

2005 No. 153

PRISON AND YOUNG OFFENDERS CENTRES

**The Prison and Young Offenders Centre (Amendment) Rules
(Northern Ireland) 2005**

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

Laid before Parliament *23rd March 2005*

Coming into operation in accordance with Rule 1

The Secretary of State, in exercise of the powers conferred upon him by section 13(1) of the Prison Act (Northern Ireland) 1953(a), as extended by section 2 of the Treatment of Offenders Act (Northern Ireland) 1968(b), hereby makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Prison and Young Offenders Centre (Amendment) Rules (Northern Ireland) 2005.

(2) In these Rules “the principal rules” means the Prison and Young Offenders Centre Rules (Northern Ireland) 1995(c).

(3) Rule 1, rule 3, insofar as it inserts a definition of “registered nurse” into rule 4 of the principal rules, and rule 8 of these Rules shall come into operation on 13th April 2005.

(4) Rule 2, the remaining provisions of rule 3 and rules 4 to 7 of these Rules shall come into operation on 3rd May 2005.

Amendment of rule 3 of the principal rules

2. After rule 3(6) of the principal rules insert –

“(7) Rules 79E to 79H (complaints by former prisoners) and rules 79I to 79N (complaints to the Ombudsman) apply to former prisoners.(d)”.

Interpretation in the principal rules

3. In rule 4 of the principal rules insert the following at the appropriate places –

“ “complaint form” means a form made available to prisoners for the purpose of submitting a complaint under Part VIII of these rules;

“former prisoner” means a prisoner, within the meaning of the rules who has been permanently released;

(a) 1953 c. 18 (N.I.) as amended by S.I. 1973/2163. There are other amendments to section 13(1) which are not relevant to the subject matter of these Rules.

(b) 1968 c. 29 (N.I.) as amended by S.I. 1973/2163.

(c) S.R. 1995/8 as amended by S.R. 1995/264, S.R. 1997/86, S.R. 2000/267, S.R. 2001/221 and S.R. 2004/4.

(d) The rules referred to in this rule are inserted below.

“member of the Senior Civil Service” means a member of either the Home Civil Service or the Northern Ireland Civil Service who is employed in the Northern Ireland Prison Service;

“the Ombudsman” means the person appointed under section 2(2) of the Act to act as the Prisoner Ombudsman for Northern Ireland;

“the Ombudsman’s staff” means persons employed in the Northern Ireland Office to assist the Ombudsman;

“registered nurse” means a nurse registered under Article 5 of the Nursing and Midwifery Order 2001(a);”.

Amendment of rule 32 of the principal rules

4.—(1) In rule 32(2) of the principal rules the words “of a member of the board of visitors or” are omitted.

(2) After paragraph (2) of rule 32 of the principal rules insert:

“(2A) The governor shall inform a member of the board of visitors –

- (a) that he has arranged for the restriction of the association of the prisoner, and
- (b) of the date, time and location of the first review of the restriction of the prisoner’s association.

(2B) The governor shall inform a member of the board of visitors of the matters in paragraph (2A) as soon as practicable and in any event no later than 24 hours after the prisoner’s association is restricted.

(2C) The governor shall keep a written record of all contact and attempted contact with members of the board of visitors under this rule.

(2D) Unless it is not reasonably practicable, a member of the board of visitors shall be present at all reviews of the restriction of the association of the prisoner.

(2E) The governor shall as soon as reasonably practicable inform a member of the board of visitors:

- (a) of any changes to the date, time or location of the first review of the restriction of the association of the prisoner,
- (b) the date, time and location of any subsequent reviews of the restriction of association of the prisoner, and
- (c) any changes to the date, time or location of any subsequent reviews.

(2F) The board of visitors shall satisfy itself that:

- (a) the procedure in this rule for arranging and reviewing the restriction of the association of the prisoner has been followed, and
- (b) the decision of the governor to restrict the association of the prisoner is reasonable in all the circumstances of the case.

(2G) In order to satisfy itself of the matters in paragraph (2F) the board of visitors shall be entitled to inspect the evidence on which the governor’s decision was based, unless such evidence falls within paragraph (2H).

