



# Criminal Justice and Public Order Act 1994

## 1994 CHAPTER 33

### PART VIII

#### PRISON SERVICES AND THE PRISON SERVICE

### CHAPTER II

#### SCOTLAND

##### *Prisoner escorts*

#### **104 Powers and duties of prisoner custody officers performing escort functions.**

- (1) A prisoner custody officer acting in pursuance of prisoner escort arrangements shall have power to search—
  - (a) any prisoner for whose transfer or custody he is responsible in accordance with the arrangements; and
  - (b) any other person who is in or is seeking to enter any place where any such prisoner is or is to be held and any article in the possession of such a person.
- (2) The power conferred by subsection (1)(b) above to search a person shall not be construed as authorising a prisoner custody officer to require a person to remove any of his clothing other than an outer coat, jacket, headgear and gloves.
- (3) A prisoner custody officer shall, as respects prisoners for whose transfer or custody he is responsible in pursuance of prisoner escort arrangements, have the duty—
  - (a) to prevent their escape from legal custody;
  - (b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;
  - (c) to ensure good order and discipline on their part;

**Status:** Point in time view as at 01/10/2022.

**Changes to legislation:** *Criminal Justice and Public Order Act 1994, Section 104 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (d) to attend to their wellbeing; and
  - (e) to give effect to any directions as to their treatment which are given by a court.
- (4) Where a prisoner custody officer acting in pursuance of prisoner escort arrangements is <sup>F1</sup>—
- (a) on any premises in which a court of summary jurisdiction is sitting; or
  - (b) in a police station and has the custody of a prisoner who is, from the station, before a court of summary jurisdiction by electronic means,
- the officer] shall have the duty to give effect to any order of the court under <sup>F2</sup>section 212 of the Criminal Procedure (Scotland) Act 1995]requiring an offender to be searched.
- (5) The powers conferred by subsection (1) above and the powers arising by virtue of subsections (3) and (4) above shall include power to use reasonable force where necessary.
- (6) Prison rules may make provision in relation to—
- (a) the power conferred by subsection (1) above; and
  - (b) the duty imposed by subsection (3)(d) above.

#### **Extent Information**

**E1** S. 104 extends to Scotland and the British Islands see s. 172(12)

#### **Textual Amendments**

**F1** Words in s. 104(4) substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022](#) (asp 8), [ss. 40\(2\)\(b\)](#), 59(1)

**F2** Words in s. 104(4) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), [Sch. 4 para. 93\(4\)](#) (with Sch. 3)

**Status:**

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**Changes to legislation:**

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