



Prisons (Scotland) Act 1989

1989 CHAPTER 45

Miscellaneous

^{F1}33

Textual Amendments

F1 S. 33 repealed (3.2.1995) by 1994 c. 33, s. 168(3), [Sch. 11](#); S.I. 1995/127, art. 2(1), [Sch. 1](#) Appendix C

[^{F2} 33A Power of governor to delegate functions.

Rules made under section 39 of this Act may permit the governor of a prison to authorise an officer of the prison, or a class of such officers, to exercise on his behalf such of the governor's functions as the rules may specify.]

Textual Amendments

F2 S. 33A inserted (3.2.1995) by 1994 c. 33, s. 116(3); S.I. 1995/127, art. 2(1), [Sch. 1](#)

Modifications etc. (not altering text)

C1 S. 33A modified (3.2.1995) by 1994 c. 33, [ss. 110\(3\)\(4\)](#), [112\(3\)\(4\)\(c\)\(6\)](#); S.I. 1995/127, art. 2(1), [Sch. 1](#)

34 Notification of and inquiry into death of prisoner.

The governor of a prison shall, in the event of the death of a prisoner, give immediate notice thereof to the procurator fiscal within whose area the prison is situated, and to [^{F3}an independent prison monitor appointed in relation to the prison], and, where practicable, to the nearest relative of the prisoner.

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

Textual Amendments

- F3** Words in s. 34 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(9)** (with art. 5)

Modifications etc. (not altering text)

- C2** S. 34 modified (3.2.1995) by [1994 c. 33, s. 110\(3\)](#); S.I. 1995/127, art. 2(1), **Sch. 1**
S. 34 modified (18.9.1998) by [S.I. 1998/2251, art. 16\(3\)](#)

35 Return of warrants for or sentences of imprisonment.

Where a warrant for imprisonment is granted or a sentence of imprisonment is pronounced by any court, a return thereof shall be made by the clerk of the court to the Secretary of State at such time and in such form as he may determine.

36 Legal estate in prison.

The legal estate in every prison and in all heritable or moveable property belonging to a prison shall be vested in the Secretary of State and may be disposed of in such manner as the Secretary of State, with the consent of the Treasury, may determine.

Modifications etc. (not altering text)

- C3** S. 36 modified (3.2.1995) by [1994 c. 33, s. 110\(5\)](#); S.I. 1995/127, art. 2(1), **Sch. 1**
S. 36 excluded (3.2.1995) by [1994 c. 33, s. 113\(4\)](#); S.I. 1995/127, art. 2(1), **Sch. 1**
S. 36 excluded (18.9.1998) by [S.I. 1998/2251, art. 16\(1\)](#)

37 Discontinuance of prison.

- (1) The Secretary of State may by order discontinue any prison, and any prison so discontinued shall be sold or otherwise disposed of as the Secretary of State, with the consent of the Treasury, may direct.
- (2) For the purposes of this section a prison shall not be deemed to be discontinued by reason only of its appropriation for use as a remand centre or young offenders institution.

Modifications etc. (not altering text)

- C4** S. 37 modified (3.2.1995) by [1994 c. 33, s. 110\(6\)](#); S.I. 1995/127, art. 2(1), **Sch. 1**
S. 37 excluded (18.9.1998) by [S.I. 1998/2251, art. 16\(1\)](#)

38 Acquisition of land for prisons.

- (1) The Secretary of State may purchase by agreement, or compulsorily, any land required for the alteration, enlargement or rebuilding of a prison or for building or establishing a new prison or for any other purpose connected with the management of a prison (including the provision of accommodation for officers or servants employed therein).

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

- (2) For the purpose of the compulsory purchase of land by the Secretary of State under the foregoing subsection, the ^{M1}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply as if section 1(1)(d) (which refers to the compulsory purchase of land by the Secretary of State under the ^{M2}National Health Service (Scotland) Act 1972) included a reference to the foregoing subsection.
- (3) In relation to the purchase of land by agreement under this section, the Lands Clauses Acts (except the provisions relating to the purchase of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections 120 to 125 (sale of superfluous lands) of the ^{M3}Lands Clauses Consolidation (Scotland) Act 1845) shall be incorporated with this section, and in construing those Acts as so incorporated this section shall be deemed to be the special Act and references to the promoters of the undertaking shall be construed as references to the Secretary of State.

