



Prisons (Scotland) Act 1989

1989 CHAPTER 45

Confinement and treatment of prisoners

[^{F1}10] **Place of confinement of prisoners.**

- (1) A prisoner may be lawfully confined in any prison.
- (2) Prisoners shall be committed to such prisons as the Secretary of State may from time to time direct, and may be moved by the Secretary of State from any prison to any other prison.
- (3) The foregoing provisions of this section are without prejudice to section 11 of this Act and section 241 of the [^{F1}1975 Act] (transfer of prisoner in connection with hearing of appeal).]

Textual Amendments

F1 S. 10 substituted (1.10.1993) by 1993 c. 9, s.22 (with ss. 5(1), 6(1), 10, 27 and 47(2), Sch. 6 paras. 1, 2, 6 and 7); S.I. 1993/2050, art. 3(4).

By 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 86(2) it is provided (1.4.1996) that for the words “1975 Act” where they occur in 1993 c. 9 there shall be substituted “1995 Act”

Modifications etc. (not altering text)

C1 S. 10 excluded (18.9.1998) by S.I. 1998/2251, art. 16(5)

11 Removal of prisoners for judicial and other purposes.

- (1) Rules under section 39 of this Act may provide in what manner an appellant within the meaning of [^{F2}section 132 of the 1995 Act], when in custody, is to be taken to, kept in custody at, and brought back from, any place at which he is entitled to be present for the purposes of that Act, or any place to which the High Court of Justiciary or any judge thereof, may order him to be taken for the purposes of any proceedings of that court.

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- (2) The Secretary of State may, if he is satisfied that a person detained in Scotland in a prison requires medical or surgical treatment of any description, direct him to be taken to a hospital or other suitable place for the purpose of the treatment.
- (3) Where any person is directed under the last foregoing subsection to be taken to any place he shall, unless the Secretary of State otherwise directs, be kept in custody while being so taken, while at that place, and while being taken back to the prison in which he is required in accordance with law to be detained.
- (4) The governor or any officer of a prison may execute any warrant issued by the High Court of Justiciary for the removal of a prisoner in that prison to any other prison for the purpose of trial before that court.
- (5) The Secretary of State may make regulations as to the mode in which and the officers by whom warrants issued under the last foregoing subsection shall be executed.

Textual Amendments

F2 Words in s. 11(1) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 75(2)**

Modifications etc. (not altering text)

C2 S. 11(4) modified (3.2.1995) by 1994 c. 33, s. 110(3)(4); S.I. 1995/127, art. 2(1), **Sch. 1**
S. 11(4) modified (3.2.1995) by 1994 c. 33, s. 112(3)(4)(a)(6); S.I. 1995/127, art. 2(1), **Sch. 1**

12 Photographing and measuring of prisoners.

[^{F3}Rules under section 39 of this Act may provide for] the measuring and photographing of prisoners and ^{F4}. . . may prescribe the time or times at which, and the manner and dress in which prisoners shall be measured and photographed, and the number of copies of the measurements and photographs of each prisoner which shall be made and the persons to whom they shall be sent.

Textual Amendments

F3 Words in s. 12 substituted (18.8.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 6(2)(a)** (with s. 47(2), **Sch. 6 paras. 1, 2**); S.I. 1993/2050, art. 3(2), **Sch.1**.

F4 Words in s. 12 repealed (18.8.1993) by 1993 c. 9, s. 47(1)(3), **Sch. 5 para. 6(2)(b)**, **Sch. 7 Pt.I** (with s. 47(2), **Sch. 6 paras. 1, 2**); S.I. 1993/2050, art. 3(2), **Sch.1**.

13 Legal custody of prisoner.

[^{F5}Without prejudice to section 295 of the Criminal Procedure (Scotland) Act 1995 (c. 46) (legal custody of persons generally), a prisoner is] in legal custody—

- (a) while he is confined in or being taken to or from any prison in which he may be lawfully confined; or
- (b) while he is working or is, for any other reason, outside the prison in the custody or under the control of an officer of the prison [^{F6}, a constable (“constable” having the same meaning as it has, by virtue of paragraph 17(1) and (2) of Schedule 1 to the Crime (Sentences) Act 1997 (c. 43), in section 40(1) of this Act) or a police custody and security officer] ; or

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- (c) while he is being taken to any place to which he is required or authorised by or under this Act to be taken; or
- (d) while he is kept in custody in pursuance of such requirement or authorisation.

Textual Amendments

F5 Words in s. 13 substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 24(1)(a), 89(2); S.S.I. 2003/288, art. 2, Sch.

F6 Words in s. 13(b) added (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 24(1)(b), 89(2); S.S.I. 2003/288, art. 2, Sch.

