee which relates to the prison, any officer of the prison or any prisoner; and

(b) on terms or in circumstances requiring it to be held in confidence.

(7) Paragraph (5) does not apply to any disclosure of information mentioned in paragraph (6) made to any person, or for any purpose, permitted by the provisions of this Part.

Investigation of complaints

136.—(1) The visiting committee and any member shall hear and investigate any complaint which a prisoner makes to it and him.

(2) Where a member of the committee wishes to see any prisoner in connection with a complaint, the Governor shall make arrangements for the member to do so, whether in the prisoner's room or

cell or in some other part of the prison, but in any case outwith the sight and hearing of an officer unless either party requests otherwise.

- (3) The visiting committee shall—
- (a) record particulars of its findings in relation to its investigation of a prisoner's complaint in its minute book;
 - (b) promptly send a copy of such findings to the Secretary of State and to the Governor; and
 - (c) orally inform the prisoner concerned of its findings.

Visits to prisons by members of visiting committees

137. Not fewer than 2 members of a visiting committee shall visit the prison at least fortnightly and for this purpose the committee shall arrange a rota of attendance at the prison.

Inspection of prison records

138.—(1) The visiting committee or any member of the committee may inspect prison records other than—

- (a) personnel records;
- (b) prisoners' records; and
- (c) security manuals or other papers which have implications for security.

(2) The visiting committee shall record particulars of any inspection of prison records in its minute book.

Annual report

139.—(1) The visiting committee shall make an annual report for the period of 12 months ending on 31st March each year to the Secretary of State concerning the state of the prison and its administration and may include in it any advice and suggestions it considers appropriate.

(2) The said annual report shall be delivered as soon as possible after the last day of March in each year.

Conflicts of interest

140. A member of the visiting committee shall not have any direct financial interest in any contract for the supply of goods or services to the prison for which the committee is appointed or any other prison.

PART 17

SUPPLEMENTARY

Remission of sentence or period of detention

- 141.**—(1) This rule applies only to a person who, at 1st October 1993, was—
- (a) serving a sentence of imprisonment for a term of more than 5 days;
 - (b) serving a sentence of detention in a young offenders institution for a term of more than 5 days; or
 - (c) detained in prison on committal for a term of more than 5 days for contempt of court,

where that sentence or detention was imposed prior to that date.

(2) A person to whom this rule applies may, on the grounds of his industry and good conduct, be granted remission in accordance with the provisions of this rule.

(3) This rule shall not permit the reduction of the actual term which a person serves to less than 5 days.

(4) The remission granted under this rule shall not exceed one-third of the term of the person's sentence or detention.

(5) This rule shall have effect subject to any disciplinary punishment of forfeiture of remission made under—

- (a) rule 43(2)(a) or 45(1)(a) of the 1952 Rules;
- (b) rule 42(2)(a) or 44(1)(a) of the 1965 Rules; or
- (c) rule 100(1)(f) of these Rules.

Directions

142. Where any provision of these Rules provides that the Secretary of State may give a direction, unless the contrary intention appears, the Secretary of State may make provision in the direction—

- (a) in relation to all cases in respect of which the direction may be given, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or classes of case;
- (b) as respects the cases in relation to which it is given, that the direction applies either unconditionally, or subject to any specified condition; or
- (c) which is incidental or supplementary to the purpose in respect of which the direction may be given.

Revocations

143. Subject to rule 144, the rules specified in Schedule 5 are hereby revoked.

Savings and transitional provisions

144. Notwithstanding rule 143, the savings and transitional provisions specified in Schedule 6 shall have effect.

St Andrew's House,
Edinburgh
18th July 1994

Fraser of Carmyllie
Minister of State, Scottish Office

SCHEDULE 1

Rule 2(2)

MODIFICATION OF THE RULES IN THEIR APPLICATION TO YOUNG OFFENDERS INSTITUTIONS AND YOUNG OFFENDERS

Modification of rule 32

1. For rule 32(2) there shall be substituted the following paragraph:–

“(2) Where a young offender is moved from any institution to any other institution, or to a prison in terms of section 20A or 21 of the Act(43), the medical officer of the institution from which he is moved shall send his medical record to the medical officer of the institution or, as the case may be, the prison to which he is moved. ”.

