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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 331**

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

**PART 10**

**SECURITY**

**CONFINEMENT AND CUSTODY OF PRISONERS**

**Removal from association**

**95.**—(1) Subject to paragraph (2), the Governor may order in writing that a prisoner must be removed from association with other prisoners, either generally or to prevent participation in a prescribed activity or activities.

(2) An order under paragraph (1) may only be made where the Governor is satisfied that removal from association is appropriate for one of the following purposes—

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

(3) Where the Governor makes an order under paragraph (1) to remove a prisoner from association in order to prevent participation in a prescribed activity, the Governor may list any number of prescribed activities in the order from which a prisoner is to be prevented from taking part.

(4) The Governor must detail in an order under paragraph (1) the following matters—

- (a) whether the removal from association is—
  - (i) in general, or
  - (ii) in relation to a prescribed activity or activities;
- (b) if the removal is in relation to a prescribed activity, the activity to which the order relates or, if the removal is in relation to more than one prescribed activity, the activities to which the order relates; and
- (c) the reasons why the order is being made.

(5) An order under paragraph (1) cannot last for more than 72 hours from the time it is made unless an extension has been authorised by the Scottish Ministers in writing in accordance with paragraphs (11) and (12).

(6) Where the Governor considers it appropriate to do so, the Governor may—

- (a) revoke the order;
- (b) amend the scope of the order from general removal to removal from a prescribed activity or activities;
- (c) add further prescribed activities to those listed in the order;

*Status: Point in time view as at 29/09/2021.*

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- (d) remove a prescribed activity from those listed in the order if more than one prescribed activity is listed in the order; or
  - (e) apply to the Scottish Ministers before the expiry of the order, to extend the order in accordance with paragraphs (11) or (12).
- (7) The Governor must revoke an order made under paragraph (1) where the Governor is advised by a registered medical practitioner that it is appropriate to do so on health or welfare grounds.
- (8) Where an order is made under paragraph (1), the Governor must explain to the prisoner the reasons why the order has been made, if that is practicable, and provide the prisoner with a copy of the written order.
- (9) 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 (11); and
  - (c) as part of the Governor's application to the Scottish Ministers under paragraphs (11) or (12) to extend an order made under paragraph (1).
- (10) Representations made by the prisoner under paragraph (9) must be—
- (a) made in writing by the prisoner or
  - (b) transcribed by an officer<sup>F1</sup>, employee or any other person who ordinarily works at the prison but is not employed by the Scottish Ministers] on the prisoner's behalf,
- and the representations must be taken into account by the Governor.
- (11) 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 necessary for one of the purposes in paragraph (2),
- grant an extension to an order made under paragraph (1), in writing, for a period of no more than one month, to be calculated in accordance with paragraph (13).
- (12) The Scottish Ministers may—
- (a) on the application of the Governor made prior to the expiry of any extension granted under paragraph (4) or this paragraph; and
  - (b) where they are satisfied that it is necessary for one of the purposes in paragraph (2),
- grant any number of further extensions to an order made under paragraph (1), in writing, for successive periods of no more than one month, to be calculated in accordance with paragraph (13).
- (13) Where an order made by the Governor under paragraph (1) has been extended by the Scottish Ministers under paragraphs (11) or (12), the period of the extension shall run until no later than 2359 hours on the day falling one month from the expiry of—
- (a) the period of 72 hours stated in paragraph (5); or
  - (b) as the case may be, the previous extension granted by the Scottish Ministers under paragraphs (11) or (12).
- (14) Where an order made by the Governor under paragraph (1) has been extended by the Scottish Ministers under paragraph (11) or (12), the Governor must inform the prisoner in writing that the order has been so extended and must, where it is practicable to do so, explain to the prisoner the reasons why the order has been extended.

(15) The Governor may allow a prisoner who has been removed from association in general under this rule, to associate with other prisoners for the purpose of engaging or taking part in any number of prescribed activities.

