
STATUTORY INSTRUMENTS

2002 No. 2117

**YOUNG OFFENDER INSTITUTIONS,
ENGLAND AND WALES**

The Young Offender Institution (Amendment) Rules 2002

<i>Made</i>	- - - -	<i>14th August 2002</i>
<i>Laid before Parliament</i>		<i>14th August 2002</i>
<i>Coming into force</i>	- -	<i>15th August 2002</i>

The Secretary of State, in exercise of the powers conferred upon him by section 47 of the Prison Act 1952(1), hereby makes the following Rules:

1. These Rules may be cited as the Young Offender Institution (Amendment) Rules 2002 and shall come into force on 15th August 2002.

2. The Young Offender Institution Rules 2000(2) shall have effect subject to the amendments set out in the Schedule to these Rules.

14th August 2002

Hilary Benn
Parliamentary Under-Secretary of State
Home Office

(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 was extended by section 43(5) of the Criminal Justice Act 1991 (c. 53). The Criminal Justice Act 1988 (c. 33), Schedule 8 paragraph 1, contains amendments affecting these provisions.

(2) S.I. 2000/3371.

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SCHEDULE

Rule 2

AMENDMENTS TO THE YOUNG OFFENDER INSTITUTION RULES 2000

1. In rule 2(1) (interpretation), the following definition shall be added:
““adjudicator” means a person approved by the Secretary of State for the purpose of inquiring into a charge which has been referred to him;”.
2. In rule 58 (disciplinary charges):
 - (a) at the end of paragraph (2), there shall be added:
“or, as the case may be, the adjudicator”;
 - (b) for paragraph (3) there shall be substituted the following paragraph:
“(3) Every charge shall be first inquired into not later, save in exceptional circumstances or in accordance with rule 60A(5) or rule 65(4), than:
 - (a) where it is inquired into by the governor, the next day, not being a Sunday or public holiday, after it is laid;
 - (b) where it is referred to the adjudicator under rule 58A(2), 28 days after it is so referred.”.
 - (c) at the end of paragraph (4), there shall be added:
“or determination under rule 58A”.
3. After rule 58, there shall be inserted the following rule:

“Determination of mode of inquiry

58A.—(1) Before inquiring into a charge the governor shall determine whether it is so serious that additional days should be awarded for the offence, if the inmate is found guilty.

- (2) Where the governor determines:
 - (a) that it is so serious, he shall:
 - (i) refer the charge to the adjudicator forthwith for him to inquire into it;
 - (ii) refer any other charge arising out of the same incident to the adjudicator forthwith for him to inquire into it; and
 - (iii) inform the inmate who has been charged that he has done so;
 - (b) that it is not so serious, he shall proceed to inquire into the charge.
- (3) If:
 - (a) at any time during an inquiry into a charge by the governor; or
 - (b) following such an inquiry, after the governor has found the inmate guilty of an offence but before he has imposed a punishment for that offence,

it appears to the governor that the charge is so serious that additional days should be awarded for the offence if (where sub-paragraph (a) applies) the inmate is found guilty, the governor shall act in accordance with paragraph (2)(a)(i) to (iii) and the adjudicator shall first inquire into any charge referred to him under this paragraph not later than, save in exceptional circumstances, 28 days after the charge was referred.”.

4. In rule 59 (rights of inmates charged):
 - (a) at the end of paragraph (1) there shall be added the words “or, as the case may be, the adjudicator”;
 - (b) after paragraph (2) there shall be added the following paragraph:

“(3) At an inquiry into a charge which has been referred to the adjudicator, the inmate who has been charged shall be given the opportunity to be legally represented.”.