Modification of rule 57

- 2.—(1) For rule 57(1)(b) there shall be substituted the following sub-paragraph:–

“(b) is moved from a young offenders institution (or, if he is detained in a prison by virtue of section 20A or 21 of the Act, a prison) to any other institution or to any prison, whether or not for the purpose of enabling him to use any accumulated unused allowance of visits; ”.

(2) In rule 57(1), (2) and (3), the word “prison” shall apply as if it read “young offenders institution or prison”.

Substitution of rule 75

3. For rule 75 there shall be substituted the following rule:–

“Exercise

75.—(1) Every young offender shall regularly be given such physical recreation, training and exercise as are required to promote health and physical well being.

(2) Every young offender shall be entitled to be given physical recreation, training and exercise in terms of paragraph (1) in association with other young offenders except when the Governor otherwise orders in accordance with rule 80.

(3) Where the Secretary of State considers that it is not practicable to give young offenders physical recreation, training and exercise in terms of paragraph (1) due to exceptional circumstances pertaining in a young offenders institution, he may by direction provide that paragraph (1) shall not apply in relation to young offenders in that institution until such time as he considers that it is so practicable. ”.

Modification of rule 80

4. In rule 80(3)(d), for the words “taking exercise and spending time in the open air” there shall be substituted “physical recreation, training and exercise given”.

Substitution of rule 133

5. For rule 133 there shall be substituted the following rule:–

(43) Section 20A was inserted by the 1993 Act, section 23; section 21 was amended by the 1993 Act, Schedule 5, paragraph 6(5).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“Minimum number of women members of visiting committees

133. Of the total membership of the visiting committee for each young offenders institution appointed by the Secretary of State under section 19(3) of the Act(44), not fewer than one third, with a minimum of 2, shall be women. ”.

Modification of rule 134

- 6.—(1) Rule 134(2) shall not apply.
- (2) In rule 134(5) the words “required to be” shall be omitted.

Disapplication of Schedule 4

- 7. Schedule 4 shall not apply.

SCHEDULE 2

Rule 12

SECURITY CATEGORIES

Column 1 <i>Category</i>	Column 2 <i>Criteria</i>
A	A prisoner who would place national security at risk, or be highly dangerous to the public or to prison staff and their families or to the police in the event of an escape and who must be kept in conditions of maximum security.
B	A prisoner who is considered likely to be a danger to the public and who must be kept in secure conditions to prevent his escape.
C	A prisoner who is considered unlikely to be a danger to the public and who can be given the opportunity to serve his sentence with the minimum of restrictions.
D	A prisoner who is considered not to be a danger to the public and who can be given the opportunity to serve his sentence in open conditions.

SCHEDULE 3

Rule 94

BREACHES OF DISCIPLINE

A prisoner shall be guilty of a breach of discipline if he—

- (a) commits any assault;
- (b) detains any person against his will;

(44) Section 19(3) was amended by the 1993 Act, Schedule 5, paragraph 6(4).

- (c) denies access to any part of the prison to any officer;
- (d) fights with any person;
- (e) intentionally endangers the health or personal safety of others or, by his conduct, is reckless whereby such health or personal safety is endangered;
- (f) intentionally obstructs an officer in the execution of his duty;
- (g) escapes or absconds from prison or from legal custody;
- (h) fails–
 - (i) to return to prison when he should return after being temporarily released under Part 14 of these Rules; or
 - (ii) to comply with any condition upon which he is so temporarily released;
- (i) has in his possession–
 - (i) any article which he is not authorised to have; or
 - (ii) a greater quantity of any article than he is authorised to have; or
 - (iii) any article in a part of the prison where he is not authorised to have it;
- (j) sells or delivers to any person any article which he is not authorised to have;
- (k) sells or, without permission, delivers to any person any article which he is allowed to have only for his own use;
- (l) takes improperly any article belonging to another person or to the prison;
- (m) intentionally or recklessly sets fire to any part of a prison or any other property, whether or not that property belongs to him;
- (n) destroys or damages any part of a prison or any other property, other than his own;
- (o) absents himself from any place where he is required to be or is present at any place where he is not authorised to be;
- (p) is disrespectful to any officer or any person visiting a prison;
- (q) uses threatening, abusive or insulting words or behaviour;
- (r) intentionally fails to work properly or, being required to work, refuses to do so;
- (s) disobeys any lawful order;
- (t) disobeys or fails to comply with any rule or regulation applying to a prisoner;
- (u) inhales any substance, or the fumes of any substance, which is a prohibited article or consumes, takes, injects or ingests any substance which is a prohibited article;
- (v) commits any indecent or obscene act; or
- (w) attempts to commit, incites another prisoner to commit, or assists another prisoner to commit or to attempt to commit, any of the foregoing breaches.