(16) Where a prisoner is moved to any other prison, any order made under paragraph (1) in relation to the prisoner by the Governor of the prison from which the prisoner is being moved ceases to have effect but that is without prejudice to the power of the Governor of the prison to which the prisoner is being moved to make a new order under paragraph (1).

(17) 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.

#### Textual Amendments

- F1** Words in rule 95(10) substituted (1.11.2011) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2011 \(S.S.I. 2011/356\)](#), rules 1, **2(10)**

#### The use of restraints

**96.**—<sup>F2</sup>(1) In this rule “restraint” means—

- (a) a body belt; or
- (b) a back board.]

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

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

(3) The Governor must consult with, and take into consideration the views of a registered medical practitioner—

- (a) where it is practicable to do so, prior to making an order under paragraph (2); or
- (b) where it is not practicable to do so prior to making an order under paragraph (2), as soon as reasonably practicable after the order is made.

(4) Where a registered medical practitioner recommends to the Governor that a prisoner should be placed under a restraint in order to prevent self-harm, the Governor must make an order under paragraph (2) that the prisoner be placed under a restraint.

(5) Where a registered medical practitioner recommends to the Governor that—

- (a) the prisoner should not be placed under a restraint; or
- (b) where the prisoner has been placed under a restraint, the prisoner should be released from the restraint,

the Governor must refrain from making an order under paragraph (2) or, as the case may be, order that the prisoner be released from the restraint immediately.

*Status: Point in time view as at 29/09/2021.*

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- (6) The following conditions apply to all restraint orders and the enforcement of such orders:—
- (a) only persons trained to use a [<sup>F3</sup>restraint] may do so;
  - (b) the Governor must keep a written record of the particulars of each order made under paragraph (2) including the reasons for making the order;
  - (c) an order under paragraph (2) must not be used as a punishment;
  - (d) an officer must monitor the prisoner continuously during the period that the prisoner is placed under a restraint;
  - (e) a prisoner must not be placed under a restraint for any longer than is necessary;
  - (f) a prisoner cannot be placed under a restraint for more than 12 hours by virtue of an order under paragraph (2) without the Scottish Ministers' authority;
  - (g) a restraint must be removed temporarily when it is reasonably necessary to allow the prisoner to use toilet facilities or to consume food or drink;
  - (h) the Governor must advise a registered medical practitioner as soon as reasonably practicable of any matters relevant to the prisoner's health that come to the Governor's attention during the period that the prisoner is placed under a restraint.

#### Textual Amendments

- F2** Rule 96(1) substituted (24.3.2016) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2016 \(S.S.I. 2016/131\)](#), rules 1, **2(14)(a)**
- F3** Word in rule 96(6)(a) substituted (24.3.2016) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2016 \(S.S.I. 2016/131\)](#), rules 1, **2(14)(b)**

#### Temporary confinement in a special cell

**97.**—(1) The Governor may order the temporary confinement in a special cell of any prisoner who is behaving in a threatening, abusive or violent manner.

(2) The following conditions apply to all orders made under paragraph (1) and the enforcement of such orders—

- (a) the Governor must keep a written record of the particulars of each order made under paragraph (1) including the reasons for making the order;
- (b) the Governor must inform a healthcare professional as soon as possible after making an order under paragraph (1) and consider any recommendations made by the healthcare professional;
- (c) an order under paragraph (1) must not be used as a punishment;
- (d) an officer must visit the prisoner at least once in every 15 minutes during the period that the prisoner is confined in a special cell; and
- (e) a prisoner must not be confined in a special cell for any longer than is necessary and, in any event, for no longer than a continuous period of 24 hours.

#### Temporary confinement in a cell or room

**98.**—(1) Subject to paragraph (2) an officer may order a prisoner to be temporarily confined in a cell or room, other than a special cell, at a time when other prisoners detained in the same part of the prison, or, as the case may be, prisoners at the prison in general, are permitted to be in association.

