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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 331**

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

**PART 15**

**TEMPORARY RELEASE**

**Eligibility of prisoners for temporary release**

**134.**—(1) In this Part “temporary release” means any of the forms of temporary release defined in rule 136.

(2) In this Part “eligible prisoner” means a prisoner who—

- (a) is assigned low supervision level; and
- (b) is not disqualified from obtaining temporary release for any reason specified in [<sup>F1</sup>paragraph (3), (4) or (6)].

(3) A prisoner is disqualified from obtaining temporary release if, for the time being, the prisoner is—

- (a) subject to proceedings under the Extradition Act 2003;
- (b) in the written opinion of a healthcare professional, not fit enough to be granted temporary release.

(4) Subject to paragraph (5), a life prisoner is disqualified from obtaining temporary release unless the Governor has obtained the prior consent of the Scottish Ministers.

(5) Any consent granted by the Scottish Ministers under paragraph (4)—

- (a) will apply to the first grant of temporary release and any further grants of temporary release; but
- (b) will cease to have effect if the prisoner is subsequently assigned a supervision level other than low supervision level.

[<sup>F2</sup>(6) A prisoner is disqualified from obtaining temporary release if the prisoner is subject to a deportation order unless the prisoner has been granted temporary release in the three months prior to the deportation order being made.

(7) For the purposes of paragraph (6), a prisoner is subject to a deportation order where—

- (a) a deportation order has been made against the prisoner under section 5(1) of the Immigration Act 1971; and
- (b) that order remains in force.]

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**Textual Amendments**

**F1** Words in rule 134(2)(b) substituted (24.3.2016) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2016 \(S.S.I. 2016/131\)](#), rules 1, **2(17)(a)**

**F2** Rule 134(6)(7) inserted (24.3.2016) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2016 \(S.S.I. 2016/131\)](#), rules 1, **2(17)(b)**

### Applications for, and grant of, temporary release

**135.**—(1) This rule applies in relation to all forms of temporary release except where otherwise expressly indicated.

(2) Where a prisoner seeks to make an application for unescorted day release or unescorted day release for compassionate reasons, both as defined in rule 136, that application must be made in writing by the prisoner to the Governor.

(3) Subject to any direction made by the Scottish Ministers under rule 138, the Governor may grant temporary release to an eligible prisoner if the Governor is of the opinion that it is appropriate to do so.

(4) In considering whether it is appropriate to grant temporary release to an eligible prisoner under this Part, the Governor must assess the risk that the prisoner may—

- (a) abscond; or
- (b) pose a danger, or cause harm, to the public.

[<sup>F3</sup>(4A) On any grant of temporary release the Governor may impose—

- (a) such conditions as the Governor considers appropriate from the conditions specified in a direction made under rule 138; and
- (b) such further conditions as the Governor considers appropriate having regard to the individual circumstances of the prisoner.]

(5) Where the Governor refuses to grant temporary release, the Governor must inform the prisoner in writing of the decision and the reasons for the decision.

[<sup>F4</sup>(5A) The Governor may arrange for an allowance to be paid to prisoners on temporary release to cover travelling expenses and the prisoner’s general subsistence while on temporary release.]

(6) The Governor may make such arrangements as the Governor considers appropriate for the transport to and from prison of prisoners who have been granted temporary release.

#### Textual Amendments

**F3** Rule 135(4A) inserted (19.3.2012) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2012 \(S.S.I. 2012/26\)](#), rules 1, **2(14)(a)**

**F4** Rule 135(5A) inserted (19.3.2012) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2012 \(S.S.I. 2012/26\)](#), rules 1, **2(14)(b)**

### Forms of temporary release

**136.** For the purposes of this Part—

“home leave” means the unescorted temporary release from prison of an eligible prisoner for the purpose of enabling the prisoner to visit his or her home or other approved place for a period not exceeding 7 nights excluding travelling time;

“unescorted day release” means the unescorted temporary release from prison of an eligible prisoner for a period not exceeding one day, including travelling time, for the purposes of enabling the prisoner, in preparation for eventual release—

- (a) to develop further, or to re-establish, links with his or her family or community; or

(b) to develop educational or employment opportunities;  
“unescorted day release for compassionate reasons” means the unescorted temporary release from prison of an eligible prisoner for a period not exceeding one day, excluding travelling time, for the purposes of enabling the prisoner—

- (a) to visit any relative who it appears to the Governor is dangerously ill;
- (b) to attend the funeral of a near relative;
- (c) to visit a parent who is either too old or too ill to travel to the prison;
- (d) to visit the prisoner's spouse, civil partner or co-habiting partner who, for whatever reason, is unable to travel to the prison;
- (e) to visit a child for whom they have parental responsibility and who, for whatever reason, is unable to travel to the prison; or
- (f) to attend at any place for any other reason where the Governor is of the opinion that the circumstances warrant it;

“temporary release for work” means the unescorted temporary release from prison of an eligible prisoner for a period not exceeding one day, excluding travelling time, for the purposes of enabling the prisoner—

- (a) to undertake a work placement outside prison in terms of rule 84; [<sup>F5</sup>or]
- (b) to attend a college, university or other educational establishment in order to participate in vocational training or an educational [<sup>F6</sup>class;]
- (c) <sup>F7</sup> ...

