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STATUTORY INSTRUMENTS

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**2005 No. 908**

**REGULATORY REFORM**

**The Regulatory Reform (Prison  
Officers) (Industrial Action) Order 2005**

*Made* - - - - - *21st March 2005*

*Coming into force* - - - - - *22nd March 2005*

Whereas:

- (a) the Secretary of State for the Home Department (“the Secretary of State”) consulted—
  - (i) such organisations as appear to the Secretary of State to be representative of interests substantially affected by the Secretary of State’s proposals;
  - (ii) such other persons as the Secretary of State considered appropriate; and
  - (iii) the National Assembly for Wales;
- (b) following the consultation mentioned in recital (a) it appeared to the Secretary of State appropriate to vary part of his proposals and to undertake further consultation with respect to the variations;
- (c) following the further consultation, it appeared to the Secretary of State that it was appropriate to proceed with the making of this Order;
- (d) a document setting out the Secretary of State’s proposals was laid before Parliament as required by section 6 of the Regulatory Reform Act 2001<sup>(1)</sup> and the period for Parliamentary consideration under section 8 of that Act expired;
- (e) the Secretary of State had regard to the representations made during that period and, in particular, to the Report of the Regulatory Reform Committee of the House of Commons (Third Report of Session 2004–05) and the Report of the Select Committee on Delegated Powers and Regulatory Reform (Second Report of Session 2004–05);
- (f) a draft of this Order was laid before Parliament with a statement giving details of those representations and the changes made to the draft Order in the light of them;
- (g) the draft was approved by resolution of each House of Parliament; and
- (h) the Secretary of State is of the opinion that this Order does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise;

Now, therefore, the Secretary of State, in exercise of the powers conferred upon him by section 1 of the Regulatory Reform Act 2001, hereby makes the following Order, a draft of which has been laid before and approved by a resolution of each House of Parliament:

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(1) 2001 c. 6.

### **Citation and commencement**

1. This Order may be cited as the Regulatory Reform (Prison Officers) (Industrial Action) Order 2005 and shall come into force on the day after the day on which it is made.

### **Amendment of section 127(4) of the Criminal Justice and Public Order Act 1994**

2. Section 127(4) of the Criminal Justice and Public Order Act 1994<sup>(2)</sup> (“the 1994 Act”) (inducements to prison officers to withhold services or to indiscipline) shall be amended as follows:

- (a) in paragraph (a), omit the words “for the purposes of section 7 of the Prison Act 1952 or”; and
- (b) omit paragraph (b).

### **Consequential provision**

3. For section 128(5) of the 1994 Act substitute:

“(5) For the purposes of this section, the prison service comprises all the individuals who:

- (a) hold any post, otherwise than as a chaplain or assistant chaplain or as a medical officer, to which those individuals have been appointed for the purposes of section 7 of the Prison Act 1952 or under section 2(2) of the Prison Act (Northern Ireland) 1953 (appointment of prison staff); or
- (b) hold any post, otherwise than as a medical officer, to which those individuals have been appointed for the purposes of section 3(1A) of the Prisons (Scotland) Act 1989.”.

Home Office  
21st March 2005

*Paul Goggins*  
Parliamentary Under-Secretary of State

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(2) 1994 c. 33.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

Section 127 of the Criminal Justice and Public Order Act 1994 (“the 1994 Act”) enables the Secretary of State (or, in Scotland, the Scottish Ministers) to bring an action against any person who causes loss or damage by inducing a prison officer to withhold his services as such an officer or to commit a breach of discipline. The effect of the amendments made by this Order is that section 127 will no longer apply in relation to such an inducement in respect of a prison officer in England and Wales, or in Scotland, although it will continue to apply in respect of such a prison officer in Northern Ireland as well as in respect of a custody officer and a prisoner custody officer as defined in section 127(4) (c) of the 1994 Act.