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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 26**

**The Prisons and Young Offenders Institutions  
(Scotland) Amendment Rules 2012**

**Amendment of the Prison Rules**

**2.—(1)** The Prisons and Young Offenders Institutions (Scotland) Rules 2011<sup>(1)</sup> are amended as follows.

(2) In rule 2(1), for the definition of “biometric data” substitute—

““biometric data” means fingerprints and any other data specified by direction made by the Scottish Ministers;”.

(3) In the heading to, and in, rule 6, after “discrimination” insert “, harassment and victimisation”.

(4) For rule 12, substitute—

“**12.—(1)** For any of the purposes specified in paragraph (2), the Governor may take from a prisoner and record—

- (a) the prisoner’s biometric data;
- (b) the prisoner’s description including any distinctive marks on his or her body;
- (c) the prisoner’s photograph;
- (d) details of the prisoner’s next of kin or another emergency contact; and
- (e) any other personal particulars of the prisoner that are relevant.

(2) The purposes for which the Governor may take and record the particulars specified in paragraph (1) are—

- (a) the identification of a prisoner;
- (b) the management of a prisoner or prisoners in general;
- (c) the administration of the prison; and
- (d) the prevention, detection and prosecution of crime.

(3) Any photograph or biometric data must be destroyed—

- (a) in the case of an untried prisoner, if the prisoner is released before trial or disposal of proceedings or is acquitted after trial and is not further remanded; or
- (b) in the case of a prisoner who is the subject of extradition, removal or deportation proceedings, if the prisoner successfully defends those proceedings and is released from custody.

(4) Any biometric data taken from a prisoner, other than a prisoner mentioned in paragraph (3)(a) or (b), must be destroyed no later than 24 months after the prisoner is released from prison.

- (5) The Scottish Ministers may specify in a direction the conditions under which information recorded in terms of this rule must be recorded, stored, updated, disclosed and destroyed.”.
- (5) In rule 18, after paragraph (2) insert—
- “(3) Untried prisoners must be assigned high supervision level at all times.”.
- (6) Rule 19 is amended as follows:—
- (a) in paragraph (1), after “except” insert “untried prisoners and”; and
- (b) paragraph (3) is revoked.
- (7) Rule 32 is amended as follows:—
- (a) at the end of paragraph (2)(a), omit “or”;
- (b) at the end of paragraph (2)(b) insert “or”;
- (c) after paragraph (2)(b) insert—
- “(c) the Governor has ordered the prisoner to wear other appropriate clothing so as to comply with the terms of a direction made under paragraph (5).”;
- (d) at the end of paragraph (4)(c) insert “or”;
- (e) in paragraph (4)(d), for “proceedings; or” substitute “proceedings.”; and
- (f) paragraph (4)(e) is revoked.
- (8) Rule 55 is amended as follows:—
- (a) for paragraph (2) substitute—
- “(2) A letter or package to which this rule applies may be opened by an officer or employee.
- (2A) The contents of a letter or package to which this rule applies may only be read by an officer or employee—
- (a) in the circumstances specified in a direction by the Scottish Ministers made under paragraph (5); and
- (b) in accordance with any conditions specified in a direction by the Scottish Ministers made under paragraph (5).”;
- (b) paragraph (5)(a) is revoked; and
- (c) paragraph (5)(b) is revoked.
- (9) Rule 82(2) is amended as follows:—
- (a) for “at any time” substitute “during any period”;
- (b) at the end of sub paragraph (c), omit “or”; and
- (c) after sub paragraph (d), insert—
- “(e) undertaking a rehabilitative programme arranged in terms of rule 84; or
- (f) undertaking vocational training arranged in terms of rule 84.”.
- (10) In rule 85, paragraph (2) is revoked.
- (11) For rule 86 substitute—
- “**86.**—(1) Subject to the terms of any direction made by the Scottish Ministers under paragraph (4), a prisoner is entitled to be paid earnings where the prisoner undertakes—
- (a) work in terms of rules 82 or 85;
- (b) work carried out while on temporary release for work under Part 15 of these Rules;

- (c) an educational class, including physical education, arranged in terms of rule 84 or 85 which is in lieu of work;
  - (d) counselling arranged in terms of rule 84 or 85 which is in lieu of work;
  - (e) a rehabilitative programme arranged in terms of rule 84 which is in lieu of work; and
  - (f) vocational training arranged in terms of rule 84 which is in lieu of work.
- (2) A prisoner who undertakes any of the activities specified in paragraphs (1)(c), (d), (e) or (f) which is not in lieu of work is not entitled to be paid earnings for that activity.
- (3) Subject to the terms of any direction made by the Scottish Ministers under paragraph (4), a prisoner who is excused from working under rule 82(2)(a) or (b) is entitled to be paid an allowance in lieu of earnings.
- (4) The Scottish Ministers may specify in a direction—
- (a) the conditions under which earnings may be paid to a prisoner under paragraph (1); and
  - (b) the conditions under which an allowance may be paid to a prisoner under paragraph (3).”.
- (12) Rule 100 is amended as follows:—
- (a) after paragraph (3) insert—
    - “(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.”; and
  - (b) for paragraph (5)(d) substitute—
    - “(d) the conditions or types of conditions which may be imposed by the Governor on any grant of special escorted leave;”.
- (13) In rule 105(7), for the words from “The Governor” to “the effect of”, substitute “The Governor must ensure that visitors are made aware of the effect of”.
- (14) In rule 135—
- (a) after paragraph (4), insert—
    - “(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.”; and
  - (b) after paragraph (5), insert—
    - “(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.”.
- (15) In rule 138, for paragraph (1)(e) substitute—
- “(e) the conditions or types of conditions which may be imposed by the Governor on any grant of temporary release;”.
- (16) Schedule 2 is amended as follows:—
- (a) in the table after the entry for HMP Inverness, insert—

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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LOW MOSS	Argyll & Bute Council	1	0
	Renfrewshire Council	2	1
	East Renfrewshire Council	1	0
	East Dunbartonshire Council	4	1
	West Dunbartonshire Council	4	2
	Inverclyde Council	3	1

(b) in the table, for the entry for HMP Open Estate substitute—

OPEN ESTATE	Angus Council	2	1
	Dundee City Council	3	1
	Perth & Kinross Council	5	2