[<sup>F8</sup>“unescorted release for health reasons” means the unescorted temporary release from prison of an eligible prisoner for a period not exceeding seven days, excluding travelling time, for the purposes of enabling the prisoner—

- (a) to attend for treatment at a medical facility outwith the prison; or
- (b) to attend counselling outwith the prison.]

[<sup>F9</sup>“regular unescorted day release” means the unescorted temporary release from prison of an eligible prisoner for a period not exceeding one day on each occasion for the purposes of enabling the prisoner, in preparation for eventual release—

- (a) to develop further, or to re-establish, links with their family or community,
- (b) to develop educational or employment opportunities in the local community,
- (c) to attend an appointment in the local community,
- (d) to make purchases of food and drink in the local community in accordance with rule 35B, or
- (e) to undertake wellbeing activities in the local community.]

#### Textual Amendments

- F5** Word in rule 136 inserted (1.11.2011) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2011 \(S.S.I. 2011/356\)](#), rules 1, **2(13)(a)**
- F6** Word in rule 136 substituted (1.11.2011) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2011 \(S.S.I. 2011/356\)](#), rules 1, **2(13)(b)**
- F7** Words in rule 136 omitted (1.11.2011) by virtue of [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2011 \(S.S.I. 2011/356\)](#), rules 1, **2(13)(c)**
- F8** Words in rule 136 substituted (24.3.2016) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2016 \(S.S.I. 2016/131\)](#), rules 1, **2(18)**

**F9** Words in rule 136 inserted (4.7.2022) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2022 \(S.S.I. 2022/194\)](#), rules 1, **2(7)**

### [<sup>F10</sup>Extension of certain periods of temporary release

**136A.**—(1) Where the Governor considers it appropriate to do so, the Governor may, before the expiry of a period of relevant temporary release, apply to the Scottish Ministers to extend the period of relevant temporary release in accordance with this rule.

(2) The Scottish Ministers may—

- (a) on an application of a Governor made under paragraph (1); and
- (b) where they are satisfied that it is appropriate to do so,

allow the period of relevant temporary release to be extended by a period of no more than seven days.

(3) Where a period of relevant temporary release has been extended by the Scottish Ministers under paragraph (2), the period of extension is to be taken as a period of relevant temporary release for the purposes of this rule.

(4) In this rule “relevant temporary release” means unescorted release for health reasons as defined in rule 136.]

#### Textual Amendments

**F10** Rule 136A inserted (24.3.2016) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2016 \(S.S.I. 2016/131\)](#), rules 1, **2(19)**

### [<sup>F11</sup>Extension of certain periods of temporary release – coronavirus

**136B.**—(1) For the duration of a coronavirus outbreak, rule 136A has effect subject to the following modifications.

- (2) In paragraph (2), for “seven” substitute “14”.
- (3) In paragraph (4), after “means” insert “home leave or”.]

#### Textual Amendments

**F11** Rule 136B inserted (7.4.2020 at 2.15 p.m.) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2020 \(S.S.I. 2020/122\)](#), rules 1, **2(24)**

### Recall of prisoners granted temporary release

**137.**—(1) The Governor may recall to prison any prisoner who has been granted temporary release, whether or not the conditions upon which the prisoner has been granted such release have been broken.

(2) Where the Governor recalls to prison a prisoner who has been granted temporary release, the Governor must inform the prisoner in writing of the reasons for that decision.

### Direction with respect to temporary release

**138.**—(1) For the purposes of temporary release, the Scottish Ministers may specify in a direction—

- (a) the forms of temporary release available to prisoners accommodated in particular prisons, halls or parts of prisons;
  - (b) the manner in which the Governor must consider an application for any form of temporary release;
  - (c) the manner in which the Governor must assess the risk that the prisoner may abscond or pose a danger to the public;
  - (d) the relevant criteria about which the Governor must be satisfied before granting any form of temporary release;
  - [<sup>F12</sup>(e) the conditions or types of conditions which may be imposed by the Governor on any grant of temporary release;]
  - (f) the timing and duration of any form of temporary release and the frequency with which it may be granted to an eligible prisoner; and
  - (g) the persons who are to be treated as a near relative of the prisoner.
- (2) Directions under this rule may make different provision for different forms of temporary release.

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**Textual Amendments**

**F12** Rule 138(1)(e) substituted (19.3.2012) by [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2012 \(S.S.I. 2012/26\)](#), rules 1, **2(15)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Prisons and Young Offenders Institutions (Scotland) Rules 2011, PART 15.