Modifications etc. (not altering text)

C5 S. 38 excluded (18.9.1998) by [S.I. 1998/2251](#), [art. 16\(1\)](#)

Marginal Citations

M1 1947 c. 42.
M2 1972 c. 58.
M3 1845 c. 19.

39 Rules for the management of prisons and other institutions.

- (1) The Secretary of State may make rules for the regulation and management of prisons, remand centres and young offenders institutions respectively, ^{F4}. . . for the classification, treatment, employment, discipline and control of persons required to be detained therein [^{F5}and for any other matter as respects which it is provided in this Act [^{F6}or any other enactment] that rules may be made under this section].
- (2) Rules made under this section shall make provision for ensuring that a person who is charged with any offence under the rules shall be given a proper opportunity of presenting his case.
- (3) Rules made under this section may provide for the training of particular classes of persons and their allocation for that purpose to any prison or other institution in which they may lawfully be detained.
- ^{F7}(4)
- (5) Rules made under this section shall provide for the special treatment of the following persons whilst required to be detained in a prison, that is to say—
 - (a) any appellant within the meaning of [^{F8}section 132 of the 1995 Act] pending the determination of his appeal;
 - (b) any other person detained in a prison, not being a person serving a sentence imposed on conviction of an offence.
- (6) Rules made under this section may provide for the temporary release [^{F9}on licence] of persons serving a sentence of imprisonment or detention.
- ^{F10}(7) [^{F11}Subject to 7A below] rules made under this section may provide for the award of additional days, not exceeding in aggregate one-sixth of the prisoner's sentence—

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- (a) to ^{F12}any person who is, or is treated as, a long-term or short-term prisoner for the purposes of any provision of] Part I of the Prisoners and Criminal Proceedings (Scotland) Act 1993; or
- (b) conditionally on his eventually becoming such a prisoner, to a person remanded in custody,

where he is guilty, under such rules, of a breach of discipline [^{F13}; ^{F14} ...].]

^{F15}(7A) Additional days shall not be awarded under rules made under subsection (7) above in respect of a sentence where the prisoner has at any time been released on licence, in relation to that sentence, under Part I of the ^{M4} Prisoners and Criminal Proceedings (Scotland) Act 1993; and any reference to a sentence in such rules shall be construed in accordance with section 27(5) of that Act.

(7B) In the application of subsection (7) above to

- ^{F16}(a) [a prisoner subject to a sentence under section 205ZA or 205ZC of the 1995 Act (sentences for terrorism offences), the reference to the prisoner's sentence is to be construed as a reference to the appropriate custodial term of the sentence concerned, and
- (b)] a prisoner subject to an extended sentence within the meaning of section 210A of [^{F17}that] Act, the reference to his sentence shall be construed as a reference to the custodial term of that extended sentence.]

^{F18}(8) Without prejudice to any power to make standing orders or to issue directions or any other kind of instruction, rules made under this section may authorise the Secretary of State to supplement the rules by making provision by directions for any purpose specified in the rules; and rules so made or directions made by virtue of this subsection may authorise the governor, or any other officer, of a prison, or some other person or class of persons specified in the rules or directions, to exercise a discretion in relation to [^{F19}any purpose specified in the rules].

(9) Rules made under this section may permit directions made by virtue of subsection (8) above to derogate (but only to such extent, or in such manner, as may be specified in the rules) from provisions of rules so made and so specified.

(10) Any reference, however expressed, in any enactment other than this section to rules made under this section shall be construed as including a reference to directions made by virtue of subsection (8) above.

(11) Directions made by virtue of subsection (8) above shall be published by the Secretary of State in such manner as he considers appropriate.]

^{F20}(12) Rules made under this section may (without prejudice to the generality of subsection (1) above) confer functions on a governor.]