SCHEDULE 4

Rule 133

CONSTITUTION OF VISITING COMMITTEES

<i>(1)</i> <i>Name of Prison</i>	<i>(2)</i> <i>Names of Appointing Authorities</i>	<i>(3)</i> <i>Numbers of members to be appointed</i>
ABERDEEN	Grampian Regional Council	3

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<i>(1)</i> <i>Name of Prison</i>	<i>(2)</i> <i>Names of Appointing Authorities</i>	<i>(3)</i> <i>Numbers of members to be appointed</i>
	City of Aberdeen District Council	5
		8
BARLINNIE, GLASGOW	Strathclyde Regional Council	10
	City of Glasgow District Council	15
		25
CORNTON VALE, STIRLING	Central Regional Council	7
	Stirling District Council	8
		15
DUMFRIES	Dumfries and Galloway Regional Council	5
	Nithsdale District Council	6
		11
DUNGAVEL	Strathclyde Regional Council	3
	East Kilbride District Council	5
		8
EDINBURGH	Lothian Regional Council	5
	City of Edinburgh District Council	12
		17
FRIARTON	Tayside Regional Council	3
	Perth and Kinross District Council	5
		8
GLENOCHIL	Central Regional Council	4
	Clackmannan District Council	10
		14
GREENOCK	Strathclyde Regional Council	3
	Inverclyde District Council	5
		8
INVERNESS	Highland Regional Council	7
	Inverness District Council	3
		10

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<i>(1)</i> <i>Name of Prison</i>	<i>(2)</i> <i>Names of Appointing Authorities</i>	<i>(3)</i> <i>Numbers of members to be appointed</i>
LONGRIGGEND	Strathclyde Regional Council	3
	Monklands District Council	5
		8
LOW MOSS	Strathclyde Regional Council	4
	Strathkelvin District Council	6
		10
NORANSIDE	Tayside Regional Council	3
	Angus District Council	5
		8
PENNINGHAME	Dumfries and Galloway Regional Council	3
	Wigtown District Council	5
		8
PERTH	Tayside Regional Council	6
	Perth and Kinross District Council	10
		16
PETERHEAD	Grampian Regional Council	3
	Banff and Buchan District Council	5
		8
SHOTTS	Strathclyde Regional Council	5
	Motherwell District Council	12
		17

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SCHEDULE 5

Rule 143

REVOCATIONS

PART I—

REVOCATIONS COMING INTO FORCE ON 1ST NOVEMBER 1994

<i>(1)</i> <i>Rules revoked</i>	<i>(2)</i> <i>References</i>
The Prison (Scotland) Rules 1952 except Part VII and the Schedule	S.I. 1952/565
The Prison (Scotland) Rules 1954	S.I. 1954/240
The Prison (Scotland) Rules 1956	S.I. 1956/671
The Young Offenders (Scotland) Rules 1965	S.I. 1965/195
The Young Offenders (Scotland) (Amendment) Rules 1966	S.I. 1966/1551
The Prison (Scotland) (Amendment) Rules 1966	S.I. 1966/1552
The Prison (Scotland) (Amendment) Rules 1970	S.I. 1970/2013
The Prisons (Scotland) (Amendment) Rules 1981	S.I. 1981/1222
The Young Offenders (Scotland) (Amendment) Rules 1981	S.I. 1981/1223
The Prison (Scotland) Amendment Rules 1993	S.I. 1993/2227
The Young Offenders (Scotland) Amendment Rules 1993	S.I. 1993/2228