(2) An officer may only make an order under paragraph (1) if the officer is of the opinion that—

- (a) the prisoner is acting in a disobedient or disorderly manner and that temporary confinement—
  - (i) is appropriate for the purpose of controlling such behaviour; and
  - (ii) is in the prisoner's best interests; or
- (b) by reason of the prisoner's emotional state, it is in the interests of the prisoner, or any other prisoner, that the prisoner is temporarily confined to a cell or room.
- (3) A prisoner must not be confined to a cell or room by virtue of paragraph (1) for longer than one hour on any occasion.
- (4) As soon as reasonably practicable after making an order under paragraph (1), an officer must inform a supervising officer of that fact in writing.
- (5) If the officer concerned is of the opinion that a prisoner who has been confined to a cell or room by virtue of paragraph (1) is acting in a disobedient or disorderly manner at the expiry of the period permitted by paragraph (3), the officer must, as soon as reasonably practicable, report any suspected breach of discipline in accordance with rule 111.

### **Custody outside prison**

- 99.**—(1) Where a prisoner is taken in legal custody to any place outside a prison, the prisoner—
- (a) must be kept in the custody and under the control of an officer or constable;
  - (b) must not be exposed to public view so far as it is reasonably practicable; and
  - (c) must be protected so far as reasonably practicable from insult, curiosity and publicity in any form.
- (2) A prisoner must wear his or her own clothing or ordinary civilian clothing provided by the Governor when required to attend court and may wear such clothing at other times outside the prison unless otherwise ordered by the Governor.

### **Special escorted leave**

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

(2) On the application of an eligible prisoner and subject to any direction made by the Scottish Ministers under paragraph (5), the Governor may grant special escorted leave to an eligible prisoner if he or she is of the opinion that it is appropriate to do so.

(3) In considering whether it is appropriate to grant special escorted leave to an eligible prisoner under this rule, the Governor must assess the risk that the prisoner may escape or pose a danger to the public.

[<sup>F4</sup>(3A) On any grant of special escorted leave, the Governor may impose—

- (a) such conditions as the Governor considers appropriate from the conditions specified in a direction made under paragraph (5); and
- (b) such further conditions as the Governor considers appropriate having regard to the individual circumstances of the prisoner.]
- (4) For the purposes of this rule, “eligible prisoner” means a prisoner who—
  - (a) is either a life prisoner or a long-term prisoner;
  - (b) is confined in a prison, or a category of prison, or a particular part of a prison, to which this rule applies; and
  - (c) is and has been for at least 3 months assigned low supervision level.

*Status: Point in time view as at 29/09/2021.*

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- (5) For the purposes of special escorted leave the Scottish Ministers 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 must consider an application for special escorted leave;
  - (c) the criteria about which the Governor must be satisfied before he or she may grant special escorted leave;
  - [<sup>F5</sup>(d) the conditions or types of conditions which may be imposed by the Governor on any grant of special escorted leave;]
  - (e) the timing and duration of special escorted leave and the frequency with which it may be granted to an eligible prisoner.

#### Textual Amendments

- F4** Rule 100(3A) inserted (19.3.2012) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2012 \(S.S.I. 2012/26\)](#), rules 1, **2(12)(a)**
- F5** Rule 100(5)(d) substituted (19.3.2012) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2012 \(S.S.I. 2012/26\)](#), rules 1, **2(12)(b)**

#### Escorted day absence

**101.**—(1) In this rule, “escorted day absence” means a leave of absence granted to a prisoner, under escort from the prison, for a period not exceeding 1 day, to enable the prisoner—

- (a) to visit a near relative who it appears to the Governor is dangerously ill;
- (b) to attend the funeral of a near relative; or
- (c) to attend at any place for any other reason where the Governor is of the view there are exceptional circumstances.

(2) On the written application of a prisoner and subject to any direction made by the Scottish Ministers under paragraph (4), the Governor may grant escorted day absence to the prisoner if satisfied that the purpose of the application is genuine and appropriate.

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

- (4) For the purposes of escorted day absence the Scottish Ministers may specify in a direction—
- (a) the criteria about which the Governor must be satisfied before granting escorted day absence;
  - (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).

**Status:**

Point in time view as at 29/09/2021.

**Changes to legislation:**

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