(2H) Evidence falls within this paragraph if:

- (a) it should not be inspected by the board of visitors for the purpose of safeguarding national security;
- (b) its inspection by the board of visitors would, or would be likely to prejudice the administration of justice;
- (c) its inspection by the board of visitors would, or would be likely to endanger the physical or mental health of any individual; or
- (d) its inspection by the board of visitors would, or would be likely to endanger the safety of any individual.

(a) S.I. 2002/253.

(2I) If the board of visitors is not satisfied of any of the matters set out in paragraph (2F) it shall draw this to the attention of the governor, in writing, who must, review the procedure for arranging and reviewing the restriction of the association of the prisoner, review his decision to restrict the association of the prisoner and take such other steps as are reasonable in all the circumstances of the case.

(2J) The governor must take the steps in paragraph (2I) promptly and in any event within seven days and the board of visitors shall not refer a matter to the Secretary of State under paragraph (2K) until the governor has taken the steps in paragraph (2I) or the end of the seven days whichever is earlier.

(2K) If after drawing a matter to the attention of the governor under paragraph (2I) the board of visitors is still not satisfied of any of the matters set out in paragraph (2F) it shall draw this to the attention of the Secretary of State in writing.

(2L) If a matter is referred to the Secretary of State under paragraph (2K) he must consider the matter and take such steps as are reasonable in all the circumstances of the case.”

Amendment of rule 45 of the principal rules

5.—(1) In rule 45(1) of the principal rules the words “or by the board of visitors” are omitted.

(2) In rule 45(2)(b) of the principal rules the words “or board of visitors” are omitted.

Amendment of rule 48 of the principal rules

6.—(1) In rule 48(2) of the principal rules the words “a member of the board of visitors,” are omitted.

(2) After rule 48(3) of the principal rules insert –

“(3A) The governor shall inform a member of the board of visitors:

- (a) that he has ordered that a prisoner be put under restraint, and
- (b) of the date, time and location of the first review of the order.

(3B) The governor shall inform a member of the board of visitors of the matters in paragraph (3A) as soon as practicable and in any event no later than 24 hours after the order that the prisoner be put under restraint is made.

(3C) The governor shall keep a written record of all contact and attempted contact with members of the board of visitors under this rule.

(3D) Unless it is not reasonably practicable, a member of the board of visitors shall be present at all reviews of the order that a prisoner be put under restraint.

(3E) The governor shall as soon as reasonably practicable inform a member of the board of visitors:

- (a) of any changes to the date, time or location of the first review of the order that the prisoner be put under restraint,
- (b) the date, time and location of any subsequent reviews of the order that the prisoner be put under restraint, and
- (c) any changes to the date, time or location of any subsequent reviews.

(3F) The board of visitors shall satisfy itself that:

- (a) the procedure under this rule for making and reviewing the order to put the prisoner under restraint has been followed, and
- (b) the decision of the governor to make the order putting the prisoner under restraint is reasonable in all the circumstances of the case.

(3G) In order to satisfy itself of the matters in paragraph (3F) the board of visitors shall be entitled to inspect the evidence on which the governor’s decision was based, unless such evidence falls within paragraph (3H).

(3H) Evidence falls within this paragraph if:

- (a) it should not be inspected by the board of visitors for the purpose of safeguarding national security;
- (b) its inspection by the board of visitors would, or would be likely to prejudice the administration of justice;
- (c) its inspection by the board of visitors would, or would be likely to endanger the physical or mental health of any individual; or
- (d) its inspection by the board of visitors would, or would be likely to endanger the safety of any individual.

(3I) If the board of visitors is not satisfied of any of the matters set out in paragraph (3F) it shall draw this to the attention of the governor, in writing, who must, review the procedure for arranging and reviewing the order to put the prisoner under restraint, review his decision to make the order putting the prisoner under restraint and take such other steps as are reasonable in all the circumstances of the case.

(3J) The governor must take the steps in paragraph (3I) promptly and in any event within seven days and the board of visitors shall not refer a matter to the Secretary of State under paragraph (3K) until the governor has taken the steps in paragraph (3I) or the end of the seven days whichever is earlier.

(3K) If after drawing a matter to the attention of the governor under paragraph (3I) the board of visitors is still not satisfied of any of the matters set out in paragraph (3F) it shall draw this to the attention of the Secretary of State in writing.

(3L) If a matter is referred to the Secretary of State under paragraph (3K) he must consider the matter and take such steps as are reasonable in all the circumstances of the case.”

