
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 94

**The Prisons and Young Offenders
Institutions (Scotland) Rules 2006**

PART 3

SUPERVISION LEVELS

Supervision levels

16. The supervision levels which may be assigned to prisoners in accordance with this Part of these Rules are specified in column 1 of the Table set out below and the description of each level is set out opposite that level in column 2 of the Table:—

<i>Column 1 Supervision Level</i>	<i>Column 2 Description</i>
High Supervision	A prisoner for whom all activities and movements require to be authorised, supervised and monitored by an officer.
Medium Supervision	A prisoner for whom activities and movements are subject to limited supervision and restrictions.
Low Supervision	A prisoner for whom activities and movements are subject to minimum supervision and restrictions, and who may be given the opportunity to participate in supervised or unsupervised activities in the community.

Assignment of supervision levels

17.—(1) Every prisoner shall be assigned a supervision level in accordance with the provisions of this Part of these Rules.

(2) Subject to paragraphs (3) to (9), a prisoner shall be assigned the appropriate supervision level having regard, so far as applicable, to the following criteria:—

- (a) the seriousness of the offence for which the prisoner has been convicted;
- (b) the prisoner's previous convictions;
- (c) any outstanding charges;
- (d) the length of time that the prisoner has spent in custody;
- (e) the prisoner's conduct in custody;
- (f) the prisoner's trustworthiness and stability; and

(g) any other criteria as may be specified in a direction made by the Scottish Ministers for the purposes of this rule.

(3) Any such direction made by the Scottish Ministers may make provision for the relative importance that is to be given to each of the criteria in determining the assignment of a supervision level, and may make provision as to the form and content of any document that may be required to be completed by the Governor when assigning, or when reviewing the assignment of, a supervision level.

(4) Subject to paragraph (7), all prisoners, on reception, shall be assigned high supervision level.

(5) Within 72 hours of reception, the supervision level of all prisoners shall be reviewed in accordance with the provisions of these Rules.

(6) An untried prisoner, or a prisoner who has been convicted but is awaiting sentence, shall be assigned no lower a supervision level than medium supervision level.

(7) On reception, a prisoner who is—

(a) transferred under paragraph 1 of Schedule 1 to the Crime (Sentences) Act 1997⁽¹⁾ where the transfer is—

- (i) a restricted transfer within the meaning of paragraph 6(1) of that Schedule; and
- (ii) has been made for a temporary purpose; or

(b) transferred under paragraph 2 or 3 of Schedule 1 to the said Act of 1997⁽²⁾,

shall be assigned for the period of the detention a supervision level which, in the opinion of the Governor, is the nearest equivalent to the prisoner's classification in the prison or place in the part of the United Kingdom, the Channel Islands or the Isle of Man in which the prisoner was detained immediately before the transfer took place.

(8) Following the review of a supervision level in terms of paragraph (5) above, the Governor shall keep under review and shall formally review within 6 months, and thereafter at least once in every period of 12 months, the supervision level assigned to each prisoner and may, if appropriate, assign another supervision level to the prisoner.

(9) The entitlement of any prisoner who is assigned low supervision level to participate in supervised or unsupervised activities in the community shall be subject to the requirements of rule 111 and of Part 15 of these Rules.

Information regarding assignment of a supervision level

18.—(1) This rule does not apply to the assignment of high supervision level on reception or to the review of a supervision level to which rule 19 applies.

(2) Following the assignment of a supervision level or the review of a supervision level in accordance with this Part of these Rules, the Governor shall—

(a) inform the prisoner in writing—

- (i) in the case of the assignment of a supervision level of the reasons why the supervision level assigned is appropriate; or
- (ii) in the case of a review which has resulted in no change of level, of the reasons why a lower level is not appropriate; and

(b) if asked to do so by the prisoner concerned, but subject to paragraph (3), provide the prisoner with—

- (i) a copy of any document to which the Governor has had regard; and

(1) 1997, c. 43; Schedule 1, paragraph 1 was relevantly amended by S.I. 1999/1820, article 4 and Schedule 2, paragraph 130.

