
STATUTORY INSTRUMENTS

1994 No. 3194

**YOUNG OFFENDER INSTITUTIONS,
ENGLAND AND WALES**

The Young Offender Institution (Amendment) Rules 1994

Made - - - - *10th December 1994*
Laid before Parliament *16th December 1994*
Coming into force - - *9th January 1995*

In exercise of the powers conferred upon me by section 47 of the Prison Act 1952(1), I hereby make the following rules:

1. These Rules may be cited as the Young Offender Institution (Amendment) Rules 1994 and shall come into force on 9th January 1995.

2. The Young Offender Institution Rules 1988(2) shall have effect subject to the amendments set out in the Schedule to these Rules.

Home Office
10th December 1994

Michael Howard
One of Her Majesty's Principal Secretaries of
State

(1) 1952 c. 52; section 47 was affected by an amendment to section 52(2) of that Act by section 66(4) of the Criminal Justice Act 1967 (c. 80) and has been extended by section 85(2) and (4) of the Criminal Justice Act 1991 (c. 53) and by section 16A of the Prison Act 1952 (as inserted by section 151 of the Criminal Justice and Public Order Act 1994 (c. 33) and as applied by section 43(5) of the Prison Act 1952). The Criminal Justice Act 1988, Schedule 8, paragraph 1, contains amendments affecting these provisions.

(2) S.I. 1988/1422; a relevant amending instrument is S.I. 1989/331 (which substitutes a new rule 50).

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SCHEDULE

Rule 2

AMENDMENTS TO THE YOUNG OFFENDER INSTITUTION RULES 1988

1. In rule 2 (interpretation), in paragraph (1), the following definition shall be inserted after the definition of “compulsory school age”:

““controlled drug” means any drug which is a controlled drug for the purposes of the Misuse of Drugs Act 1971(3)

2. After rule 49 there shall be inserted the following rule:

“Compulsory Testing for Controlled Drugs

49A.—(1) This rule applies where an officer, acting under the powers conferred by section 16A of the Prison Act 1952 (power to test inmates for drugs)(4), requires an inmate to provide a sample for the purpose of ascertaining whether he has any controlled drug in his body.

(2) In this rule “sample” means a sample of urine or any other description of sample specified in the authorisation by the governor for the purposes of section 16A.

(3) When requiring an inmate to provide a sample, an officer shall, so far as is reasonably practicable, inform the inmate:

- (a) that he is being required to provide a sample in accordance with section 16A of the Prison Act 1952; and
- (b) that a refusal to provide a sample may lead to disciplinary proceedings being brought against him.

(4) An officer shall require an inmate to provide a fresh sample, free from any adulteration.

(5) An officer requiring a sample shall make such arrangements and give the inmate such instructions for its provision as may be reasonably necessary in order to prevent or detect its adulteration or falsification.

(6) An inmate who is required to provide a sample may be kept apart from other inmates for a period not exceeding one hour to enable arrangements to be made for the provision of the sample.

(7) An inmate who is unable to provide a sample of urine when required to do so may be kept apart from other inmates until he has provided the required sample, save that an inmate may not be kept apart under this paragraph for a period of more than 5 hours.

(8) An inmate required to provide a sample of urine shall be afforded such degree of privacy for the purposes of providing the sample as may be compatible with the need to prevent or detect any adulteration or falsification of the sample; in particular an inmate shall not be required to provide such a sample in the sight of a person of the opposite sex.”.

3. In rule 50 (offences against discipline), the following paragraph shall be substituted for paragraph (3):

“(3) denies access to any part of the young offender institution to any officer or any person (other than an inmate) who is at the young offender institution for the purpose of working there;”.

(3) 1971 c. 38.

(4) As inserted by section 151 of the Criminal Justice and Public Order Act 1994 (c. 33) and applied to Young Offender Institutions by section 43 of the Prison Act 1952 (as inserted by section 11 of the Criminal Justice Act 1982 (c. 48) and as amended by paragraph 1 of Schedule 8 to the Criminal Justice Act 1988).

4. In rule 50 the following paragraph shall be substituted for paragraph (6):
“(6) intentionally obstructs an officer in the execution of his duty, or any person (other than an inmate) who is at the young offender institution for the purpose of working there, in the performance of his work;”.
5. In rule 50 the following paragraph shall be added after paragraph (8):
“(8A) administers a controlled drug to himself or fails to prevent the administration of a controlled drug to him by another person (but subject to rule 50A below);”.
6. In rule 50 the following paragraph shall be substituted for paragraph (16):
“(16) is disrespectful to any officer, or any person (other than an inmate) who is at the young offender institution for the purpose of working there, or any person visiting a young offender institution;”.
7. The following rule shall be inserted after rule 50:
“**50A.** It shall be a defence for an inmate charged with an offence under rule 50(8A) to show that—
 - (a) the controlled drug had been, prior to its administration, lawfully in his possession for his use or was administered to him in the course of a lawful supply of the drug to him by another person;
 - (b) the controlled drug was administered by or to him in circumstances in which he did not know and had no reason to suspect that such a drug was being administered; or
 - (c) the controlled drug was administered by or to him under duress or to him without his consent in circumstances where it was not reasonable for him to have resisted.”.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Young Offender Institution Rules 1988 (“the 1988 Rules”), as amended.

They make two separate groups of changes. First, they make provision for the collection of samples from inmates for the purposes of conducting tests for the presence of controlled drugs and also introduce a new disciplinary offence of (when read with its defences) misusing a controlled drug. Secondly, they extend the scope of three existing disciplinary offences.

Amendments relating to controlled drugs

The amendments concerned are set out in paragraphs 1, 2, 5 and 7 of the Schedule.

Paragraph 2 sets out certain procedures which must or may be followed where an officer requires an inmate to provide a sample under the powers conferred by section 16A of the Prison Act 1952 (power to test prisoners for drugs) as inserted by section 151 of the Criminal Justice and Public Order Act 1994. Paragraph 5 of the Schedule inserts a new disciplinary offence into rule 50 of the 1988 Rules (offences against discipline) which, when read with the express defences to a charge under

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the offence created by the new rule 50A inserted by paragraph 7 of the Schedule, penalises misuse of a controlled drug. Paragraph 1 makes a consequential amendment to rule 1 (interpretation).

Amendments extending existing disciplinary offences

The amendments concerned are set out in paragraphs 3, 4 and 6 of the Schedule. These amend three paragraphs of rule 50 of the 1988 Rules (offences against discipline). For each of three existing disciplinary offences which penalise certain conduct by an inmate in relation to an officer, the scope of the offence is extended to cover the same conduct in relation to any other person (other than an inmate) who is at the young offender institution for the purpose of working there.