(3) In Rule 48(7) of the principal rules the word “both” and the words “and a member of the board of visitors” are omitted.

Amendment of Part VIII of the principal rules

7. For rules 74 to 79 of the principal rules substitute –

“Prisoner requests

74.—(1) A prisoner may make any request relating to his imprisonment to an officer, a governor, a member of the board of visitors, or an officer of the Secretary of State visiting the prison.

(2) Any such request shall be recorded by the person to whom it is made and it shall be reported to the governor as soon as possible.

(3) A prisoner may make a request orally or in writing.

(4) Every request shall be considered by, or on behalf of, the governor, and a reply given as soon as possible.

Complaints by prisoners: subject matter of complaints

75.—(1) A prisoner may complain, using the procedure set out in rules 76 to 79B about the following matters:

- (a) his treatment by any person employed in the Northern Ireland Prison Service, including provision for his health and welfare while in prison, and treatment includes an omission;
- (b) the facilities available to him at the prison; and
- (c) the cleanliness and adequacy of prison premises.

(2) If a prisoner submits a complaint which does not deal with a matter set out in paragraph (1) the prisoner’s class officer shall write to the prisoner, within seven days of receiving the completed complaint form, informing him that his complaint is not appropriate to be dealt with under the procedure set out in rules 76 to 79B.

Complaints by prisoners: first stage

76.—(1) A prisoner makes a complaint by submitting a completed complaint form to his class officer.

(2) On receipt of the completed complaint form the class officer shall pass it to the appropriate person within three days unless the class officer is the appropriate person, in which case he shall retain it.

(3) Subject to rule 79B (complaints by prisoners: treatment of vexatious etc. complaints)(a), the appropriate person must consider the complaint and provide a response to the complaint as soon as possible and in any event no more than seven days after receiving the completed complaint form.

(4) Subject to paragraph (6), the appropriate person shall respond to the complaint by completing the appropriate part of the completed complaint form and returning it to the class officer.

(5) Subject to paragraph (6), on receiving a completed complaint form under paragraph (4) the class officer shall return it to the prisoner within 24 hours of receiving it from the appropriate person.

(6) If the class officer is the appropriate person he shall respond to the complaint by completing the appropriate part of the completed complaint form and returning it to the prisoner.

Complaints by prisoners: second stage

77.—(1) If the prisoner is not satisfied with the response of the appropriate person, or, he has not received a response within 11 days of submitting his completed complaint form under rule 76(1), he may submit the completed complaint form to his class officer a second time.

(2) On receipt of a completed complaint form under paragraph (1) the class officer shall pass it to the appropriate person's line manager within three days.

(3) Subject to rule 79B, the appropriate person's line manager must consider the complaint and provide a response to the complaint as soon as possible and in any event no more than seven days after receiving the completed complaint form.

(4) The appropriate person's line manager shall respond to the complaint by completing the appropriate part of the completed complaint form and returning it to the class officer.

(5) On receiving a completed complaint form under paragraph (4) the class officer shall return it to the prisoner within 24 hours of receiving it from the appropriate person's line manager.

Complaints by prisoners: third stage

78.—(1) If the prisoner is not satisfied with the response of the appropriate person's line manager, or, he has not received a response within 11 days of submitting his completed complaint form under rule 77(1), he may submit the completed complaint form to his class officer a third time.

(2) On receipt of a completed complaint form under paragraph (1) the class officer shall pass it to the line manager of the appropriate person's line manager within three days.

(3) Subject to rule 79B, the line manager of the appropriate person's line manager must consider the complaint and provide a response to the complaint as soon as possible and in any event no more than seven days after receiving the completed complaint form.

(4) The line manager of the appropriate person's line manager shall respond to the complaint by completing the appropriate part of the completed complaint form and returning it to the class officer.

(a) Rule 79B is inserted below.

(5) On receiving a completed complaint form under paragraph (4) the class officer shall return it to the prisoner within 24 hours of receiving it from the line manager of the appropriate person's line manager.

Complaints by prisoners: failure of class officer

79.—(1) If at any stage the class officer fails to perform any of his functions under rules 75 to 78 the prisoner may refer the matter to the class officer's line manager.

(2) If a matter is referred to the class officer's line manager under this rule the class officer's line manager shall perform the functions of the class officer set out in rules 75 to 78.

