



# 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 [<sup>F1</sup>Scottish Ministers] 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.

#### **Textual Amendments**

- F1** Words in s. 114(1)(a) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 115(8)**; S.I. 1998/3178, **art. 2**

*Status: Point in time view as at 01/01/2010.*

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## 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
  - (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 [<sup>F2</sup>Scottish Ministers], 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.

### Textual Amendments

- F2** Words in s. 115(1) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 115(9); S.I. 1998/3178, art. 2

## 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;

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“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
- (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 [<sup>F3</sup>section 295 of the Criminal Procedure (Scotland) Act 1995];

“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)

#### Textual Amendments

**F3** Words in definition of “prisoner” in s. 117(1) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 93(5) (with Sch. 3)

#### Marginal Citations

**M1** 1989 c. 45.

**Status:**

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