PART II—

REVOCATIONS COMING INTO FORCE ON 1ST JANUARY 1995

<i>(1)</i> <i>Rules revoked</i>	<i>(2)</i> <i>References</i>
Part VII of, and the Schedule to, the Prison (Scotland) Rules 1952	S.I. 1952/565
The Prison (Scotland) Amendment Rules 1979	S.I. 1979/1630
The Prison (Scotland) Amendment Rules 1984	S.I. 1984/2058
The Prison (Scotland) Amendment Rules 1987	S.I. 1987/2231
The Prison (Scotland) Amendment Rules 1988	S.I. 1988/537

SCHEDULE 6

Rule 144

SAVINGS AND TRANSITIONAL PROVISIONS

Savings and transitional provisions for the 1952 Rules

1.—(1) Subject to the following sub-paragraphs of this paragraph, where at the date of revocation of the 1952 Rules by rule 143 of these Rules—

- (a) there remains extant any privilege or certificate granted;
- (b) there remains in force any authority, order or permission given;
- (c) any record or minute requires to be made in respect of any matter;
- (d) any complaint made requires to be or is being investigated; or
- (e) any inquiry or investigation requires to be or is being carried out,

under any provision of the 1952 Rules, then, insofar as any matter specified in heads (a) to (e) above could be granted, given, made, investigated or carried out under a corresponding provision of these Rules, that matter shall be treated as if it had been granted, made or given, or as if it had to be made, investigated, or carried out, under the corresponding provision of these Rules.

(2) Any award of a punishment under any one or more of sub-paragraphs (a) to (e) of either rule 43(2) or 45(1) of the 1952 Rules which—

- (a) was made in respect of a prisoner—
 - (i) in the case of a punishment awarded under rule 43(2) of the 1952 Rules, prior to the date of revocation of that rule by rule 143 of these Rules; or
 - (ii) in the case of a punishment awarded under rule 45(1) of the 1952 Rules, prior to 1st October 1993; and
- (b) has not been remitted and remains in force (or in force to the extent that it may have been mitigated) in respect of that prisoner at that date,

shall be deemed to have effect as if awarded under rule 100 of these Rules.

(3) Where, at 1st November 1994, any report of an offence against discipline which was made in terms of rules 38 and 43 of the 1952 Rules has not been adjudicated, the report shall be deemed not to have been made, but without prejudice to the right of an officer, if appropriate, to make a report in terms of rule 95(1) of these Rules.

(4) The Code of Discipline formulated by the Secretary of State in April 1979 shall continue to apply in relation to any offence committed by an officer before 1st January 1993 and in respect of which the officer has on that date been charged under that Code and for that purpose shall be deemed to be approved under rule 132 of these Rules.

(5) The Scottish Prison Service Code of Discipline 1993 made by the Secretary of State on 24th October 1992 shall continue to apply as if it had been approved under rule 132 of these Rules.

Savings and transitional provisions for the 1965 Rules

2.—(1) Subject to the following sub-paragraphs of this paragraph, where at the date of revocation of the 1965 Rules by rule 143 of these Rules—

- (a) there remains extant any privilege or certificate granted;
- (b) there remains in force any authority, order or permission given;
- (c) any record or minute requires to be made in respect of any matter;
- (d) any complaint requires to be or is being investigated; or

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(e) any inquiry or investigation requires to be or is being carried out, under any provision of the 1965 Rules, then, insofar as any matter specified in heads (a) to (e) above could be granted, given, made, investigated or carried out under a corresponding provision of these Rules, that matter shall be treated as if it had been granted, made, or given, or as if it had to be made, investigated or carried out, under the corresponding provision of these Rules insofar as it applies to a young offenders institution or a person liable to be detained therein.

(2) Any award of a punishment made under any one or more of sub-paragraphs (a) to (e) of either rule 42(2) or 44(1) of the 1965 Rules which—

(a) was made in respect of a person liable to be detained in a young offenders institution—

(i) in the case of a punishment awarded under rule 42(2) of the 1965 Rules, prior to the date of revocation of that rule by rule 143 of these Rules; or

(ii) in the case of a punishment awarded under rule 44(1) of the 1965 Rules, prior to 1st October 1993; and

(b) has not been remitted and remains in force (or in force to the extent that it may have been mitigated) in respect of that person at that date,

shall be deemed to have effect as if awarded under rule 100 of these Rules.

