

2011 No. 1663

PRISONS, ENGLAND AND WALES

YOUNG OFFENDER INSTITUTIONS, ENGLAND AND WALES

**The Prison and Young Offender Institution (Amendment) Rules
2011**

<i>Made</i> - - - -	<i>5th July 2011</i>
<i>Laid before Parliament</i>	<i>8th July 2011</i>
<i>Coming into force</i> - -	26th September 2011

The Secretary of State for Justice, in exercise of the powers conferred by section 47 of the Prison Act 1952(a) and sections 1(1)(b) and (2), 2(1) and 4(2) of the Prisoners' Earnings Act 1996(b), makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Prison and Young Offender Institution (Amendment) Rules 2011 and come into force on 26th September 2011.

Amendment of the Prison Rules 1999

2. The Prison Rules 1999(c) are amended in accordance with Schedule 1 to these Rules.

Amendment of the Young Offender Institution Rules 2000

3. The Young Offender Institution Rules 2000(d) are amended in accordance with Schedule 2 to these Rules.

Signed by authority of the Secretary of State

Crispin Blunt
Parliamentary Under Secretary of State
Ministry of Justice

5th July 2011

(a) 1952 c.52. Section 47(1) was amended by section 6(2) of the Criminal Justice and Public Order Act 1994 (c.33). There have been other amendments but none are relevant. Section 66(4) of the Criminal Justice Act 1967 (c.80) provides that any instrument containing rules made under section 47 of the Prison Act 1952 is subject to annulment in pursuance of a resolution of either House of Parliament.

(b) 1996 c.33. Section 4(2) is cited because of the meaning given to "prescribed" and "prison rules".

(c) S.I. 1999/728.

(d) S.I. 2000/3371.

SCHEDULE 1

Rule 2

Amendment of the Prison Rules 1999

1. In rule 11 (requests and complaints)(a)—
 - (a) for paragraph (1) substitute—

“(1) A prisoner may make a request or complaint to the governor or independent monitoring board relating to the prisoner’s imprisonment.”;
 - (b) in paragraph (2)—
 - (i) omit “On every day”,
 - (ii) for “hear” substitute “consider as soon as possible”.
2. After rule 31 (work) insert—

“31A. Prescription of certain matters in respect of prisoners’ earnings

 - (1) The amount prescribed for the purpose of section 1(1)(b) of the Prisoners’ Earnings Act 1996 (“the 1996 Act”) is £20.
 - (2) The percentage prescribed for the purpose of section 1(2) of the 1996 Act is 40%.
 - (3) All amounts deducted or levied under section 1 of the 1996 Act shall be applied for the purpose referred to in section 2(1)(a) of the 1996 Act.
 - (4) Victim Support(b) is prescribed as a voluntary organisation to which payments may be made under section 2(1)(a) of the 1996 Act.”.
3. In rule 35A(2A) (interception of communications)(c), for “the chief operating officer of the prison service” substitute “any one of the following: the chief executive officer of the National Offender Management Service; the director responsible for national operational services of that service; or the duty director of that service”.
4. In rule 53(3)(b) (disciplinary charges)(d), after “rule 53A(2)” insert “or 60(3)(b)”(e).
5. In rule 53A (determination of mode of inquiry)(f)—
 - (a) in paragraph (1), for “whether it is so serious” to the end substitute—

“__

 - (i) whether the charge is so serious that additional days should be awarded for the offence if the prisoner is found guilty, or
 - (ii) whether it is necessary or expedient for some other reason for the charge to be inquired into by the adjudicator.”;
 - (b) in paragraph (2)—
 - (i) in sub-paragraph (a), after “that it is so serious” insert “or that it is necessary or expedient for some other reason for the charge to be inquired into by the adjudicator”,
 - (ii) in sub-paragraph (b), after “that it is not so serious” insert “or that it is not necessary or expedient for some other reason for the charge to be inquired into by the adjudicator”;
 - (c) in paragraph (3)—
 - (i) after “it appears to the governor” insert “either”,

(a) Rule 11 was amended by S.I. 2008/597.
(b) Victim Support is a registered charity (no. 298028) for victims and witnesses of crime in England and Wales.
(c) Rule 35A was inserted by S.I. 2000/2641 and amended by S.I. 2009/3082.
(d) Rule 53 was amended by S.I. 2002/2116.
(e) Rule 60(3) was inserted by S.I. 2002/2116.
(f) Rule 53A was inserted by S.I. 2002/2116.

- (ii) after “the prisoner is found guilty” insert “or that it is necessary or expedient for some other reason for the charge to be inquired into by the adjudicator”.