(2) 1997, c. 43; Schedule 1, paragraphs 2 and 3 were relevantly amended by S.I. 1999/1820, article 4 and Schedule 2, paragraph 130.

(ii) a summary of any other information of which the Governor was aware and to which he or she has had regard,

in reaching the relevant decision.

(3) If the Governor is of the opinion that any document or any other information of which the Governor was aware and to which he or she has had regard in reaching the relevant decision would, if disclosed to the prisoner, be likely to be damaging on one or more of the following grounds, namely:—

- (a) that it would be likely adversely to affect the health, welfare or safety of the prisoner or of any other person;
- (b) that it would be likely to result in the commission of an offence;
- (c) that it would be likely to facilitate an escape from legal custody or the doing of any act prejudicial to the safe keeping of persons in legal custody;
- (d) that it would be likely to impede the prevention or detection of offences or the apprehension or prosecution of suspected offenders; or
- (e) that it would be likely otherwise to damage the public interest,

the Governor shall not be obliged to provide the prisoner with a copy of that document or a summary of that other information but shall, in writing, inform the prisoner, but only insofar as is practicable without prejudicing the purposes for which that document or other information is not disclosed, of the gist of that document or information.

Right to make representations prior to certain reviews of supervision level

19.—(1) This rule applies when, in the course of a review of a prisoner's supervision level, a Governor is minded to assign—

- (a) a higher supervision level than the existing level that is assigned to the prisoner; or
- (b) a supervision level other than low supervision to a prisoner who is—
 - (i) a long-term prisoner who is eligible to be considered by the Parole Board for Scotland in terms of Part I of the 1993 Act;
 - (ii) a life prisoner who has served the part of his or her sentence specified in an order made under section 2(3) of the 1993 Act; or
 - (iii) a prisoner who has not yet served the part of his or her sentence specified in sub paragraph (i) or (ii) but who has served such part of his or her sentence as may be specified in a direction made by the Scottish Ministers.

(2) The Governor shall—

- (a) provide the prisoner with a written notice informing him—
 - (i) of the supervision level that it is proposed should be assigned to the prisoner;
 - (ii) of the reasons for that proposal; and
 - (iii) of the procedure by which the prisoner may make written representations in relation to the proposed assignment of the supervision level; and
- (b) if asked to do so by the prisoner concerned, but subject to paragraph (3), provide the prisoner with—
 - (i) a copy of any document to which the Governor has had regard; and
 - (ii) a summary of any other information of which the Governor was aware and to which he or she has had regard,

in considering the matter.

(3) If the Governor is of the opinion that any document or other information of which the Governor was aware and to which he or she has had regard in considering the matter would, if disclosed to the prisoner, be likely to be damaging on any ground mentioned in rule 18(3), the Governor shall not be obliged to provide the prisoner with a copy of that document or a summary of that other information but shall inform the prisoner in the notice under paragraph (2), but only insofar as is practicable without prejudicing the purposes for which that document or other information is not disclosed, of the gist of that document or information.

(4) In a case to which paragraph (2) applies, the Governor shall—

- (a) consider any representations made by the prisoner by virtue of that paragraph before reaching a decision in relation to the assignment of a supervision level; and
- (b) if the supervision level is assigned in circumstances as mentioned in paragraph (1), provide the prisoner with a written statement of reasons for his or her decision.

Imposition of special security measures

20.—(1) Subject to paragraphs (2) to (6), the Governor may impose special security measures, being measures which are separate from and additional to anything that can be done under Part 10 of these Rules, on any prisoner who is assigned high supervision level where the Governor considers that the imposition of these measures are necessary—

- (a) in the interests of the health, welfare or safety of the prisoner or any other person; or
- (b) to prevent an escape from legal custody or the doing of any act prejudicial to the safe keeping of persons in legal custody.