Complaints by prisoners: time limits

79A. A prisoner must submit:

- (a) his completed complaint form under rule 76(1) within 21 days of the act, omission or other matter which forms the subject matter of the complaint;
- (b) his completed complaint form under rule 77(1) within seven days of receiving a response under rule 76(5) or (6) or, as the case maybe, within seven days of not receiving a response under rule 76(5) or (6) within 11 days of submitting a completed complaint form under rule 76(1); and
- (c) his completed complaint form under rule 78(1) within seven days of receiving a response under rule 77(5) or, as the case maybe, within seven days of not receiving a response under rule 77(5) within 11 days of submitting a completed complaint form under rule 77(1).

Complaints by prisoners: treatment of vexatious etc. complaints

79B.—(1) If the appropriate person, the appropriate person's line manager or the line manager of the appropriate person's line manager is of the view that a complaint:

- (a) is vexatious;
- (b) is repetitive;
- (c) is frivolous;
- (d) raises no substantial issue; or
- (e) either on its own or taken together with other complaints, is intended to seriously hamper the proper operation of the complaints procedure set out in this part of the rules;

he shall refer the complaint to the governor, or if he does not work under a governor to a member of the Senior Civil Service.

(2) If the governor, or as the case may be a member of the Senior Civil Service, receives a referral under paragraph (1) he shall decide if he considers the complaint that is the subject of the referral:

- (a) to be vexatious;
- (b) to be repetitive;
- (c) to be frivolous;
- (d) raises no substantial issue; or
- (e) either on its own or taken together with other complaints, is intended to seriously hamper the proper operation of the complaints procedure set out in this part of the rules.

(3) If the governor or the member of the Senior Civil Service considers the complaint to be of one or more of the descriptions set out in paragraph 2(a) to (e) he shall write to the prisoner who submitted the complaint informing him that he considers it to be a complaint of a description set out in rule 79C(2)(a), (b), (c), (d) or (e) and as a consequence it will not be dealt with any further.

(4) If the governor or the member of the Senior Civil Service does not consider the complaint to be of one of the descriptions set out in paragraph 2(a) to (e) he shall refer it

back to the person that made the referral under paragraph (1) and inform him in writing to process the complaint in accordance with the procedure set out in rules 76 to 79A.

(5) The governor or the member of the Senior Civil Service must write to the prisoner or, as the case may be, provide a response to the person who made the referral under paragraph (1) within two days of receiving the referral under paragraph (1).

(6) If a person receives a referral under paragraph (4) he shall process that complaint in accordance with the procedure set out in rules 76 to 79A and he shall not refer the complaint in question a second time under paragraph (1) of this rule.

Complaints by prisoners: interpretation etc.

79C.—(1) If the governor or a member of the Senior Civil Service is the appropriate person or the appropriate person's line manager the procedure in rules 76 to 79A shall be at an end and shall be exhausted for the purposes of rule 79I(1) (complaints to the Ombudsman: exhaustion of internal procedure) once the complaint has been considered by the governor or a member of the Senior Civil Service and a response has been provided to the prisoner.

(2) Subject to paragraphs (3), (4) and (5), in this part of the rules "appropriate person" means one of the following:

- (a) in the case of a complaint about an act, the person who did the act, and if more than one person did the act the most senior of those persons;
- (b) in the case of a complaint about an omission, the person who failed to act, and if more than one person failed to act the most senior of those persons; or
- (c) in the case of a complaint about a matter that is not an act or omission, the person who is responsible for that matter, and if more than one person is responsible for a matter the most senior of those persons.

(3) If a person cannot be identified in accordance with paragraph (2) "the appropriate person" means the prisoner's class officer.

(4) If more than one sub-paragraph of paragraph (2) applies the appropriate person shall be the person nearest the top of the list of sub-paragraphs.

(5) If the complaint relates to the ill-treatment of a prisoner the appropriate person shall not be the person alleged to be responsible for the ill-treatment but shall be that person's line manager.

(6) In this part of the rules "line manager" means the person with management responsibility for a person.

Complaints by prisoners: records of complaints

79D. All those who deal with a complaint under the procedure in rules 75 to 79B must keep an appropriate record of the completed complaint form, the response to the complaint and the investigation of the complaint.