Textual Amendments

- F4** Word in s. 39(1) repealed (18.8.1993) by 1993 c. 9, s. 47(1)(3), Sch. 5 para. 6(6)(a), **Sch. 7 Pt. I** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, art. 3(2), **Sch. 1**.
- F5** Words in s. 39(1) added (18.8.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 6(6)(b)** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, art. 3(2), **Sch. 1**.
- F6** Words in s. 39(1) inserted (3.2.1995) by 1994 c. 33, s. 116(4)(a); S.I. 1995/127, art. 2(1), **Sch. 1**.
- F7** S. 39(4) repealed (1.10.1993) by 1993 c. 9, s. 47(3), **Sch. 7 Pt. I** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, **art. 3(4)**.
- F8** Words in s. 39(5) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 75(4)(a)**

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

- F9** Words in s. 39(6) inserted (11.10.2019) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 55(2), 63(2)**; S.S.I. 2019/309, reg. 2, sch.
- F10** S. 39(7) added (18.8.1993) by 1993 c. 9, s. 24 (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(2), **Sch. 1**.
- F11** Words in s. 39(7) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 71(a)(i)**; S.I. 1998/2327, **art. 2(1)(y)(2)(u)**
- F12** Words in s. 39(7)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 71(a)(ii)**; S.I. 1998/2327, **art. 2(1)(y)(2)(u)**
- F13** Words in s. 39(7) inserted (3.2.1995) by 1994 c. 33, s. 130(4); S.I. 1995/127, art. 2(1), **Sch. 1**
- F14** Words in s. 39(7) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 71(a)(iii), **Sch. 10**; S.I. 1998/2327, **art. 2(1)(y)(aa)(2)(u)(3)(s)**
- F15** S. 39(7A)(7B) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 71(b)**; S.I. 1998/2327, **art. 2(1)(y)(2)(u)**
- F16** Words in s. 39(7B) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 51(2)(a)**
- F17** Word in s. 39(7B) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 51(2)(b)**
- F18** S. 39(8)-(11) added (18.8.1993) by 1993 c. 9, s. 25 (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(2), **Sch. 1**.
- F19** Words in s. 39(8) substituted (3.2.1995) by 1994 c. 33, s. 116(4)(b); S.I. 1995/127, art. 2(1), **Sch. 1**
- F20** S. 39(12) inserted (3.2.1995) by 1994 c. 33, s. 116(4)(c); S.I. 1995/127, art. 2(1), **Sch. 1**

Modifications etc. (not altering text)

- C6** S. 39(8) modified (3.2.1995) by 1994 c. 33, **ss. 110(3)(7), 112(3)(4)(d)(6)**; S.I. 1995/127, art. 2(1), **Sch. 1**

Marginal Citations

- M4** 1993 c.9.

40 [F21 Arrest of and rules for absent prisoners]

- (1) Any person who, having been sentenced to imprisonment or to detention in a young offenders institution, or having been committed to a prison [F22 or young offenders institution] or remand centre, is unlawfully at large may be arrested by a constable or prison officer without warrant and taken to the place in which he is required [F23 or liable] in accordance with law to be detained.
- (2) Where any person sentenced to imprisonment or to detention in a young offenders institution [F24 or committed to a prison [F22 or young offenders institution] or remand centre] is, at any time during the period for which he is liable to be detained in pursuance of the sentence, [F24 or committal], absent, otherwise than with lawful authority, from the prison [F25, young offenders institution or remand centre], as the case may be, then, unless the Secretary of State otherwise directs, no account shall be taken, in calculating the period for which he is liable to be so detained [F24 or the date on or by which a term or period of imprisonment or detention elapses or has been served,] of any time during which he is so absent:
Provided that this subsection shall not apply to any period during which any such person as aforesaid is detained in pursuance of an order of any court in the United Kingdom in a prison, young offenders institution or remand centre.

[F26(3) In this section—

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- (a) any reference to a person sentenced to imprisonment shall be construed as including a reference to any person sentenced or ordered to be detained under section 44, 205 [F27, 205ZC(5)] or 208 of the 1995 Act;
 - (b) any reference to a prison shall be construed as including a reference to a place where the person is liable to be detained under the sentence or order; and
 - (c) any reference to a sentence shall be construed as including a reference to an order under the said section 44.]
- (4) [F28 A] person who, after being temporarily released in pursuance of rules made under section 39(6) of this Act, is at large at any time during the period for which he is liable to be detained in pursuance of his sentence shall be deemed to be unlawfully at large if the period for which he was temporarily released has expired or if an order recalling him has been made by the Secretary of State in pursuance of the rules.

