
STATUTORY INSTRUMENTS

2023 No. 321

**The Prison and Young Offender Institution
(Adjudication) (Amendment) Rules 2023**

Amendments to the Prison Rules 1999

- 2.—(1) The Prison Rules 1999(1) are amended as follows.
(2) For rule 53A substitute—

“Determination of mode of inquiry

- 53A.**—(1) Before inquiring into a charge the governor must assess whether—
- (a) the charge is so serious that additional days could be awarded for the offence if the prisoner is found guilty, or
 - (b) it is necessary or expedient for some other reason for the charge to be inquired into by the adjudicator.
- (2) Where the governor determines that—
- (a) sub-paragraph (a) or (b) of paragraph (1) applies, the governor must—
 - (i) refer the charge to the adjudicator immediately;
 - (ii) refer any other charge arising out of the same incident (“an associated charge”) to the adjudicator, and
 - (iii) inform the prisoner who has been charged that the charge has been referred to the adjudicator;
 - (b) neither sub-paragraph (a) nor sub-paragraph (b) of paragraph (1) applies, the governor must 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 prisoner guilty of an offence but before the governor has imposed a punishment for that offence,

it appears to the governor either that the charge is so serious that additional days could be awarded for the offence or that it is necessary or expedient for some other reason for the charge to be inquired into by the adjudicator, the governor must act in accordance with paragraph (2) (a)(i) to (iii).

(4) Unless there are exceptional circumstances, the adjudicator must inquire into any charge referred in accordance with paragraph (3) no later than 28 days after the referral.

(5) Following a referral under paragraph (2), before inquiring into the charge the adjudicator must consider whether—

(1) [S.I. 1999/728](#). Rule 53A was inserted by [S.I. 2002/2116](#) and amended by [S.I. 2011/1663](#) and [2020/508](#). There are other amending instruments, but none is relevant.

- (a) the charge is so serious that additional days could be awarded for the offence if the prisoner is found guilty, or
 - (b) it is necessary or expedient for some other reason for the charge to be inquired into by the adjudicator.
- (6) Where the adjudicator considers that neither sub-paragraph (a) nor sub-paragraph (b) of paragraph (5) applies, the adjudicator must—
- (a) refer the charge and any associated charge back to the governor for the governor to inquire into, and
 - (b) inform the prisoner who has been charged that the charge has been referred back to the governor for inquiry.
- (7) Where the adjudicator considers that alternative action should be taken by the governor, the adjudicator must—
- (a) refer the charge and any associated charge back to the governor for review, and
 - (b) inform the prisoner who has been charged that the charge has been referred back to the governor for review.
- (8) If neither paragraph (6) nor (7) applies the adjudicator must inquire into the charge.
- (9) A charge inquired into by the governor following referral under paragraph (6) may not be referred back to the adjudicator.
- (10) If—
- (a) at any time during an inquiry into a charge by the adjudicator, or
 - (b) following such an inquiry, after the adjudicator has found the prisoner guilty of an offence, but before the adjudicator has imposed a punishment for that offence,
- it appears to the adjudicator that alternative action should be taken; the adjudicator must refer the charge in accordance with paragraph (7).
- (11) Where the adjudicator has referred a charge to the governor in accordance with paragraph (7), the governor must review the charge and may—
- (a) take such action as the governor considers appropriate;
 - (b) refer the charge back to the adjudicator.
- (12) Where the governor refers a charge back to the adjudicator under paragraph (11)(b)—
- (a) the governor must inform the prisoner that the matter has been referred back to the adjudicator;
 - (b) the adjudicator may not refer the charge back to the governor, and
 - (c) the adjudicator must either inquire into the charge, or if the prisoner has already been found guilty, impose a punishment.”
- (3) After Rule 54(3) insert—
- “(4) The right to legal representation is rescinded if the charge is referred back to the governor by the adjudicator and inquired into by the governor.”.