(3) Where, at 1st November 1994, any report of an offence against discipline which was made in terms of rules 36 and 42 of the 1965 Rules has not been adjudicated, the report shall be deemed not to have been made, but without prejudice to the right of an officer, if appropriate, to make a report in terms of rule 95(1) of these Rules.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules replace the Prison (Scotland) Rules 1952 and the Young Offenders (Scotland) Rules 1965 as respectively amended.

Part 1 of the Rules (rules 1 to 5) makes provision for citation, commencement, application and interpretation. It also provides for certain duties of the Governor in relation to elimination of discrimination and the making available of a copy of the Rules and of any directions to officers and prisoners. Rule 2 provides that the Rules apply to young offenders institutions and to young offenders as they apply to prisons and prisoners subject to the modifications set out in Schedule 1.

Part 2 (rules 6 to 14) deals with matters relating to reception of prisoners, prisoner records, classification of prisoners and location of prisoners within prisons. In relation to reception, there are provisions as to the manner in which a prisoner is to be dealt with including the information he must be given (rules 7 to 9). Rule 10 deals with registration and records of prisoners. Rules 11 and 12 relate to classification and security categories. Every prisoner requires to be given one of the specified security categories in Schedule 2.

Part 3 (rules 15 to 22) regulates matters affecting the physical and personal environment in which prisoners are confined. Rules 15 to 17 specify conditions relating to cellular accommodation. Rules 18 to 20 make provision for requirements in relation to clothing. Subject to certain conditions, prisoners are allowed to wear their own clothes unless the provisions of rule 18(1) are disapplied in

relation to their prison by virtue of a direction. Rules 21 and 22 set out requirements in relation to the provision of food and prisoners' hygiene.

Part 4 (rules 23 to 34) makes provision in relation to the health and welfare of prisoners. The duties of medical officers are specified in rules 23, 25, 27 to 29, 31 and 32. Rule 33 requires the governor to provide assistance and facilities to assist prisoners to maintain relationships with family, friends and agencies who may offer them assistance. Special provision is made for visits to untried and civil prisoners by their own doctors and dentists (rule 34).

Part 5 (rules 35 to 39) makes provision in relation to religious practice by a prisoner. Rule 36 enables the Chaplain, any prison minister appointed under section 9(1) of the Prisons (Scotland) Act 1989 "the Act", and any other minister ("visiting minister") allowed to visit prisoners in terms of section 9(3) of the Act to visit prisoners and conduct religious services or meetings for prisoners. Rule 37 requires the Governor to make arrangements for visits by visiting ministers. Rule 38 permits prisoners to attend services or meetings of their religious denomination and makes provision in relation to visits by the Chaplain or other minister.

Part 6 (rules 40 to 46) makes provision for privileges and the regulation of property belonging to prisoners which is received or kept at the prison. Rule 40 requires governors to establish a system of privileges in the prison. Such a system shall not affect any entitlement of a prisoner as specified in the rules and any such entitlement is not to be regarded as a privilege for the purposes of disciplinary punishment which may provide for forfeiture of privileges. The handling of prisoners' property in general and money in particular is dealt with in rules 42 to 44 and 45 respectively.

Part 7 (rules 47 to 65) deals with various matters relating to arrangements enabling prisoners to communicate with persons outwith the prison. Correspondence is dealt with in rules 48 to 53. Special provisions relating to the correspondence between prisoners and courts and legal advisers are contained in rules 49 and 50. Other correspondence is regulated by rules 48 and 51 to 53. Every prisoner is entitled to send at least one letter every week at the expense of the Secretary of State. Entitlement of prisoners to make telephone calls from the prison is regulated by rule 54 and any direction which may be made for the purposes of that rule. Visits to prisoners are provided for in rules 55 to 64. Rule 55 specifies the minimum entitlement to visits for prisoners (rule 56 making similar provision for untried and civil prisoners). Rule 57 enables certain prisoners to carry forward their unused visiting allowance where they are moved to another prison. Rules 58 to 61 make special provision in relation to visits by legal advisers, procurators fiscal, police constables, and representatives of diplomatic services and national or international authorities or organisations. Rule 62 makes special provision where a prisoner requires to see persons in connection with legal proceedings. Rule 63 enables the governor to terminate visits in certain circumstances and enables the Secretary of State to impose such conditions as may be specified in a direction on the entitlement of a prisoner to receive visits. Rule 64 provides for the use of closed visiting facilities in certain circumstances. Special arrangements for prisoners committed to prison in default of payments are set out in rule 65 to enable them to communicate with any person to arrange payment of money in order to secure their release.