SCHEDULE 2

Rule 3

Amendment of the Young Offender Institution Rules 2000

1. In rule 8 (requests and complaints)(a)—
 - (a) for paragraph (1) substitute—

“(1) An inmate may make a request or complaint to the governor or independent monitoring board relating to the inmate’s detention.”;
 - (b) in paragraph (2)—
 - (i) omit “On every day”,
 - (ii) for “hear any oral” substitute “consider as soon as possible any”.
2. In rule 11(2A) (interception of communications)(b), for “the chief operating officer of the prison service” substitute “any one of the following: the chief executive officer of the National Offender Management Service; the director responsible for national operational services of that service; or the duty director of that service”.
3. In rule 58(3)(b) (disciplinary charges)(c), after “rule 58A(2)” insert “or 63(3)(b)”(d).
4. In rule 58A (determination of mode of inquiry)(e)—
 - (a) in paragraph (1) for “whether it is so serious” to the end substitute—

“—

 - (i) whether the charge is so serious that additional days should be awarded for the offence if the inmate is found guilty, or
 - (ii) whether it is necessary or expedient for some other reason for the charge to be inquired into by the adjudicator.”;
 - (b) in paragraph (2)—
 - (i) in sub-paragraph (a), after “that it is so serious” insert “or that it is necessary or expedient for some other reason for the charge to be inquired into by the adjudicator”,
 - (ii) in sub-paragraph (b), after “that it is not so serious” insert “or that it is not necessary or expedient for some other reason for the charge to be inquired into by the adjudicator”;
 - (c) in paragraph (3)—
 - (i) after “it appears to the governor” insert “either”,
 - (ii) after “the inmate is found guilty” insert “or that it is necessary or expedient for some other reason for the charge to be inquired into by the adjudicator”.

(a) Rule 8 was amended by S.I. 2008/599.
(b) Rule 11 was amended by S.I. 2009/3082.
(c) Rule 58 was amended by S.I. 2002/2117.
(d) Rule 63(3) was inserted by S.I. 2002/2117.
(e) Rule 58A was inserted by S.I. 2002/2117.

EXPLANATORY NOTE

(This note is not part of the Order)

These Rules make a number of amendments to the Prison Rules 1999 (“the 1999 Rules”) and the Young Offender Institution Rules 2000 (“the 2000 Rules”).

Paragraph 1 of Schedule 1 amends rule 11 of the 1999 Rules in relation to requests and complaints made by prisoners about their imprisonment. Paragraph 1(a) reframes the provision in existing rule 11(1) to emphasise that a prisoner may make a complaint about his or her imprisonment to the governor or independent monitoring board. Paragraph (1)(b) removes the requirement for requests and complaints to be heard daily by the governor and instead imposes a requirement for the governor to consider requests and complaints as soon as possible. Equivalent amendments are made to rule 8 of the 2000 Rules by paragraph 1 of Schedule 2.

Paragraph 2 of Schedule 1 inserts new rule 31A into the 1999 Rules to prescribe certain matters in respect of prisoners’ earnings, for the purposes of the Prisoners’ Earnings Act 1996.

Under the Prisoners’ Earnings Act 1996, and by virtue of new rule 31A, the governor of a prison may make a deduction from, or impose a levy on, a prisoner’s net weekly earnings for enhanced wages work, where those net weekly earnings exceed £20. Enhanced wages work means any work which is not directed work (that is, it is not work which the prisoner is directed to do in pursuance of prison rules) and to which the rates of pay and productivity applicable are higher than those that would be applicable if it were directed work.

The percentage of the excess which may be deducted or levied is 40%.

All amounts deducted or levied are to be applied for the purpose of making payments (directly or indirectly) to prescribed voluntary organisations concerned with victim support or crime prevention or both. The organisation prescribed by paragraph 2 for this purpose is Victim Support (registered charity number: 298028).

Paragraph 3 of Schedule 1 amends rule 35A(2A) of the 1999 Rules which enables a prisoner’s legal or other confidential communications to be intercepted if the grounds set out in the rule are satisfied and the interception is authorised by the chief operating officer of the prison service. The amendment removes the reference to the chief operating officer and provides instead that the interception must be authorised by the chief executive officer, director responsible for national operational services or duty director of the National Offender Management Service. An equivalent amendment is made to rule 11(2A) of the 2000 Rules by paragraph 2 of Schedule 2.

Paragraphs 4 and 5 of Schedule 1 amend the 1999 Rules in relation to offences against discipline. Under rule 60(3)(b) of the 1999 Rules, where an award of additional days has been suspended and a prisoner is charged with a further disciplinary offence during the suspension period, the governor may refer that charge to an adjudicator. Paragraph 4 of Schedule 1 amends rule 53(3)(b) of the 1999 Rules to provide that, where a charge is referred to an adjudicator under rule 60(3)(b), the adjudicator must inquire into the charge within 28 days. Paragraph 3 of Schedule 2 makes equivalent amendments to rule 58 of the 2000 Rules.

Paragraph 5 of Schedule 1 amends rule 53A of the 1999 Rules which provides for disciplinary charges to be referred to an adjudicator where the governor considers that the charge is so serious that additional days ought to be awarded for the offence if the prisoner is found guilty. The amendment made by paragraph 5 of Schedule 1 provides that a charge may also be referred to an adjudicator if this is considered necessary or expedient for some other reason. Equivalent amendments are made to rule 58A of the 2000 Rules by paragraph 4 of Schedule 2.

A full impact assessment has not been produced for this instrument.

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