



# Prisons (Scotland) Act 1989

## 1989 CHAPTER 45

### *Central administration*

#### **1 General control over prisons in Scotland.**

All powers and jurisdiction in relation to prisons and prisoners which before the commencement of the <sup>M1</sup>Prisons (Scotland) Act 1877 were exercisable by any other authority shall, subject to the provisions of this Act, continue to be exercisable by the Secretary of State.

#### **Marginal Citations**

**M1** 1877 c. 53.

#### **2 Appointment of officers and servants for the purposes of this Act.**

- (1) There shall be employed for the purposes of this Act such inspectors and other officers and servants as the Secretary of State, with the sanction of the Treasury as to number, may appoint.
- (2) There shall be paid out of moneys provided by Parliament to the inspectors and officers and servants appointed in pursuance of the foregoing subsection such salaries as the Secretary of State may, with the consent of the Treasury determine.

#### **3 General superintendence of prisons.**

- (1) The general superintendence of prisons shall be vested in the Secretary of State, who shall appoint the governors and other officers of prisons <sup>F1</sup> . . .
- <sup>F2</sup>(2) The Secretary of State shall appoint to each prison a chaplain being a minister or a licentiate of the Church of Scotland.
- (3) The Secretary of State shall make contracts and do all other acts necessary for the maintenance of the prisons and prisoners therein.

*Status: Point in time view as at 01/01/1998.*

*Changes to legislation: There are currently no known outstanding effects for the Prisons (Scotland) Act 1989, Cross Heading: Central administration. (See end of Document for details)*

- (4) There shall be provided such office accommodation in connection with the general superintendence of prisons as the Secretary of State, with the consent of the Treasury, may determine.

#### Textual Amendments

- F1** Words in s. 3(1) repealed (1.1.1998 with application as mentioned in s. 33(1)-(8) of the amending Act) by 1997 c. 48, ss. 43(1), 62(2), **Sch. 3**; S.I. 1997/2323, art. 4, **Sch. 2** Table
- F2** S. 3(2) excluded (18.9.1998) by S.I. 1998/2251, **art. 16(1)**

#### Modifications etc. (not altering text)

- C1** S. 3 modified (3.2.1995) by 1994 c. 33, s. 110(2); S.I. 1995/127, art. 2(1), **Sch. 1**

### [<sup>F3</sup>3A] **Medical services in prisons.**

- (1) Without prejudice to section 11(2) of this Act, the Secretary of State shall secure the provision of appropriate medical services within prisons.
- (2) The Secretary of State may perform the duty imposed by subsection (1) above by—
- (a) appointing for a prison one or more medical officers, each of whom shall be a registered medical practitioner;
  - (b) entering into an arrangement with any person for the provision of appropriate medical services in relation to any prison or prisons; or
  - (c) both making any such appointment as is mentioned in paragraph (a) above and by entering such an arrangement as is mentioned in paragraph (b) above.
- (3) In this section “appropriate medical services” means such services in relation to—
- (a) routine and emergency health care for prisoners; and
  - (b) the provision of advice to the governor on matters related to the medical treatment and health of prisoners generally,
- as the Secretary of State considers appropriate for the prison in which they are to be provided; and such services shall be provided by or under the supervision of a registered medical practitioner.
- (4) Any medical officer appointed under subsection (2)(a) above shall, for the purposes of this Act, be an officer of the prison.
- (5) A registered medical practitioner providing, or supervising the provision of, appropriate medical services in accordance with an arrangement made under subsection (2)(b) above shall be deemed to be a medical officer for the prison for the purposes of—
- (a) section 27(5) of this Act (so far as that section continues to have effect by virtue of Schedule 6 to the <sup>M2</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993 (existing provisions which continue to have effect in relation to prisoners sentenced before 1st October 1993)); and
  - (b) any rules or directions made or issued under section 39 of this Act;
- unless such rules or directions otherwise provide or the context otherwise requires.
- (6) Subject to subsection (7) below, rules under section 39 of this Act may make provision for the governor to authorise the carrying out by officers of the prison of a search of any person who is in or is seeking to enter the prison for the purpose

*Status: Point in time view as at 01/01/1998.*

*Changes to legislation: There are currently no known outstanding effects for the Prisons (Scotland) Act 1989, Cross Heading: Central administration. (See end of Document for details)*

of providing appropriate medical services in accordance with an arrangement made under subsection (2)(b) above.

- (7) Nothing contained in rules made by virtue of subsection (6) above shall permit the governor to authorise an officer of a prison to require a person to remove any of his clothing other than an outer coat, jacket, headgear, gloves and footwear.]

#### Textual Amendments

- F3** S. 3A inserted (1.1.1998 with application as mentioned in s. 33(1)-(8) of the amending Act) by 1997 c. 48, s. 43(2); S.I. 1997/2323, art. 4, Sch. 2

#### Modifications etc. (not altering text)

- C2** S. 3A modified (18.9.1998) by S.I. 1998/2251, art. 16(2)

#### Marginal Citations

- M2** 1993 c.9.

## 4 General duties in relation to prisons.

- (1) Subject to any directions of the Secretary of State officers duly authorised by him shall visit and inspect all prisons and examine the state of the buildings, the conduct of officers, the treatment and conduct of the prisoners and all other matters concerning the management of prisons.
- (2) The Secretary of State may, by himself or by any authorised officer, exercise in relation to any prison and the prisoners therein all powers and jurisdiction exercisable by the prison authority of a prison by virtue of any Act of Parliament or by any rules duly made thereunder.

