



# Criminal Justice and Public Order Act 1994

## 1994 CHAPTER 33

### PART VIII

#### PRISON SERVICES AND THE PRISON SERVICE

### CHAPTER II

#### SCOTLAND

#### *Supplemental*

#### **114 Prisoner custody officers: general provisions.**

- (1) In this Chapter “prisoner custody officer” means a person in respect of whom a certificate is for the time being in force certifying—
  - (a) that he has been approved by the Secretary of State for the purpose of performing escort functions or custodial duties or both; and
  - (b) that he is accordingly authorised to perform them.
- (2) Schedule 6 to this Act shall have effect with respect to the certification of prisoner custody officers.
- (3) Prison rules may make provision regarding the powers and duties of prisoner custody officers performing custodial duties.

#### **115 Wrongful disclosure of information.**

- (1) A person who—
  - (a) is or has been employed (whether as a prisoner custody officer or otherwise) in pursuance of prisoner escort arrangements, or at a contracted out prison; or

*Status: Point in time view as at 03/02/1995.*

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(b) is or has been employed to perform contracted out functions at a directly managed prison,

shall be guilty of an offence if he discloses, otherwise than in the course of his duty or as authorised by the Secretary of State, any information which he acquired in the course of his employment and which relates to a particular prisoner.

- (2) A person guilty of an offence under subsection (1) above shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;
  - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

## 116 Minor and consequential amendments.

- (1) In section 19(4)(b) of the 1989 Act (remand centres and young offenders institutions), for “33” there shall be substituted “ 33A ”.
- (2) Section 33 of that Act (miscellaneous duties of prison governor) shall cease to have effect.
- (3) After section 33 of that Act there shall be inserted the following section—

### “33A Power of governor to delegate functions.

Rules made under section 39 of this Act may permit the governor of a prison to authorise an officer of the prison, or a class of such officers, to exercise on his behalf such of the governor’s functions as the rules may specify.”.

- (4) In section 39 of that Act (prison rules)—
  - (a) in subsection (1), after “Act” there shall be inserted “ or any other enactment ”;
  - (b) in subsection (8), for “the purpose so specified” there shall be substituted “ any purpose specified in the rules ”; and
  - (c) after subsection (11), there shall be inserted the following subsection—

“(12) Rules made under this section may (without prejudice to the generality of subsection (1) above) confer functions on a governor.”.

## 117 Interpretation of Chapter II.

- (1) In this Chapter, except where otherwise expressly provided—
  - “the 1989 Act” means the <sup>M1</sup>Prisons (Scotland) Act 1989;
  - “contracted out prison” and “the contractor” have the meanings given by section 106(4) above;
  - “contracted out functions” and “directly managed prison” have the meanings given by section 112(7) above;
  - “custodial duties” means custodial duties at a contracted out or a directly managed prison;
  - “escort functions” has the meaning given by section 102(1) above;
  - “prison” includes—
    - (a) any prison other than a naval, military or air force prison; and

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- (b) a remand centre or young offenders institution within the meaning of section 19 of the 1989 Act;
  - “prison officer” means an officer of a directly managed prison;
  - “prison rules” means rules made under section 39 of the 1989 Act;
  - “prisoner” means any person who is in legal custody or is deemed to be in legal custody under section 215 or 426 of the <sup>M2</sup>Criminal Procedure (Scotland) Act 1975;
  - “prisoner custody officer” has the meaning given by section 114(1) above;
  - “prisoner escort arrangements” has the meaning given by section 102(4) above; and
  - “sub-contractor” has the meaning given by section 106(4) above.
- (2) Any reference in this Chapter to custodial duties at a contracted out or directly managed prison includes a reference to custodial duties in relation to a prisoner who is outside such a prison for temporary purposes.
- (3) In sections 102(1) to (3), 104 and 105 above, “prison”—
  - (a) so far as relating to the transfer of prisoners to or from a prison situated in England and Wales, includes a young offender institution and a remand centre; and
  - (b) so far as relating to the transfer of prisoners to or from a prison situated in Northern Ireland, includes a young offenders centre and a remand centre.

#### **Extent Information**

**E1** [S. 117](#) extends to Scotland and the British Islands see [s. 172\(12\)](#)

#### **Marginal Citations**

**M1** [1989 c. 45.](#)

**M2** [1975 c. 21.](#)

**Status:**

Point in time view as at 03/02/1995.

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