
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 331

**The Prisons and Young Offenders
Institutions (Scotland) Rules 2011**

PART 5

HEALTH AND WELFARE

Accommodation in specified conditions

41.—(1) The Governor must order that a prisoner be accommodated in specified conditions where a healthcare professional—

- (a) advises the Governor that it is appropriate to do so in order to protect the health or welfare of the prisoner or any other prisoners; and
- (b) informs the Governor of the care and treatment planned for the prisoner while the prisoner is accommodated in specified conditions.

(2) For the purpose of this rule “specified conditions” include, but are not limited to—

- (a) accommodation in a specified part of the prison,
- (b) accommodation separate from other prisoners, and
- (c) confining the prisoner to his or her own cell.

(3) The following conditions apply to an order made under paragraph (1)—

- (a) the order must be in writing;
- (b) the order must detail the reasons why it is being made;
- (c) the order cannot last for more than 72 hours from the time it is made unless an extension has been authorised by the Scottish Ministers in accordance with paragraphs (10) or (11);
- (d) the Governor must explain to the prisoner, if it is practicable to do so, the reasons why the order has been made; and
- (e) the Governor must provide the prisoner with a copy of the written order.

(4) The Governor may, on the advice of a healthcare professional, allow a prisoner who has been accommodated in specified conditions separate from other prisoners under this rule, to associate with other prisoners—

- (a) for the purpose of engaging or taking part in a prescribed activity or a number of prescribed activities; or
- (b) in general for a specified period of time each day.

(5) The Governor must keep a written record of every decision made under paragraph (4).

(6) The Governor must revoke an order made under paragraph (1) where the Governor is advised by a healthcare professional that it is appropriate to do so on health or welfare grounds.

(7) An application to the Scottish Ministers to extend an order made under paragraph (1) in accordance with paragraphs (10) or (11) may only be made by the Governor where the Governor is

advised by a healthcare professional, prior to the expiry of the order, that it is appropriate to do so on health or welfare grounds and the Governor must make an application under paragraph (10) or (11) as appropriate on the receipt of such advice.

- (8) A prisoner is entitled to make representations to the Governor—
- (a) where the Governor is of the opinion that it is practicable to do so, prior to an order being made under paragraph (1);
 - (b) at any time after an order is made under paragraph (1) but before the Governor applies to the Scottish Ministers for an extension to the order under paragraph (10); and
 - (c) as part of the Governor's application to the Scottish Ministers under paragraphs (10) or (11) to extend an order made under paragraph (1).

(9) Representations made by the prisoner under paragraph (8) must be taken into account by the Governor and must be made in writing—

- (a) personally by the prisoner; or
- (b) by the prisoner but transcribed by an officer.

(10) The Scottish Ministers may—

- (a) on the application of the Governor prior to the expiry of an order made under paragraph (1); and
- (b) where they are satisfied that it is appropriate in order to protect the health or welfare of the prisoner or any other prisoners,

grant an extension to an order made under paragraph (1) for a period of no more than one month, to be calculated in accordance with paragraph (12).

(11) The Scottish Ministers may—

- (a) on the application of the Governor made prior to the expiry of any extension granted under paragraph (10) or this paragraph; and
- (b) where they are satisfied that it is appropriate in order to protect the health or welfare of the prisoner or any other prisoners,

grant any number of further extensions to an order made under paragraph (1) for successive periods of no more than one month, to be calculated in accordance with paragraph (12).

(12) Where an order made by the Governor under paragraph (1) has been extended by the Scottish Ministers under paragraphs (10) or (11), the period of the extension shall run until no later than 23:59 hours on the day falling one month from the expiry of—

- (a) the period of 72 hours stated in paragraph (3)(c); or
- (b) as the case may be, the previous extension granted by the Scottish Ministers under paragraphs (10) or (11).

(13) Where an order made by the Governor under paragraph (1) has been extended by the Scottish Ministers under paragraph (10) or (11), the Governor must—

- (a) inform the prisoner in writing that the order has been extended; and
- (b) explain to the prisoner, where it is practicable to do so, the reasons why the order has been extended.

(14) A prisoner subject to an order made under paragraph (1) may only be transferred to another prison where the Governor of the prison from which the prisoner is to be transferred is satisfied that—

- (a) a healthcare professional at that prison; and
- (b) a healthcare professional at the prison to which the prisoner is to be transferred,

have reached agreement on the continuing care and treatment planned for the prisoner following the transfer.

(15) Where a prisoner is transferred to another prison, any order made under paragraph (1) in relation to the prisoner by the Governor of the prison from which the prisoner is being transferred continues to have effect.

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

- (a) work required to be undertaken in terms of rule 82;
- (b) educational classes undertaken in terms of rule 84;
- (c) counselling provided in terms of rule 84;
- (d) taking exercise or spending time in the open air in terms of rule 87;
- (e) recreational activities; or
- (f) attendance at any religious service or meeting arranged by the chaplaincy team which the prisoner would otherwise have been entitled to attend in terms of rule 44.

Changes to legislation:

There are currently no known outstanding effects for the The Prisons and Young Offenders Institutions (Scotland) Rules 2011, Section 41.