

EXPLANATORY MEMORANDUM TO
THE SECURE TRAINING CENTRE (CORONAVIRUS) (AMENDMENT) RULES
2020

2020 No. 664

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee.

2. Purpose of the instrument

- 2.1 The two privately-operated secure training centres (STCs) in England, which hold children sentenced and remanded by the courts, operate under The Secure Training Centre Rules 1998 (S.I. 1998/472). This SI is prescriptive, but under the restrictions for the control of coronavirus some of the regime requirements, for example to provide 25 hours of taught education per week, cannot reasonably be provided. This instrument introduces temporary modifications and controls to facilitate the effective running of STCs during a coronavirus period.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The instrument is subject to negative resolution procedure and will breach the 21-day rule for laying in Parliament. It will come into force on 2 July 2020.
- 3.2 This is emergency legislation in response to the coronavirus pandemic where policy has been developed at pace to respond to an urgent situation in the two privately operated STCs. The changes required in the instrument could not have been predicted to lay in time to meet the 21-day rule. The instrument needs to come into force the day after laying to allow for the safety and security of the children detained and the workforce looking after them. The immediate need, which the instrument will address, has already arisen and a further delay of three weeks to meet the 21-day rule may contribute to the Department being unable to operate the STCs effectively.
- 3.3 The Ministry acknowledges the general desirability of observing the 21-day convention, but in the current fast-moving circumstances of the spreading coronavirus the Ministry's view is that this power needs to be made available the day after the SI is laid in Parliament and cannot be delayed for 21 days.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.4 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.
- 3.5 The Department has reached this view because this instrument is subject to negative resolution and will not, or is not likely to be, debated in the House of Commons.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

6. Legislative Context

- 6.1 The Secure Training Centre Rules 1998 (“the STC Rules”) set out a range of powers and duties that set out the way in which STCs should be governed.
- 6.2 Section 47(1) of the Prison Act 1952 allows the Secretary of State for Justice to make rules for the regulation of secure training centres.
- 6.3 The modifications made in these Rules will cease to have effect on 25th March 2022.
- 6.4 The modifications to the STC Rules only apply during a “transmission control period”. A “transmission control period” is defined, via paragraph 5 of Schedule 21 to the Coronavirus Act 2020, as the incidence or transmission of coronavirus which constitutes a serious and imminent threat to public health in England, and the Secretary of State for Health and Social Care has made a declaration of risk to that effect.
- 6.5 STC Rule 11 has been modified to suspend the entitlement to weekly visits during a transmission control period if it is necessary as a result of the effects of the coronavirus pandemic.
- 6.6 STC Rules 27 and 28 have been modified so that entitlements to regime activities and education and training will be met as far as reasonably practicable during a transmission control period.

7. Policy background

What is being done and why?

- 7.1 New operational guidelines, consistent with Public Health England advice, have been issued by the Youth Custody Service, HMPPS, to the Directors of the two STCs. This sets out a temporary minimum restricted regime for as long as appropriate during the coronavirus pandemic.
- 7.2 This temporary restricted regime is designed to prevent the spread of disease and ensure the safety and security of children and staff alike when operating with a workforce reduced by 25% through self-isolation. It is the minimum expected level of delivery during a secure estate alert level broadly comparable with Level 4 in the community. At all times STCs will be required to deliver the highest possible regime whilst still complying with health guidelines.
- 7.3 The temporary minimum restricted regime provides children with:
 - a) Reduced time out of room: At least 1½ hrs out of room a day (normally 14 hrs);
 - b) Reduced access to classroom education: There are opportunities to attend teacher-led sessions, in-room work and some children take part in independent study;

- c) Dining on the residential units or in-room; and
 - d) Daily opportunities to access fresh air.
- 7.4 All rooms are equipped with en-suite facilities and a telephone on which additional credit has been added. Skype facilities are also available.
- 7.5 It is of note that throughout the lockdown phase of the Coronavirus outbreak in custody, broadly comparable to Level 4 in the community, the STCs have worked to provide as open a regime as possible despite the restrictions in place and they have taken a number of steps to mitigate the limitations caused by the pandemic.
- 7.6 As the recovery phase gathers pace the level of regime in STCs will continue to increase moving as close to normal expectations as possible. Recovery in STCs will be managed as per the published 'COVID-19: National Framework for Prison Regimes and Services'. The roadmap within that Framework sets out the core principles, governance and assurance processes that will manage the easing of restrictions in STCs whilst ensuring children and staff are kept safe.
- 7.7 STCs are being issued with mandatory areas to articulate in their recovery plans as outlined in the National Framework. These plans will show how they will deliver as full a regime as possible despite ongoing restrictions broadly comparable to a Level 3 alert in the community. These plans will be implemented as soon as possible. However, it remains the case that meeting the full expectations of the STC Rules in their entirety may not be achievable until the alert level reduces to the equivalent of Level 2 in the community.
- 7.8 It is also possible that localised outbreaks at STCs may result in some or all of the young people experiencing a reduced regime again for short periods of time with local alert levels raised significantly whilst an outbreak is brought under control. In addition, Test and Trace may result in some young people being required to experience a reduced regime despite not being overtly unwell. This would only ever be for the shortest time necessary and involve the least restrictions necessary as guided by infection control health experts.
- 7.9 There is no express power to depart from the STC Rules or to switch their effect off to meet external circumstances such as a pandemic. The rules that are being modified have strict requirements and timescales which are difficult to adhere to, or where the rule would necessitate the gathering of groups impractical with physical distancing. The modifications provide flexibility to these rules by ensuring that appropriate caveats are in place. This will allow for the effective running of STCs during a coronavirus transmission control period.
- 8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**
- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.
- 9. Consolidation**
- 9.1 The legislation introduced by this instrument will not be consolidated.
- 10. Consultation outcome**
- 10.1 A consultation exercise was not undertaken.

11. Guidance

- 11.1 Guidance supporting this instrument is not required.
- 11.2 The Youth Custody Service will identify and write to MPs and members of the House of Lords and stakeholders who have an interest in these amendments ahead of laying this instrument.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because this SI relates to the temporary modification of a small number of existing provisions in The Secure Training Centre Rules 1998 (S.I. 1998/472) arising through the coronavirus pandemic.
- 12.4 The number of business affected by this SI is limited to the two Contractors operating the two STCs and the impact on each business will be minimal.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The instrument does not include a statutory review clause.
- 14.2 The modifications made by these Rules through this instrument will cease to have effect on 22 March 2022.

15. Contact

- 15.1 Juliane Wesemann, Deputy Director, Youth Custody Service, HMPPS, Ministry of Justice Telephone: 07967-792298 or email: Juliane.Wesemann@justice.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Fiona Parker, Deputy Director, Youth Custody Service, HMPPS, at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Minister of State Lucy Frazer QC MP at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.