



# Criminal Justice and Public Order Act 1994

## 1994 CHAPTER 33

### PART VIII

#### PRISON SERVICES AND THE PRISON SERVICE

### CHAPTER II

#### SCOTLAND

#### *Prisoner escorts*

#### **102 Arrangements for the provision of prisoner escorts.**

- (1) The Secretary of State may make arrangements for any of the functions specified in subsection (2) below (“escort functions”) to be performed in such cases as may be determined by or under the arrangements by prisoner custody officers who are authorised to perform such functions.
- (2) Those functions are—
  - (a) the transfer of prisoners from one set of relevant premises to another;
  - (b) the custody of prisoners held on court premises (whether or not they would otherwise be in the custody of the court) and their production before the court;
  - [<sup>F1</sup>(ba) the custody of prisoners held in a police station and their production, by electronic means from the station, before a court;]
  - (c) the custody of prisoners temporarily held in a prison in the course of transfer from one prison to another; and
  - (d) the custody of prisoners while they are outside a prison for temporary purposes.
- (3) In paragraph (a) of subsection (2) above, “relevant premises” means—

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**Changes to legislation:** Criminal Justice and Public Order Act 1994, Cross Heading: Prisoner escorts is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (a) the premises of any court, prison, police station or hospital; or
- (b) the premises of any other place from or to which a prisoner may be required to be taken under the [<sup>F2</sup>Criminal Procedure (Scotland) Act 1995] or the [<sup>F3</sup>Mental Health (Care and Treatment) (Scotland) Act 2003];

and either (but not both) of the sets of premises mentioned in that paragraph may be situated in a part of the British Islands outside Scotland.

- (4) Arrangements made by the Secretary of State under this section (“prisoner escort arrangements”) may include entering into contracts with other persons for the provision by them of prisoner custody officers.
- (5) Any person who, under a warrant or hospital order, is responsible for the performance of any such function as is mentioned in subsection (2) above shall be deemed to have complied with that warrant or order if he does all that he reasonably can to secure that the function is performed by a prisoner custody officer acting in pursuance of prisoner escort arrangements [<sup>F4</sup>or by a police custody and security officer in the performance of functions [<sup>F5</sup>under section 28 of the Police and Fire Reform (Scotland) Act 2012 (asp 8)]].
- (6) In this section—

“hospital” has the same meaning as in the [<sup>F6</sup>Mental Health (Care and Treatment) (Scotland) Act 2003];

“hospital order” means an order for a person’s detention in, or admission to and detention in, a hospital under [<sup>F7</sup>section [<sup>F8</sup>52D, 52M,] 53, 54 or [<sup>F9</sup>57A] of the Act of 1995]<sup>F10</sup> ...; and

“warrant” means a warrant for committal, a warrant for arrest, a [<sup>F11</sup>transfer for treatment direction under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003] or any other warrant, order or direction under the [<sup>F12</sup>Act of 1995] or [<sup>F13</sup>the Mental Health (Care and Treatment) (Scotland) Act 2003] requiring a person to be taken to a particular place.

#### Extent Information

**E1** S. 102 extends to Scotland only; s. 102(1) to (3) extends also to the British Islands see s. 172(12)

#### Textual Amendments

- F1** S. 102(2)(ba) inserted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 40(2)(a)**, 59(1)
- F2** Words in s. 102(3)(b) substituted (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\)](#), **Sch. 4 para. 93(3)(a)** (with Sch. 3)
- F3** Words in s. 102(3)(b) substituted (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), arts. 1, 2, **Sch. 1 para. 24(2)(a)**
- F4** Words in s. 102(5) added (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 76(10)**, 89; [S.S.I. 2003/288](#), **art. 2**, Sch.
- F5** Words in s. 102(5) substituted (S.) (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **sch. 7 para. 9(2)**; [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#)); and (E.W.N.I.) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 1 para. 4(2)**
- F6** Words in s. 102(6) substituted (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), arts. 1, 2, **Sch. 1 para. 24(2)(b)**
- F7** Words in definition of "hospital order" in s. 102(6) substituted (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\)](#), **Sch. 4 para. 93(3)(b)(i)** (with Sch. 3)

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- F8** Words in definition of "hospital order" in s. 102(6) inserted (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), arts. 1, 2, [Sch. 1 para. 24\(2\)\(b\)\(ii\)\(aa\)](#)
- F9** Word in definition of "hospital order" in s. 102(6) substituted (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), arts. 1, 2, [Sch. 1 para. 24\(2\)\(b\)\(ii\)\(bb\)](#)
- F10** Words in definition of "hospital order" in s. 102(6) omitted (27.9.2005) by virtue of [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), arts. 1, 2, [Sch. 1 para. 24\(2\)\(b\)\(ii\)\(cc\)](#)
- F11** Words in definition of "warrant" in s. 102(6) substituted (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), arts. 1, 2, [Sch. 1 para. 24\(2\)\(b\)\(iii\)\(aa\)](#)
- F12** Words in definition of "warrant" in s. 102(6) substituted (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\)](#), [Sch. 4 para. 93\(3\)\(b\)\(ii\)](#) (with [Sch. 3](#))
- F13** Words in definition of "warrant" in s. 102(6) substituted (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), arts. 1, 2, [Sch. 1 para. 24\(2\)\(b\)\(iii\)\(bb\)](#)