## 5 Report to Parliament.

- (1) The Secretary of State shall, at such time or times as he may think fit, cause a report to be prepared of the condition of the prisons and prisoners, and shall lay such report before Parliament.
- (2) A report prepared under subsection (1) above shall state the various manufacturing processes carried on in each prison with such particulars as to the kinds and quantities of, and the commercial value of the labour on, the manufactures, and as to the number of prisoners employed and otherwise as may in the opinion of the Secretary of State be best calculated to afford information to Parliament.

## 6 Annual return of punishments.

The Secretary of State shall make a yearly return to Parliament of all punishments inflicted within each prison and the offences for which they were inflicted.

## 7 Appointment and functions of Her Majesty's Chief Inspector of Prisons for Scotland.

- (1) Her Majesty may appoint a person to be Chief Inspector of Prisons for Scotland.

*Status: Point in time view as at 01/01/1998.*

*Changes to legislation: There are currently no known outstanding effects for the Prisons (Scotland) Act 1989, Cross Heading: Central administration. (See end of Document for details)*

- (2) It shall be the duty of the Chief Inspector<sup>F4</sup>—(a)]to inspect or arrange for the inspection of prisons in Scotland and to report to the Secretary of State on them <sup>F5</sup>; and.
- <sup>F5</sup>(b) to inspect the conditions in which prisoners are transported or held in pursuance of prisoner escort arrangements (within the meaning of section 102 of the <sup>M3</sup>Criminal Justice and Public Order Act 1994) and to report to the Secretary of State on them.]
- (3) The Chief Inspector shall in particular report to the Secretary of State on the treatment of prisoners and conditions in prisons.
- (4) The Secretary of State may refer specific matters connected with prisons in Scotland and prisoners in them to the Chief Inspector and direct him to report on them.
- (5) The Chief Inspector shall in each year submit to the Secretary of State a report in such form as the Secretary of State may direct, and the Secretary of State shall lay a copy of that report before Parliament.
- (6) The Chief Inspector shall be paid such salary and allowances as the Secretary of State may with the consent of the Treasury determine.
- (7) In this section, references to prisons include legalised police cells within the meaning of section 14(1) of this Act.

#### Textual Amendments

**F4** Word “-(a)” in s. 7(2) inserted (3.2.1995) by 1994 c. 33, s. 103(2)(a); S.I. 1995/127, art. 2, Sch. 1

**F5** S. 7(2)(b) and the preceding “and” inserted (3.2.1995) by 1994 c. 33, s. 103(2)(b); S.I. 1995/127, art. 2, Sch. 1

#### Modifications etc. (not altering text)

**C3** S. 7 excluded (18.9.1998) by S.I. 1998/2251, art. 16(1)

#### Marginal Citations

**M3** 1994 c. 33.

## 8 Visiting committees.

- (1) Rules made under section 39 of this Act shall provide for the constitution, for prisons, of visiting committees appointed, at such times, in such manner, for such periods and by such <sup>F6</sup>councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994] as may be prescribed by the rules.
- (2) Rules made under section 39 of this Act shall prescribe the functions of visiting committees, and shall among other things require the members to pay frequent visits to the prison and hear any complaints which may be made by the prisoners and report to the Secretary of State any matter which they consider it expedient to report; and any member of a visiting committee may at any time enter the prison and shall have free access to every part thereof and to every prisoner.
- (3) The Secretary of State may pay—
- (a) to the members of any visiting committee appointed under or in pursuance of this section such allowances in respect of loss of earnings or travelling

*Status: Point in time view as at 01/01/1998.*

*Changes to legislation: There are currently no known outstanding effects for the Prisons (Scotland) Act 1989, Cross Heading: Central administration. (See end of Document for details)*

or subsistence or other expenses necessarily suffered or incurred in the performance of their duties, and

- (b) to the officers of any such committee such remuneration (whether by way of salary or fees) and such allowances in respect of travelling or subsistence expenses,

as the Secretary of State may with the consent of the Treasury determine.

#### Textual Amendments

- F6** Words in s. 8(1) substituted (22.12.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 162(2)**; S.I. 1995/3326, **art. 2(b)** (with art. 4)

#### Modifications etc. (not altering text)

- C4** S. 8 excluded (18.9.1998) by S.I. 1998/2251, **art. 16(1)**

## 9 Appointment of prison ministers.

- (1) Where in any prison the number of prisoners who belong to a religious denomination other than the Church of Scotland is such as in the opinion of the Secretary of State to require the appointment of a minister of that denomination, the Secretary of State may appoint such a minister to that prison.
- (2) The Secretary of State may pay a minister appointed under the foregoing subsection such remuneration as he thinks reasonable.
- (3) The Secretary of State may allow a minister of any denomination other than the Church of Scotland to visit prisoners of his denomination in a prison to which no minister of that denomination has been appointed under this section.
- (4) No prisoner shall be visited against his will by such a minister as is mentioned in the last foregoing subsection; but every prisoner not belonging to the Church of Scotland shall be allowed, in accordance with the arrangements in force in the prison in which he is confined, to attend chapel or to be visited by the chaplain.
- (5) The governor of a prison shall on the reception of each prisoner record the religious denomination to which the prisoner declares himself to belong, and shall give to any minister who under this section is appointed to the prison or permitted to visit prisoners therein a list of the prisoners who have declared themselves to belong to his denomination; and the minister shall not be permitted to visit any other prisoners.

#### Modifications etc. (not altering text)

- C5** S. 9 excluded (18.9.1998) by S.I. 1998/2251, **art. 16(1)**
- C6** S. 9(5) modified (3.2.1995) by 1994 c. 33, s. 110(3); S.I. 1995/127, art. 2(1), **Sch. 1**

**Status:**

Point in time view as at 01/01/1998.

**Changes to legislation:**

There are currently no known outstanding effects for the Prisons (Scotland) Act 1989, Cross Heading: Central administration.