Complaints by former prisoners: subject matter of complaints

79E.—(1) Subject to paragraph (2), a former prisoner may complain, using the procedure set out in rule 79F and 79G(a) about the following matters:

- (a) his treatment by any person employed in the Northern Ireland Prison Service, including provision for his health and welfare while in prison, and treatment includes an omission;
- (b) the facilities available to him at the prison; and
- (c) the cleanliness and adequacy of the prison premises.

(2) If a former prisoner submits a complaint which does not deal with a matter set out in paragraph (1) the governor shall write to the former prisoner within 14 days of receiving

(a) Rules 79F and 79G are inserted below.

the complaint informing him that his complaint is not appropriate to be dealt with under the procedure set out in rule 79F and 79G.

Complaints by former prisoners: procedure

79F.—(1) A former prisoner submits a complaint by making a complaint in writing to the governor of the prison where he was most recently imprisoned.

(2) A former prisoner must submit his complaint within 21 days of the act, omission or other matter which forms the subject matter of the complaint.

(3) Subject to rule 79G (complaints by former prisoners: treatment of vexatious etc. complaints), the governor who received the complaint must pass the complaint as soon as reasonably practicable to the appropriate person, unless he is the appropriate person in which case he must retain it.

(4) The appropriate person must investigate and consider the complaint and, unless he is the governor, provide the governor who received the complaint with a response for the former prisoner.

(5) The governor who received the complaint must respond to the complaint as soon as possible and in any event not more than 14 days after receiving it.

(6) The governor who received the complaint shall respond to the complaint by sending a written response to the former prisoner.

(7) The appropriate person shall be determined in accordance with rule 79C (complaints by prisoners: interpretation etc).

Complaints by former prisoners: treatment of vexatious etc. complaints

79G.—(1) The governor who receives a complaint under rule 79F may not deal with that complaint, other than in accordance with the procedure in paragraph (2) if he considers:

- (a) it to be vexatious;
- (b) it to be repetitive;
- (c) it to be frivolous;
- (d) it to raise no substantial issue; or
- (e) that the complaint either on its own or taken together with other complaints is intended to seriously hamper the proper operation of the complaints procedure set out in this part of the rules.

(2) The former prisoner who submitted the complaint will be told in writing that his complaint is considered by the governor who receives the complaint under rule 79F to fall under either rule 79G(1)(a), (b), (c), (d) or (e) and as a consequence it will not be dealt with any further.

Complaints by former prisoners: records of complaints

79H. All those who deal with a complaint under rule 79F and 79G must keep an appropriate record of the written complaint, the response to the complaint and the investigation of the complaint.

Complaints to the Ombudsman: exhaustion of internal procedure

79I.—(1) If a prisoner has exhausted the procedure set out in rules 76 to 79B he may submit a complaint to the Ombudsman.

(2) If a former prisoner has exhausted the procedure set out in rules 79F and 79G he may submit a complaint to the Ombudsman.

(3) A complaint by a prisoner or former prisoner to the Ombudsman shall be dealt with in accordance with rules 79J to 79N(a).

(a) Rules 79J to 79N are inserted below.

(4) A procedure is exhausted for the purpose of this rule and rule 79K if one of the following applies –

- (a) a prisoner has received a response to his complaint under rule 78(5);
- (b) a prisoner has not received a response to his complaint under rule 78(5) and 11 days have passed since he submitted his completed complaint form under rule 78(1);
- (c) rule 79C(1) applies to the prisoner’s complaint and he has received a response from the governor or the member of the Senior Civil Service under either rule 76(5) or 77(5);
- (d) rule 79C(1) applies to the prisoner’s complaint and 11 days has passed since the prisoner submitted his completed complaint form under either rule 76(1) or rule 77(1);
- (e) a prisoner has received a response to his complaint under rule 79B(3) (complaints by prisoners: treatment of vexatious etc. complaints);
- (f) a former prisoner has received a response to his complaint under rule 79F(6);
- (g) a former prisoner has not received a response to his complaint under rule 79F(6) and 14 days have passed since he submitted his complaint under rule 79F(1);
- (h) a former prisoner has received a response to his complaint under rule 79G(2) (complaints by former prisoners: treatment of vexatious etc. complaints).

Complaints to the Ombudsman: subject matter of the complaint

79J.—(1) A prisoner or former prisoner may complain to the Ombudsman about the following matters:

- (a) his treatment by any person employed in the Northern Ireland Prison Service, including provision for his health and welfare while in prison, and treatment includes an omission;
- (b) the facilities available to him at the prison; and
- (c) the cleanliness and adequacy of the prison premises.

