
STATUTORY INSTRUMENTS

1993 No. 2228 (S.238)

**YOUNG OFFENDERS'
INSTITUTIONS, SCOTLAND**

The Young Offenders (Scotland) Amendment Rules 1993

Made - - - - *9th September 1993*
Laid before Parliament *10th September 1993*
Coming into force - - *1st October 1993*

The Secretary of State, in exercise of the powers conferred on him by section 39 of the Prisons (Scotland) Act 1989(1) and of all other powers enabling him in that behalf, hereby makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Young Offenders (Scotland) Amendment Rules 1993 and shall come into force on 1st October 1993.

(2) In these Rules, “the principal Rules” means the Young Offenders (Scotland) Rules 1965(2).

Amendment of Rule 1 of the principal Rules

2. In Rule 1(1) of the principal Rules there shall be inserted—

(a) after the definition of “Chaplain” the following definition:—

““existing inmate” shall be construed in accordance with the definition of “existing prisoner” in Schedule 6 to the Prisoners and Criminal Proceedings (Scotland) Act 1993(3);”;

(b) after the definition of “legal adviser” the following definitions:—

““letter” includes any communication in written form which—

(a) is directed to a specific person or address; and

(b) relates to the personal, private or business affairs of, or the business affairs of the employer of, either correspondent,

(1) 1989 c. 45; section 39 was amended by the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9), sections 24 and 25 and Schedule 5, paragraph 6(6) and Schedule 7 (see S.I. 1993/2050).

(2) S.I.1965/195, amended by S.I. 1966/1551 and 1981/1223.

(3) 1993 c. 9.

and includes an envelope containing any such communication;

“long-term inmate” means a person who is sentenced to detention in a young offenders institution on or after 1st October 1993 and to whom Part I of the Prisoners and Criminal Proceedings (Scotland) Act 1993 applies by virtue of section 6(1) of that Act as if he were a long-term prisoner within the meaning of Part I of that Act;”;
and

(c) after the definition of “officer” the following definitions:–

““postal packet” includes newspaper, printed packet, sample packet, or parcel and any packet or article transmissible by post or other delivery service;

“short-term inmate” means a person who is sentenced to detention in a young offenders institution on or after 1st October 1993 and to whom Part I of the Prisoners and Criminal Proceedings (Scotland) Act 1993 applies by virtue of section 6(1) of that Act as if he were a short-term prisoner within the meaning of Part I of that Act;”.

Amendment of Rule 35 of the principal Rules

3. For paragraph (1) of the principal Rules(4), there shall be substituted the following paragraph:–

“(1) An existing inmate who is serving a sentence of detention for a term of more than 5 days may, subject to Rule 42, be granted remission of part of his term of detention not exceeding one third of that term on the ground of his industry and good conduct:

Provided that this paragraph shall not authorise the reduction of the actual term which an existing inmate serves to less than 5 days.”.

Amendment of Rule 41 of the principal Rules

4. In Rule 41 of the principal Rules the following words shall be omitted:–

“(15) Mutinies or incites other inmates to mutiny.”.

Amendment of Rule 42 of the principal Rules

5.—(1) Rule 42 of the principal Rules shall be amended in accordance with the following paragraphs of this Rule.

(2) In Rule 42(2)(a) there shall be inserted at the beginning the words “in the case of an existing inmate who is serving a sentence of detention for a term of more than 5 days,”.

(3) In Rule 42(2) there shall be inserted after sub-paragraph (a) the following:–

“(aa) in the case of a short-term or long-term inmate, but subject to paragraphs (3) and (4), an award of additional days not exceeding 14 days;”.

(4) After rule 42(2) there shall be inserted the following:–

“(3) Subject to paragraph (4), if an inmate is found guilty of more than one offence against discipline arising out of an incident, awards of additional days under paragraph (2) (aa) may be ordered to run consecutively but the total awarded shall not exceed 28 days.

(4) Notwithstanding paragraph (2)(aa) above, in the case of a short-term or long-term inmate found guilty of an offence against discipline, an award of additional days shall not exceed one sixth of his sentence, either–

(a) in respect of that offence; or

(4) Rule 35 was amended by S.I. 1981/1223.

- (b) when aggregated with the total of any award or awards of additional days which the inmate may have been or is awarded under paragraph (2)(aa) or (3).”.