Part 8 (rules 66 to 77) makes provision in relation to work, education, earnings, counselling and recreational activity. Except for young prisoners and untried and civil prisoners, all prisoners are required to work, for which they are entitled to receive earnings in terms of rule 74. Rules 75 to 77 make provision in relation to exercise and recreational activity. Prisoners are not permitted to carry on any trade, profession or vocation from the prison but are not prevented from writing articles or books.

Part 9 (rules 78 to 93) makes provision in relation to security matters and the control of prisoners. General duties are dealt with in rules 78 and 79. Removal of a prisoner from association with other prisoners is dealt with in rule 80. Rules 81 and 82 regulate possession of prohibited articles and other property. The use of restraints for the control of prisoners is regulated by rules 83 and 84. Provision for the temporary confinement in special cells of violent prisoners is made in rule 85. Searching of visitors and prisoners is regulated by rules 86 and 88. Searching prisoners' property is regulated by

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rule 89. Provision for prisoners' leave of absence under escort is made in rules 91 and 92. Rule 93 makes provision in relation to production of prisoners to court.

Part 10 (rules 94 to 101) makes provision in relation to the disciplinary system. The acts or omissions constituting a breaching of discipline are specified in Schedule 3. These include provisions which are similar to the offences against discipline specified in rule 42 of the 1952 Rules but do not contain provisions comparable to rule 42(7) (communicating with another prisoner without authority), 42(11) (committing a nuisance), 42(16) (making repeated and groundless complaints) and 42(17) (offending against good order and discipline) of the 1952 Rules. Rules 95 to 99 relate to the adjudication of charges of breaches of discipline and specify the procedure to be followed. Rules 100 and 101 regulate the imposition of punishments in relation to breaches of discipline.

Part 11 (rules 102 to 113) makes provision in relation to requests and complaints by prisoners. Rules 103 to 113 deal with the internal grievance procedures which a prisoner may invoke. The system provides for requests and complaints to be made initially to a designated officer in the prisoner's accommodation hall. Thereafter, the request or complaint may be referred progressively to the manager of that hall, the internal complaints committee, the Governor in charge and finally to the Secretary of State. There is a separate procedure prescribed for referring confidential matters directly to the Governor in charge and for referring certain categories of request directly to the Secretary of State (rules 108 and 110). Rules 111 and 112 make provision in relation to appeals and requests concerning disciplinary matters.

Part 12 (rules 114 to 116) makes provision in relation to female prisoners, particularly pregnant prisoners or prisoners who have babies and who are permitted to have them in prison.

Part 13 (rules 117 to 119) makes provision in relation to arrangements for prisoners who are being transferred or discharged.

Part 14 (rules 120 to 126) sets out provisions in terms of which prisoners may be temporarily released from prison. The provisions describe different temporary release schemes comprising short home leave, Christmas and summer leave and pre-Training for Freedom leave (rule 120); long home leave (rule 121); pre-parole/pre-life licence leave (rule 122); and unescorted exceptional day release of prisoners in security category D (rule 123).

Part 15 (rules 127 to 132) makes provision in relation to officers and employees. It prescribes general duties and obligations and provides power to the governor to order the search of officers and employees in certain circumstances.

Part 16 (rules 133 to 140) makes provision in relation to visiting committees. Rule 133 sets out the requirement for the constitution of visiting committees of prisons (paragraph 3 of Schedule 1 substitutes this rule in relation to young offenders institutions, the visiting committees for which are appointed by the Secretary of State in terms of section 19(3) of the Act). Rules 134 to 140 regulate the proceedings of the visiting committees and the duties of members.

Part 17 (rules 141 to 144) contains supplementary provisions in relation to various matters. Rule 141 provides for remission of sentence or detention of prisoners or young offenders respectively who were sentenced before 1st October 1993. Rule 142 contains supplementary provision as to the making of directions where any provision of the Rules authorises the making of a direction for a specified purpose. Rules 143 and 144, and Schedules 5 and 6, provide for revocation of various rules and savings and transitional provisions in connection therewith.