(2) If a prisoner or former prisoner submits a complaint which does not deal with a matter set out in paragraph (1) the Ombudsman shall write to the prisoner or former prisoner, within 14 days of receiving the complaint, informing him that his complaint is not appropriate to be dealt with by the Ombudsman.

Complaints to the Ombudsman: submission of complaints

79K.—(1) A prisoner submits a complaint to the Ombudsman by submitting a complaint to him in writing.

(2) A prisoner shall submit his complaint to the Ombudsman no more than 30 days after he has exhausted the procedure set out in rules 76 to 79B.

(3) If a prisoner does not comply with paragraph (2) the Ombudsman may accept a complaint out of time if he is satisfied that it was not reasonably practicable for the prisoner to comply with paragraph (2).

(4) A former prisoner submits a complaint to the Ombudsman by submitting a complaint to him in writing.

(5) A former prisoner shall submit a complaint to the Ombudsman no more than 30 days after he has exhausted the procedure set out in rules 79F and 79G.

(6) If a former prisoner does not comply with paragraph (5) the Ombudsman may accept a complaint out of time if he is satisfied that it was not reasonably practicable for the former prisoner to comply with paragraph (5).

Ombudsman’s procedure

79L.—(1) Subject to rule 79N (Ombudsman’s treatment of vexatious etc. complaints), the Ombudsman shall:

- (a) investigate and consider a complaint submitted under rule 79K;
- (b) prepare a final report on the complaint;

- (c) submit the final report to the prisoner or former prisoner who made the complaint and the Secretary of State.
- (2) Once the Secretary of State has received the Ombudsman's final report on the complaint he shall:
 - (a) consider the final report;
 - (b) submit a response and the reasons for that response to the Ombudsman.
- (3) The Secretary of State shall submit his response within 21 days of receipt of the Ombudsman's final report on the complaint.
- (4) On receipt of a response under paragraph (2)(b) the Ombudsman shall submit the response to the prisoner or former prisoner who made the complaint.
- (5) The Ombudsman may submit an interim report, before the submission of his final report, to the Secretary of State if a matter comes to his attention that requires urgent attention.
- (6) If the Secretary of State receives an interim report from the Ombudsman he shall take such steps as are necessary to deal with the matters raised by that report as soon as reasonably practicable.
- (7) The Ombudsman shall submit a final report or an interim report as soon as reasonably practicable.
- (8) If during the course of the investigation and consideration of a complaint it comes to the Ombudsman's attention that a criminal offence may have been committed the Ombudsman shall draw this to the attention of the Police Service of Northern Ireland.
- (9) If during the course of the investigation and consideration of a complaint it comes to the Ombudsman's attention that a prisoner or any person employed in the Northern Ireland Prison Service may have committed a disciplinary offence the Ombudsman shall draw this to the attention of the Secretary of State.
- (10) The Ombudsman shall take the steps set out in paragraph (8) or (9) as soon as reasonably practicable after the matter in either paragraph comes to his attention.

Ombudsman's powers

- 79M.**—(1) The Ombudsman may request information relating to the complaint, in addition to the information contained in the written complaint, from the prisoner or former prisoner and the Secretary of State.
- (2) The Secretary of State may release information to the Ombudsman in response to a request for information under paragraph (1).
 - (3) The Ombudsman may visit any prison, Young Offenders Centre or any other premises used by the Northern Ireland Prison Service for the purpose of investigating a complaint.
 - (4) The Ombudsman may interview, with the written consent of the person concerned, the prisoner or former prisoner making the complaint, any other prisoner, any person employed in the Northern Ireland Prison Service or any other person who has information relevant to the complaint.
 - (5) Those employed in the Northern Ireland Prison Service shall assist the Ombudsman.
 - (6) Within this rule and rule 79L references to the Ombudsman include members of the Ombudsman's staff.

Treatment by Ombudsman of vexatious etc. complaints

- 79N.**—(1) The Ombudsman may not deal with a complaint, other than in accordance with the procedure in paragraph (2) if he considers:
- (a) it to be vexatious;
 - (b) it to be repetitive;
 - (c) it to be frivolous;

- (d) it to raise no substantial issue; or
- (e) that the complaint either on its own or taken together with other complaints is intended to seriously hamper the proper operation of the complaints procedure set out in this part of the rules.