Amendment of Rule 46 of the principal Rules

- 6. In Rule 46 of the principal Rules, for paragraph (2) there shall be substituted the following:–
 - “(2) A punishment awarded under Rule 42, other than paragraph (2)(a), may be terminated or mitigated at any time during its currency by the Governor who made the award.”.

Amendment of Rule 71 of the principal Rules

- 7. In Rule 71 of the principal Rules, at the end of paragraph (1) there shall be inserted the following words:–
 - “The provisions of this Rule do not apply to letters or postal packets to which Rules 71A and 71B apply.”.

Insertion of new Rules 71A and 71B into the principal Rules

- 8. After Rule 71 of the principal Rules there shall be inserted the following Rules:–
 - “**71A.**—(1) This Rule applies to letters and postal packets which an inmate sends to, or receives from, any court.
 - (2) Any letter or postal packet to which this Rule applies shall not–
 - (a) except where paragraph (3) applies, be opened; or
 - (b) be read,by the Governor or an officer.
 - (3) Any letter or postal packet which an inmate sends to a court shall not be opened except where–
 - (a) the Governor or an officer has cause to believe that it contains a prohibited article; and
 - (b) the inmate concerned is present.
 - (4) Where a letter or postal packet to which this Rule applies is found to contain any prohibited article the Governor may confiscate that article.
 - (5) For the purposes of this Rule, “court” includes the European Court of Justice, the European Court of Human Rights and the European Commission of Human Rights.

- “**71B.**—(1) This Rule applies only to letters and postal packets which an inmate sends to, or receives from, his legal adviser.
 - (2) Any letter or postal packet to which this Rule applies shall not–
 - (a) except where paragraph (3) applies, be opened; or
 - (b) except where paragraph (4) applies, be read,by the Governor or an officer.
 - (3) Any letter or postal packet to which this Rule applies shall not be opened except where–
 - (a) the Governor or an officer has cause to believe that it contains a prohibited article; and

(b) the inmate concerned is present.

(4) A letter to which this Rule applies shall not be read by the Governor or an officer except in exceptional circumstances where the Governor has reasonable cause to believe that the contents of the letter endanger the security of the prison or the safety of any person, or relate to a criminal activity.

(5) Where the Governor is of the opinion that any letter to which this Rule applies may be read in terms of paragraph (4)–

(a) the inmate shall be informed that the letter shall be read; and

(b) the letter shall be read by the Governor or an officer specially authorised by him for that purpose.

(6) Where a letter or postal packet to which this Rule applies is found to contain any prohibited article the Governor may confiscate that article.”.

Amendment of Rule 117 of the principal Rules

9. In rule 117(3) of the principal Rules(5) there shall be inserted at the end the following words:–
“if their sentence of detention was imposed before 1st October 1993”.

Revocations

10. Rules 44, 106(2) and 141 of the principal Rules are hereby revoked.

St Andrew’s House,
Edinburgh
9th September 1993

Fraser of Carmyllie
Minister of State, Scottish Office

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make various amendments to the Young Offenders (Scotland) Rules 1965.

Provision is made for awards of additional days which replaces forfeiture of remission as a punishment available to the Governor of a young offenders' institution in respect of a short-term or long-term inmate, who is guilty of an offence against discipline. The expressions "short-term inmate" and "long-term inmate" are construed in accordance with Part I of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (*see* sections 6 and 27).

The existing Rule 35 relating to remission is saved for existing inmates, that is, inmates who are already serving a sentence of detention on 1st October 1993, because Part I of the 1993 Act does not apply to them.

The disciplinary offences in Rule 41 are amended to delete the offence of mutiny or incitement of other inmates to mutiny.

The Rules are also amended to include new provisions relating to correspondence between an inmate and his legal adviser or any court. "Court" is deemed to include the European Court of Justice, the European Court of Human Rights and the European Commission of Human Rights. All such correspondence may only be opened where there is cause to believe that it contains a prohibited article. Correspondence with a legal adviser may only be read in exceptional circumstances. Correspondence between an inmate and a court may not be read even if it has been opened because there is cause to believe it may contain a prohibited article.

The Rules also revoke certain provisions in consequence of the main amendments. The provisions relating to disciplinary functions of visiting committees are also revoked.