### 103 Monitoring of prisoner escort arrangements.

- (1) Prisoner escort arrangements shall include the appointment of a prisoner escort monitor, that is to say, a <sup>F14</sup>[member of the staff of the Scottish Administration] whose duty it shall be—
  - (a) to keep the arrangements under review and to report on them to the <sup>F15</sup>[Scottish Ministers]
  - (b) to investigate and report to the <sup>F15</sup>[Scottish Ministers] on any allegations made against prisoner custody officers acting in pursuance of the arrangements; and
  - (c) to report to the <sup>F15</sup>[Scottish Ministers] on any alleged breaches of discipline on the part of prisoners for whose transfer or custody such officers so acting are responsible.

<sup>F16</sup>(2) . . . . .]

#### Textual Amendments

- F14** Words in s. 103(1) substituted (1.7.1999) by [S.I. 1999/1820](#), arts. 1(2), 4, [Sch. 2 Pt. I para. 115\(2\)\(a\)](#); [S.I. 1998/3178](#), [art. 2](#)
- F15** Words in s. 103(1) substituted (1.7.1999) by [S.I. 1999/1820](#), arts. 1(2), 4, [Sch. 2, Pt. I, para. 115\(2\)\(b\)](#); [S.I. 1998/3178](#), [art. 2](#)
- F16** S. 103(2) repealed (S.) (31.8.2015) by [The Public Services Reform \(Inspection and Monitoring of Prisons\) \(Scotland\) Order 2015 \(S.S.I. 2015/39\)](#), art. 1, [sch. para. 3\(2\)](#)

### 104 Powers and duties of prisoner custody officers performing escort functions.

- (1) A prisoner custody officer acting in pursuance of prisoner escort arrangements shall have power to search—
  - (a) any prisoner for whose transfer or custody he is responsible in accordance with the arrangements; and
  - (b) any other person who is in or is seeking to enter any place where any such prisoner is or is to be held and any article in the possession of such a person.

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- (2) The power conferred by subsection (1)(b) above to search a person shall not be construed as authorising a prisoner custody officer to require a person to remove any of his clothing other than an outer coat, jacket, headgear and gloves.
- (3) A prisoner custody officer shall, as respects prisoners for whose transfer or custody he is responsible in pursuance of prisoner escort arrangements, have the duty—
- (a) to prevent their escape from legal custody;
  - (b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;
  - (c) to ensure good order and discipline on their part;
  - (d) to attend to their wellbeing; and
  - (e) to give effect to any directions as to their treatment which are given by a court.
- (4) Where a prisoner custody officer acting in pursuance of prisoner escort arrangements is <sup>F17</sup>—
- (a) on any premises in which a court of summary jurisdiction is sitting; or
  - (b) in a police station and has the custody of a prisoner who is, from the station, before a court of summary jurisdiction by electronic means,
- the officer] shall have the duty to give effect to any order of the court under <sup>F18</sup>section 212 of the Criminal Procedure (Scotland) Act 1995]requiring an offender to be searched.
- (5) The powers conferred by subsection (1) above and the powers arising by virtue of subsections (3) and (4) above shall include power to use reasonable force where necessary.
- (6) Prison rules may make provision in relation to—
- (a) the power conferred by subsection (1) above; and
  - (b) the duty imposed by subsection (3)(d) above.

#### Extent Information

**E2** S. 104 extends to Scotland and the British Islands see s. 172(12)

#### Textual Amendments

**F17** Words in s. 104(4) substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), ss. **40(2)(b)**, 59(1)

**F18** Words in s. 104(4) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 93(4)** (with Sch. 3)

## 105 Breaches of discipline by prisoners under escort.

- (1) Where a prisoner for whose transfer or custody a prisoner custody officer has been responsible in pursuance of prisoner escort arrangements is delivered to a prison, he shall be deemed, for the purposes of such prison rules as relate to breaches of discipline, to have been—
- (a) in the custody of the governor of the prison; or
  - (b) in the case of a contracted out prison, in the custody of its director,
- at all times during the period for which that officer was so responsible, and that officer may bring a charge of breach of such rules as so relate against the prisoner in respect of any such time.

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- (2) Nothing in subsection (1) above shall render a prisoner liable to be punished under prison rules for any act or omission of his for which he has already been punished by a court.
- (3) In this section “prison rules”, in relation to a prison situated in a part of the British Islands outside Scotland, means rules made under any provision of the law of that part which corresponds to section 39 of the 1989 Act.

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**Extent Information**

**E3** [S. 105](#) extends to Scotland and the British Islands see [s. 172\(12\)](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 51(10)(a)(ia) inserted by [2003 c. 44 Sch. 36 para. 11\(3\)](#)