

PRISON (AMENDMENT) (NORTHERN IRELAND) ORDER 2004

S.I. 2004 704

EXPLANATORY MEMORANDUM

THE MAIN PROVISIONS OF THE ORDER

Title, Commencement and Interpretation

Articles 1 & 2 provide for the title, commencement and interpretation of the Order.

Membership of board of visitors for prison

Article 3 removes the statutory requirement, from section 10(4) of the Prison Act (Northern Ireland) 1953, for the Board of Visitors at each prison to include at least two Justices of the Peace amongst their number as it is no longer operationally necessary and is inconsistent with equality obligations.

Detention in the custody of a constable where admission to prison not practicable

Article 4 creates a new section in the Prison Act (NI) 1953 affirming the lawful temporary detention in police custody of persons committed to prison by the courts in circumstances where it is not practicable to immediately admit them to prison. The article also provides that police may return such persons, held in their custody, to court where required to do so.

Testing prisoners for alcohol and drugs

Articles 5 & 6 create new sections in the Prison Act (Northern Ireland) 1953 providing enabling powers for mandatory alcohol testing and drugs testing of prisoners, which is a development objective of the Northern Ireland Prison Service's drugs strategy. The Articles provide that, in circumstances where the Secretary of State has authorised the commencement of mandatory alcohol or drugs testing of prisoners, any designated person - appointed under section 2 (2) of that Act – and authorised by the Governor to do so, may require a prisoner to provide a sample of urine for testing. The Articles also provide that any other non-intimate sample material may be required for the purposes of testing either instead of, or in addition to, a sample of urine.

Repeal of section 40 of the Prison Act (NI) 1953

Article 7 repeals a provision which provided that unconvicted prisoners can be permitted to receive pre-prepared foodstuffs purchased by others and provided for their consumption in prison. This removes the opportunity for illicit substances to be secreted in such goods. The repeal will not affect prisoners' ability to purchase foodstuffs through authorised channels in the prison.