



# Crime and Punishment (Scotland) Act 1997

## 1997 CHAPTER 48

### PART III

#### PRISONERS

### CHAPTER II

#### TREATMENT OF PRISONERS

#### **43 Medical services in prisons.**

- (1) In section 3(1) of the 1989 Act (general superintendence of prisons) the words from “including” to the end shall cease to have effect.
- (2) After section 3 of the 1989 Act there shall be inserted the following section—

#### **“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.

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*Status: Point in time view as at 01/01/1998. This version of this provision has been superseded.*

**Changes to legislation:** There are currently no known outstanding effects for the Crime and Punishment (Scotland) Act 1997, Section 43. (See end of Document for details)

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- (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>M1</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 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.”.
- (3) In section 19(4) of the 1989 Act (application of enactments to young offenders institutions and remand centres)—
- (a) in paragraph (a), after the word “sections” there shall be inserted the words “3A, ”; and
  - (b) in paragraph (b), for the words “1 to 7” there shall be substituted the words “1 to 3, 4 to 7”.
- (4) For section 107(6) of the <sup>M2</sup>Criminal Justice and Public Order Act 1994 (medical officers in contracted out prisons), there shall be substituted the following subsections—
- “(6) Without prejudice to section 11(2) of the 1989 Act (direction by Secretary of State for prisoner to be taken hospital for treatment), the contractor shall secure the provision of appropriate medical services within the prison by—
- (a) appointing one or more registered medical practitioners to the prison;
  - (b) entering into an arrangement with any person for the provision of such services in relation to the prison; or

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- (c) both making any such appointment as is mentioned in paragraph (a) above and entering into such an arrangement as is mentioned in paragraph (b) above.
- (7) In subsection (6) above “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 director on matters related to the medical treatment and health of prisoners generally,
- as the Secretary of State may direct or, in the absence of such a direction, as the contractor 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.
- (8) In subsections (6) and (7) above “contractor”, where the contract provides for the running of prison by a sub-contractor, means that sub-contractor.”.
- (5) In section 110 of that Act (application of enactments)—
- (a) in subsection (3), after the word “sections” there shall be inserted the words “3A(6) (power to authorise searches of persons providing medical services), ”;
  - (b) in subsection (4), after the word “sections” there shall be inserted the words “3A(6) (power to carry out searches of persons providing medical services), ”;
  - (c) after subsection (4) there shall be inserted the following subsection—
 

“(4A) A registered medical practitioner appointed to a contracted out prison or providing, or supervising the provision of, appropriate medical services in accordance with an arrangement made under section 107(6)(b) of this Act shall be deemed to be a medical officer for the prison for the purposes of—

    - (a) section 111(3)(c) of this Act;
    - (b) section 27(5) of the 1989 Act (so far as that section continues to have effect by virtue of Schedule 6 to the <sup>M3</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
    - (c) any rules or directions made or issued under section 39 of the 1989 Act,

unless such rules or directions otherwise provide or the context otherwise requires.”; and
  - (d) in subsection (6), after the word “Sections” there shall be inserted the words “3A(1) to (5)(medical services), ”.
- (6) In section 112(4) of that Act (contracted out functions at directly managed prisons)—
- (a) before paragraph (a) there shall be inserted the following paragraph—
 

“(aa) section 3A(6) and (7) of the 1989 Act (searches of persons providing medical services);”;
  - (b) in paragraph (a) for the words “the 1989” there shall be substituted the word “that ”.

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#### Marginal Citations

M1 1993 c.9.

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**Status:** Point in time view as at 01/01/1998. This version of this provision has been superseded.

**Changes to legislation:** There are currently no known outstanding effects for the Crime and Punishment (Scotland) Act 1997, Section 43. (See end of Document for details)

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**M2** 1994 c.33.

**M3** 1993 c.9.

**Status:**

Point in time view as at 01/01/1998. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the Crime and Punishment (Scotland) Act 1997, Section 43.