Modifications etc. (not altering text)

C3 S. 13(b) modified (3.2.1995) by 1994 c. 33, s. 110(4); S.I. 1995/127, art. 2(1), Sch. 1

S. 13(b) modified (3.2.1995) by 1994 c. 33, s. 112(3)(4)(b)(6); S.I. 1995/127, art. 2(1), Sch. 1

14 Legalised police cells.

- (1) The Secretary of State, on the application of [^{F7}the Scottish Police Authority], may from time to time by rules under [^{F8}section 39 of] this Act declare that any police cells or other premises in the possession of the [^{F9}Scottish Police Authority] shall be a legal prison for the detention of prisoners before, during or after trial for any period not exceeding 30 days. Any such police cells or other premises are hereinafter referred to as legalised police cells.
- (2) Any person charged with or convicted of any crime or offence committed within [^{F10}the area of a council] who might have been lawfully confined in a prison situated therein may be lawfully confined in any legalised police cells situated in that ^{F11} . . . area for such period as aforesaid.
- (3) The maintenance of prisoners confined in any legalised police cells shall be deemed to be the maintenance of prisoners under this Act:
Provided that the [^{F12}Scottish Police Authority] shall not be entitled to any payment for the use of the legalised police cells or for services rendered by any of their officers in connection with the detention or removal of the prisoners so confined.
- (4) The [^{F13}Scottish Police Authority], notwithstanding anything in this section, shall at all times have a prior claim to the uninterrupted use of any legalised police cells ^{F14}....
- (5) For the purposes of this section the [^{F15}Scottish Police Authority] and all persons in their employment shall be subject to the provisions of this Act and any rules made thereunder.
- (6) It shall be the duty of the Secretary of State to make any arrangements required for the removal of any prisoners confined in legalised police cells in the [^{F16}areas of the councils for Orkney Islands and Shetland Islands].
- ^{F17}(7)
- (8) For the purposes of [^{F18}section] 39 of this Act, legalised police cells shall be deemed to be prisons.
- [^{F19}(9) In this section, “ council ” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.]

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Textual Amendments

- F7** Words in s. 14(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 8\(a\)\(i\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F8** Words in s. 14(1) inserted (18.8.1993) by 1993 c. 9, s. 47(1), [Sch. 5 para. 6\(3\)](#) (with s. 47(2), [Sch. 6 paras. 1, 2](#)); S.I. 1993/2050, art. 3(2), [Sch. 1](#).
- F9** Words in s. 14(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 8\(a\)\(ii\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F10** Words in s. 14(2)(5) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 162\(1\)\(3\)\(a\)\(i\)\(b\)](#); S.I. 1995/3326, [art. 3\(a\)\(b\)](#)
- F11** Words in s. 14(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), [Sch. 13 para. 162\(1\)\(3\)\(a\)\(ii\)](#), [Sch. 14](#); S.I. 1995/3326, [art. 3\(a\)\(b\)](#)
- F12** Words in s. 14(3) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 8\(b\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F13** Words in s. 14(4) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 8\(c\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F14** Words in s. 14(4) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 1](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F15** Words in s. 14(5) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 8\(d\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F16** Words in s. 14(6) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 162\(1\)\(3\)\(c\)](#); S.I. 1995/3326, [art. 3\(a\)\(b\)](#)
- F17** S. 14(7) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 1](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F18** Word in s. 14(8) substituted (31.8.2015) by [The Public Services Reform \(Inspection and Monitoring of Prisons\) \(Scotland\) Order 2015 \(S.S.I. 2015/39\)](#), arts. 1, [2\(6\)](#) (with art. 5)
- F19** S. 14(9) inserted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 162\(1\)\(3\)\(e\)](#); S.I. 1995/3326, [art. 3\(a\)\(b\)](#)

15 Right of sheriff or justice to visit prison.

- (1) A sheriff [^{F20}, summary sheriff] or justice of the peace may visit any prison within his jurisdiction or in which a prisoner is confined for any offence committed within his jurisdiction, and may examine the condition of the prison and of the prisoners therein and enter in the visitors book to be kept by the governor of the prison any observations on the condition of the prison or on any abuses therein.
- (2) Nothing in the foregoing subsection shall authorise a sheriff [^{F21}, summary sheriff] or justice of the peace to communicate with any prisoner except on the subject of his treatment in the prison nor to visit any prisoner under sentence of death.
- (3) It shall be the duty of the governor of a prison to draw the attention of [^{F22}an independent prison monitor] to any entry in the visitors book made in pursuance of this section [^{F23}at the next time such a monitor visits the prison].

Changes to legislation: There are currently no known outstanding effects for the Prisons (Scotland) Act 1989, Cross Heading: Confinement and treatment of prisoners. (See end of Document for details)

Textual Amendments

- F20** Words in s. 15(1) inserted (1.4.2016) by [The Courts Reform \(Scotland\) Act 2014 \(Consequential Provisions\) Order 2016 \(S.S.I. 2016/142\)](#), art. 1, **sch. para. 2(2)**
- F21** Words in s. 15(2) inserted (1.4.2016) by [The Courts Reform \(Scotland\) Act 2014 \(Consequential Provisions\) Order 2016 \(S.S.I. 2016/142\)](#), art. 1, **sch. para. 2(3)**
- F22** Words in s. 15(3) substituted (31.8.2015) by [The Public Services Reform \(Inspection and Monitoring of Prisons\) \(Scotland\) Order 2015 \(S.S.I. 2015/39\)](#), arts. 1, **2(7)(a)** (with art. 5)
- F23** Words in s. 15(3) inserted (31.8.2015) by [The Public Services Reform \(Inspection and Monitoring of Prisons\) \(Scotland\) Order 2015 \(S.S.I. 2015/39\)](#), arts. 1, **2(7)(b)** (with art. 5)

Modifications etc. (not altering text)

- C4** S. 15(1) modified (3.2.1995) by [1994 c. 33, s. 110\(3\)](#); S.I. 1995/127, art. 2(1), **Sch. 1**
- C5** S. 15(3) modified (3.2.1995) by [1994 c. 33, s. 110\(3\)](#); S.I. 1995/127, art. 2(1), **Sch. 1**

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