(2) The prisoner or former prisoner who submitted the complaint will be told in writing that his complaint is considered by the Ombudsman to fall under either rule 79N(1)(a), (b), (c), (d) or (e) and as a consequence it will not be dealt with any further.”

Amendment of rule 85

8. After paragraph (2) of rule 85 of the principal rules insert –

“(2A) In the absence of the medical officer a registered nurse may perform the duties of the medical officer set out in rules 17(4) (medicine in possession on reception), 21(1) and (2) (medical examination on reception), 26(2) and (3) (transfer), 28(2) (discharge), 41(2) (award of cellular confinement), 47(5) (daily visit in cellular confinement), 51(3) (fitness for work), 55(3) (fitness for recreation) and 86(4) (prisoners who complain of illness).

(2B) If a prisoner is examined, seen, considered or visited by a registered nurse under the rules set out in (2A) and the registered nurse is of the view that it is necessary for the prisoner to be examined, seen, considered or visited by the medical officer he shall make arrangements for that to occur as soon as reasonably practicable.

(2C) Nothing in sub-paragraph (2A) shall prevent a prisoner being examined, seen, considered or visited by the medical officer.”

Northern Ireland Office
21st March 2005

Paul Murphy
One of Her Majesty’s Principal Secretaries of State

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Prison and Young Offenders Centre Rules (Northern Ireland) 1995 (“the principal rules”).

Rule 4 amends rule 32 of the principal rules. Rule 32 governs the circumstances and arrangements for the restriction of the association of a prisoner. Under rule 32, before it was amended by rule 4, the restriction of the association of a prisoner could not be for more than 48 hours without the agreement of a member of the board of visitors or the Secretary of State. Following the amendments made by rule 4 it will only be possible for the Secretary of State to give his consent to the continued restriction of the association of the prisoner. Rule 4 also amends the role of the board of visitors role under rule 32 so that they must monitor the decision and decision making process surrounding the restriction of the association of a prisoner.

Rule 5 amends rule 45 of the principal rules to remove references to the board of visitors. Rule 45 is concerned with petitions by a prisoner to the Secretary of State for a review of an award that has been made against that prisoner. Since the amendments made by the Prison and Young Offenders Centre (Amendment) Rules (Northern Ireland) 2000 (S.R. 2000/267) it is no longer possible for a board of visitors to make an award that might be the subject of a petition under rule 45 and as a consequence the references to the board of visitors are no longer necessary.

Rule 6 amends rule 48 of the principal rules. Rule 48 governs the circumstances and arrangements for the making of an order putting a prisoner under restraint. Under rule 48, before it was amended by rule 6, a prisoner could only be kept under restraint for more than 24 hours with the agreement of a member of the board of visitors and the medical officer. Following the amendments made by rule 6 only the agreement of the medical officer is required. Rule 6 amends the role of the board of visitors under rule 48 so that they must monitor the decision and decision making process to put a prisoner under restraint.

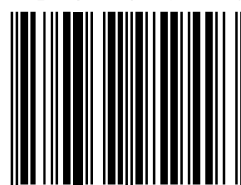
Rules 2, 3 and 7 insert a new prisoner complaints system into the principal rules, including provision in relation to the operation of the new Prisoner Ombudsman for Northern Ireland. The new internal complaints process will consist of an initial consideration of the complaint by the person responsible for the matter that is the subject matter of the complaint followed by a two stage review process. The internal complaints procedure is set out in new rules 75 to 79D of the principal rules. In certain limited circumstances complaints can be made by former prisoners as well as existing prisoners. The internal procedure for complaints by former prisoners is set out in new rules 79E to 79H of the principal rules. Existing and former prisoners can complain to the Prisoner Ombudsman for Northern Ireland once they have exhausted the internal complaints procedure. The procedure for complaining to the Ombudsman is set out in new rules 79I to 79N of the principal rules.

Rule 8 amends rule 85 of the principal rules to make it possible for certain functions of a medical officer of a prison or a Young Offenders Centre to be carried out by a registered nurse. Rule 3 inserts a definition of “registered nurse” into the principal rules as well as inserting various definitions relating to the new prisoner complaints system.

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