5. In rule 60 (governor’s punishments):
 - (a) in paragraph (1), for the words “rule 64” there shall be substituted the words “rule 65”;
 - (b) in paragraph (1)(e), the words “an amount not exceeding 21 days earnings” shall be omitted;
 - (c) in paragraph (1)(f), for the words “seven days” there shall be substituted the words “ten days”;
 - (d) paragraph (1) (h) shall be omitted;
 - (e) in paragraph (2), for the words “, in the case of an award of additional days, the total period shall not exceed 42 days and in the case of an award of cellular confinement the total period shall not exceed seven days” there shall be substituted the words “in the case of a punishment of cellular confinement the total period shall not exceed ten days”;
 - (f) in paragraph (3), the words “An award of” shall be omitted.
6. After rule 60 there shall be inserted the following rule:

“Adjudicator’s punishments

60A.—(1) If he finds a inmate guilty of an offence against discipline the adjudicator may, subject to paragraph (2) and to rule 65, impose one or more of the following punishments:

- (a) any of the punishments mentioned in rule 60(1);
- (b) in the case of an inmate who is a short-term prisoner or long-term prisoner, an award of additional days not exceeding 42 days.

(2) A caution shall not be combined with any other punishment for the same charge.

(3) If an inmate is found guilty of more than one charge arising out of an incident, punishments under this rule may be ordered to run consecutively but, in the case of an award of additional days, the total period added shall not exceed 42 days and, in the case of a punishment of cellular confinement, the total period shall not exceed ten days.

(4) This rule applies to an inmate who has been charged with having committed an offence against discipline before the date on which the rule came into force, in the same way as it applies to an inmate who has been charged with having committed an offence against discipline on or after that date, provided the charge is referred to the adjudicator no later than 60 days after that date.

(5) Rule 58(3) shall not apply to a charge where, by virtue of paragraph (4), this rule applies to the inmate who has been charged.”.

7. In rule 63 (suspended punishments), after paragraph (2) there shall be added the following paragraph:

“(3) Where an award of additional days has been suspended under paragraph (1) and an inmate is charged with committing an offence against discipline during the period specified in a direction given under that paragraph, the governor shall either:

- (a) inquire into the charge and give no direction with respect to the suspended award;
or
- (b) refer the charge to the adjudicator for him to inquire into it.”.

8. In rule 65 (adult female inmates: disciplinary punishments):

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- (a) in paragraph (1)(d), the words “of an amount not exceeding 42 days earnings” shall be omitted;
 - (b) in paragraph (1)(e), for the words “14 days” there shall be substituted the words “21 days”;
 - (c) paragraph (1)(f) shall be omitted;
 - (d) after paragraph (1) there shall be inserted the following paragraph:
 - “(1A) In the case of a female inmate aged 21 years or over, where a charge has been referred to the adjudicator, rule 60A shall not apply, but the adjudicator may if he finds the inmate guilty of an offence against discipline, impose one or more of the following punishments:
 - (a) any of the punishments mentioned in paragraph (1);
 - (b) in the case of an inmate who is a short-term or long-term prisoner, an award of additional days not exceeding 42 days.”;
 - (e) after paragraph (2) there shall be added the following paragraphs:
 - “(3) Paragraph (1A) applies to an inmate who has been charged with having committed an offence against discipline before the date on which that paragraph came into force, in the same way as it applies to an inmate who has been charged with having committed an offence against discipline on or after that date, provided the charge is referred to the adjudicator no later than 60 days after that date.
 - (4) Rule 58(3) shall not apply to a charge where, by virtue of paragraph (3), paragraph (1A) applies to the inmate who has been charged.”.
9. In paragraph (1)(b)(i) of rule 86 (contracted out young offenders institutions), there shall be inserted references to rules 58A and 63.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Young Offender Institution Rules 2000 by providing for an adjudicator, approved by the Secretary of State, to inquire into charges of serious offences against discipline set out in those Rules. Where the governor determines that a charge is sufficiently serious, he must refer it to the adjudicator, who is to inquire into the offence no later than 28 days after it has been referred. At an inquiry into a charge that has been referred to the adjudicator, the inmate who has been charged is given the opportunity to be legally represented. If the adjudicator finds an inmate guilty, he has the power to impose upon him any punishment which the governor can impose, and can also impose an award of up to 42 additional days to be served in a young offender institution. These Rules also remove from the governor the power to impose any additional days as a punishment on an inmate found guilty by him, and add to his powers in certain other respects.