

## **POLICY NOTE**

### **THE PRISONS AND YOUNG OFFENDERS INSTITUTIONS (CORONAVIRUS) (SCOTLAND) AMENDMENT RULES 2021**

#### **SSI 2021/80**

1. The Prisons and Young Offenders Institutions (Coronavirus) (Scotland) Amendment Rules 2021 are made in the exercise of the powers conferred by section 39 of the Prisons (Scotland) Act 1989. These Rules amend The Prisons and Young Offenders Institutions (Scotland) Rules 2011 (“the Prison Rules”) and they are subject to negative procedure.

**The purpose of this instrument is to extend the application of amendments made to the Prison Rules by The Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2020 (SSI 2020/122).**

#### **Policy Objective**

2. The Prison Rules set out provisions relating to the regulation and management of Prisons and Young Offenders Institutions and various matters concerning those who are required to be detained in these institutions (such as their classification, treatment, discipline, employment and control).

3. These amendments extend the application of amendments made to the Prison Rules in response to the Coronavirus outbreak by The Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2020 (SSI 2020/122). The amendments made by SSI 2020/122 were extended and themselves slightly amended by The Prisons and Young Offenders Institutions (Scotland) Amendment (No.2) Rules 2020 (SSI 2020/264). The amendments to the Prison Rules are due to expire on 31 March 2021 and this instrument extends the application of those amendments until 30 September 2021.

4. The amendments made to the Prison Rules by SSI 2020/122 and SSI 2020/264 are designed to support the Scottish Prison Service’s (SPS) response to the exceptional pressures facing prisons during the current Coronavirus outbreak and the impact that staff shortages

within prisons may have, as prison staff require to self-isolate to prevent the spread of the virus. The amendments generally provide Governors with flexibility in regards to compliance with timescales and the provision of those services, which although important, are not critical to the security and health of SPS and NHS staff and those in SPS' care. This instrument keeps those amendments in force until 30 September 2021.

5. Given the continuing uncertainty regarding further local and national 'lockdowns' as a result of the second wave of the Coronavirus outbreak and possible further waves, and the uncertainty around the increasing spread of new variants of COVID-19, SPS considers it necessary to take steps to retain the flexibility afforded by SSI 2020/122 and SSI 2020/264 to ensure that we are prepared and able to focus on the immediate priorities arising from the pandemic.

### **Consultation**

6. There has been consultation with operational managers and policy colleagues within the SPS and Scottish Government. SPS have advised NHS colleagues, HM Inspectorate of Prisons for Scotland and the Scottish Human Rights Commission of our intention to take forward these changes.

### **Impact Assessment**

7. An Equality and Human Rights Impact Assessment was carried out which determined that without these measures the Article 3 rights (Prohibition of torture, or of inhumane or degrading treatment or punishment) of the prisoners in the care of SPS could be engaged. The assessment also recognised that the changes will engage the Article 8 rights (the right to respect for private and family life, home and correspondence) of prisoners. SPS consider that these rule amendments are necessary for the protection of the health, safety and security of SPS staff, NHS staff and prisoners during this current Coronavirus outbreak. It remains the view of the SPS that the amendment rules can be applied in a proportionate way to have the least impact possible upon prisoners' Article 8 rights.

**Financial Effect**

8. The Cabinet Secretary for Justice confirms that no Business and Regulatory Impact Assessment is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

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