(2) The Governor, if minded to impose special security measures on a prisoner (other than an untried prisoner), shall—

- (a) provide the prisoner with a written notice stating—
 - (i) the measures that are to be imposed;
 - (ii) the reasons why they are to be imposed; and
 - (iii) the procedure by which the prisoner may make written representations in relation to the imposition of the special security measures; and
- (b) if asked to do so by the prisoner concerned, but subject to paragraph (3), provide the prisoner with—
 - (i) a copy of any document to which the Governor has had regard; and
 - (ii) a summary of any other information of which the Governor was aware and to which he or she has had regard,

in considering the matter.

(3) If the Governor is of the opinion that any document or other information of which the Governor was aware and to which he or she has had regard in considering the matter would, if disclosed to the prisoner, be likely to be damaging on any ground mentioned in rule 18(3), the Governor shall not be obliged to provide the prisoner with a copy of that document or a summary of that other information but shall inform the prisoner in the notice under paragraph (2), but only insofar as is practicable without prejudicing the purposes for which that document or other information is not disclosed, of the gist of that document or information.

(4) In a case to which paragraph (2) applies, the Governor shall—

- (a) consider any representations made by the prisoner by virtue of that paragraph before reaching a decision in relation to the imposition of special security measures; and
- (b) if special security measures are imposed, provide the prisoner with a written statement of reasons for this decision.

(5) The Governor shall not be prevented from imposing special security measures on a prisoner on a provisional basis without having recourse to the procedure at paragraphs (2), (3) and (4) where the Governor considers that the immediate, provisional, imposition of the measures is necessary for either of the purposes in paragraph (1)(a) or (b):

Provided that—

- (a) the prisoner is informed in writing of the provisional imposition of the special security measures; and
- (b) the procedure referred to at paragraphs (2), (3) and (4) is commenced within 48 hours of the provisional imposition of the special security measures.

(6) If the Governor decides that the provisional imposition of the special security measures does not require to extend beyond a 48 hour period, then the procedure referred to at paragraphs (2), (3) and (4) shall not apply, and the prisoner shall be informed in writing, within 24 hours of the Governor's decision, that the special security measures are no longer provisionally imposed.

Reviews of imposition of special security measures

21.—(1) The Governor shall keep the imposition of special security measures under review, and shall formally review, at least once in every period of 6 months, whether the continued imposition of the special security measures continues to be necessary for either of the purposes in rule 20(1) (a) and (b).

(2) If, in formally reviewing the continued imposition of special security measures, the Governor is minded to continue to impose these measures on a prisoner then the Governor shall—

- (a) provide the prisoner with a written notice stating—
 - (i) the measures that the Governor is minded to continue to impose;
 - (ii) the reasons why they are to be continued; and
 - (iii) the procedure by which the prisoner may make written representations in relation to the continued imposition of the special security measures; and
- (b) if asked to do so by the prisoner concerned, but subject to paragraph (3), provide the prisoner with—
 - (i) a copy of any document to which the Governor has had regard; and
 - (ii) a summary of any other information of which the Governor was aware and to which he or she has had regard,in considering the matter.

(3) If the Governor is of the opinion that any document or other information of which the Governor was aware and to which he or she has had regard in considering the matter would, if disclosed to the prisoner, be likely to be damaging on any ground mentioned in rule 18(3), the Governor shall not be obliged to provide the prisoner with a copy of that document or a summary of that other information but shall inform the prisoner in the notice under paragraph (2), but only insofar as is practicable without prejudicing the purposes for which that document or other information is not disclosed, of the gist of that document or information.

(4) In a case to which paragraph (2) applies, the Governor shall—

- (a) consider any representations made by the prisoner by virtue of that paragraph before reaching a decision in relation to the continued imposition of special security measures; and
- (b) if special security measures continue to be imposed, provide the prisoner with a written statement of reasons for this decision.

(5) The Scottish Ministers may make a direction for the purposes of prescribing—

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- (a) the procedure in terms of which notices may be provided to a prisoner, and representations may be made, under rules 19, 20 and this rule;
- (b) the form in which any such notice or representations may be provided or made; and
- (c) the time limits within which the procedure mentioned in rules 19, 20 and this rule may be carried out.