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STATUTORY INSTRUMENTS

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**2000 No. 3371**

**The Young Offender Institution Rules 2000**

**PART II**

**INMATES**

*Release*

**Temporary release**

**5.—(1)** [<sup>F1</sup>Subject to paragraph (1A), the Secretary of State] may, in accordance with the other provisions of this rule, release temporarily an inmate to whom this rule applies.

[<sup>F2</sup>(1A) An inmate who has the relevant deportation status must not be released under this rule unless the inmate is located in open conditions immediately before the time of release.]

(2) An inmate may be released under this rule for any period or periods and subject to any conditions.

(3) An inmate may only be released under this rule:

- (a) on compassionate grounds or for the purpose of receiving medical treatment;
- (b) to engage in employment or voluntary work;
- (c) to receive instruction or training which cannot reasonably be provided in the young offender institution;
- (d) to enable him to participate in any proceedings before any court, tribunal or inquiry;
- (e) to enable him to consult with his legal adviser in circumstances where it is not reasonably practicable for the consultation to take place in the young offender institution;
- (f) to assist any police officer in any enquiries;
- (g) to facilitate the inmate's transfer between the young offender institution and another penal establishment;
- (h) to assist him in maintaining family ties or in his transition from life in the young offender institution to freedom; or

<sup>F3</sup>(i) .....

(4) An inmate shall not be released under this rule unless the Secretary of State is satisfied that there would not be an unacceptable risk of his committing offences whilst released or otherwise of his failing to comply with any condition upon which he is released.

(5) Where at any time an offender is subject concurrently:

- (a) to a detention and training order; and
- (b) to a sentence of detention in a young offender institution,

he shall be treated for the purposes of paragraphs (6) and (7) as if he were subject only to the one of them that was imposed on the later occasion.

*Status: Point in time view as at 01/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Young Offender Institution Rules 2000, Section 5. (See end of Document for details)*

- (6) The Secretary of State shall not release under this rule an inmate if, having regard to:
- (a) the period or proportion of his sentence which the inmate has served or, in a case where paragraph (10) does not apply to require all the sentences he is serving to be treated as a single term, the period or proportion of any such sentence he has served; and
  - (b) the frequency with which the inmate has been granted temporary release under this rule,
- the Secretary of State is of the opinion that the release of the inmate would be likely to undermine public confidence in the administration of justice.

(7) If an inmate has been temporarily released under this rule during the relevant period and has been sentenced to any period of detention, custody or imprisonment for a criminal offence committed whilst at large following that release, he shall not be released under this rule unless his release, having regard to the circumstances of his conviction, would not, in the opinion of the Secretary of State, be likely to undermine public confidence in the administration of justice; and for this purpose "the relevant period":

- (a) in the case of an inmate serving a determinate sentence of imprisonment, detention or custody, is the period he has served in respect of that sentence, unless, notwithstanding paragraph (10), the sentences he is serving do not fall to be treated as a single term, in which case it is the period since he was last released in relation to one of those sentences under Part II of the Criminal Justice Act 1991 ("the 1991 Act") or section 100 of the Powers of the Criminal Courts (Sentencing) Act 2000<sup>M1</sup> ("the 2000 Act") [<sup>F4</sup>or Chapter 6 of Part 12 of the 2003 Act]<sup>F5</sup> or by virtue of section 233 of the Sentencing Code]; or
- (b) in the case of an inmate serving an indeterminate sentence of imprisonment, detention or custody, is, if the inmate has previously been released on licence under Part II of the 1991 Act or Part II of the Crime (Sentences) Act 1997 [<sup>F6</sup>or Chapter 6 of Part 12 of the 2003 Act], the period since the date of his last recall to a penal establishment in respect of that sentence or, where the inmate has not been so released, the period he has served in respect of that sentence,

save that where an inmate falls within both of sub-paragraphs (a) and (b) above, the "relevant period", in the case of that inmate, shall be determined by whichever of the applicable sub-paragraphs that produces the longer period.

(8) An inmate released under this rule may be recalled at any time whether the conditions of his release have been broken or not.

[<sup>F7</sup>(8A) If, immediately before the relevant time, an inmate has been released under this rule and the young offender institution has received notice that the inmate has the relevant deportation status, the inmate must be recalled unless—

- (a) the period for which the inmate has been released is due to expire on 13th August 2014; or
- (b) the inmate was released from open conditions.

(8B) If an inmate has been released under this rule (whether before or after the relevant time) and the young offender institution receives notice after the relevant time that the inmate has the relevant deportation status, the inmate must be recalled unless—

- (a) the period for which the inmate has been released is due to expire on the day on which the young offender institution receives that notice; or
- (b) the inmate was released from open conditions.]

(9) This rule applies to inmates other than persons committed in custody for trial or to be sentenced or otherwise dealt with before or by the Crown Court or remanded in custody by any court.

[<sup>F8</sup>(10) For the purposes of any reference in this rule to an inmate's sentence, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term.]

(11) In this rule, any reference to release on licence under Part II of the 1991 Act includes any release on licence under any earlier legislation providing for early release on licence.

[<sup>F9</sup>(12) In this rule—

- (a) any reference to an inmate who has the relevant deportation status is to be read in accordance with rule 4(6) and (7); and
- (b) any reference to the relevant time is to be read in accordance with rule 4(8).]

#### Textual Amendments

- F1** Words in rule 5(1) substituted (13.8.2014 at 5 p.m.) by The Prison and Young Offender Institution (Amendment) Rules 2014 (S.I. 2014/2169), rules 1, **3(4)(a)**
- F2** Rule 5(1A) inserted (13.8.2014 at 5 p.m.) by The Prison and Young Offender Institution (Amendment) Rules 2014 (S.I. 2014/2169), rules 1, **3(4)(b)**
- F3** Rule 5(3)(i) repealed (3.1.2006) by The Young Offender Institution (Amendment) (No. 2) Rules 2005 (S.I. 2005/3438), rule 1, **Sch. para. 2(a)**
- F4** Words in rule 5(7)(a) added (3.1.2006) by The Young Offender Institution (Amendment) (No. 2) Rules 2005 (S.I. 2005/3438), rule 1, **Sch. para. 2(b)**
- F5** Words in rule 5(7)(a) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 326** (with Sch. 27); S.I. 2020/1236, reg. 2
- F6** Words in rule 5(7)(b) added (3.1.2006) by The Young Offender Institution (Amendment) (No. 2) Rules 2005 (S.I. 2005/3438), rule 1, **Sch. para. 2(c)**
- F7** Rule 5(8A)(8B) inserted (13.8.2014 at 5 p.m.) by The Prison and Young Offender Institution (Amendment) Rules 2014 (S.I. 2014/2169), rules 1, **3(4)(c)**
- F8** Rule 5(10) substituted (3.1.2006) by The Young Offender Institution (Amendment) (No. 2) Rules 2005 (S.I. 2005/3438), rule 1, **Sch. para. 2(d)**
- F9** Rule 5(12) inserted (13.8.2014 at 5 p.m.) by The Prison and Young Offender Institution (Amendment) Rules 2014 (S.I. 2014/2169), rules 1, **3(4)(d)**

#### Marginal Citations

- M1** 2000 c. 6.

**Status:**

Point in time view as at 01/12/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the The Young Offender Institution Rules 2000, Section 5.