Textual Amendments

- F21** S. 40 title substituted (11.10.2019) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), [ss. 60\(2\)](#), [63\(2\)](#); [S.S.I. 2019/309](#), [reg. 2](#), [sch.](#)
- F22** Words in s. 40(1)(2) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), [ss. 23\(2\)](#), [89\(2\)](#); [S.S.I. 2003/288](#), [art. 2](#), [Sch.](#)
- F23** Words in s. 40(1) inserted (11.10.2019) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), [ss. 60\(2\)\(a\)](#), [63\(2\)](#); [S.S.I. 2019/309](#), [reg. 2](#), [sch.](#)
- F24** Words in s. 40(2) inserted (1.10.1993) by [1993 c. 9](#), [s. 47\(1\)](#), [Sch. 5 para. 6\(7\)\(a\)\(b\)\(d\)](#) (with [s. 47\(2\)](#), [Sch. 6 paras. 1, 2](#)); [S.I. 1993/2050](#), [art. 3\(4\)](#).
- F25** Words in s. 40(2) substituted (1.10.1993) by [1993 c. 9](#), [s. 47\(1\)](#), [Sch. 5 para. 6\(7\)\(c\)](#) (with [s. 47\(2\)](#), [Sch. 6 paras. 1, 2](#)); [S.I. 1993/2050](#), [art. 3\(4\)](#).
- F26** S. 40(3) substituted (1.4.1996) by [1995 c. 40](#), [ss. 5, 7\(2\)](#), [Sch. 4 para. 75\(5\)](#)
- F27** Word in [s. 40\(3\)\(a\)](#) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), [s. 50\(1\)\(i\)](#), [Sch. 13 para. 51\(3\)](#)
- F28** Word in s. 40(4) substituted (11.10.2019) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), [ss. 60\(2\)\(b\)](#), [63\(2\)](#); [S.S.I. 2019/309](#), [reg. 2](#), [sch.](#)

Modifications etc. (not altering text)

- C7** S. 40 excluded (18.9.1998) by [S.I. 1998/2251](#), [art. 16\(1\)](#)
- C8** S. 40(1) modified (3.2.1995) by [1994 c. 33](#), [ss. 110\(4\)](#), [112\(3\)\(4\)\(e\)\(6\)](#); [S.I. 1995/127](#), [art. 2\(1\)](#), [Sch. 1](#)
S. 40(1) extended (1.10.1997) by [1997 c. 43](#), [s. 41](#), [Sch. 1 Pt. III para. 17\(1\)\(b\)](#); [S.I. 1997/2200](#), [art. 2\(1\)\(g\)](#) (with [art. 5](#))
- C9** S. 40(2) amended (1.10.1993) by [1993 c. 9](#), [s. 4\(3\)](#) (with [ss. 5\(1\)](#), [6\(1\)](#), [10](#), [27](#) and [47\(2\)](#), [Sch. 6 paras. 1, 2, 6 and 7](#)) (which substituted [ss. 74 and 75 of 1984 C. 36](#)); [S.I. 1993/2050](#), [art. 3\(4\)](#).
- C10** S. 40(2) excluded (17.12.2001) by [2001 asp 13](#), [s. 24\(b\)](#) (with [s. 29](#)); [S.S.I. 2001/456](#), [art. 2](#)
- C11** S. 40(2): proviso amended (1.10.1997) by [1997 c. 43](#), [s. 41](#), [Sch. 1 Pt. III para. 17\(6\)\(b\)](#); [S.I. 1997/2200](#), [art. 2\(1\)\(g\)](#) (with [art. 5](#))

[F29] 40A Warrants for arrest of escaped prisoners.

- (1) On an application [F30 by a constable] being made to a justice alleging that any person is an offender unlawfully at large from a prison or other institution to which this Act or, as the case may be, the Prison Act 1952 or the Prison Act (Northern Ireland) 1953 applies in which he is required to be detained after being convicted of an offence, the justice may issue a warrant to arrest him and bring him before any sheriff.

[A warrant for a person's arrest under this section confers power on a constable—

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- ^{F31}(1A) (a) to enter and search any premises or other places specified in the warrant, and
(b) to use reasonable force in doing so.]
- (2) Where a person is brought before a sheriff in pursuance of a warrant for his arrest under this section, the sheriff shall, if satisfied that he is the person named in the warrant and if satisfied that he is an offender unlawfully at large as mentioned in subsection (1) above, order him to be returned to the prison or other institution where he is required or liable to be detained.]

Textual Amendments

- F29** S. 40A inserted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 75(6)**
- F30** Words in s. 40A(1) inserted (11.10.2019) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 60(3)(a)**, 63(2); S.S.I. 2019/309, reg. 2, sch.
- F31** S. 40A(1A) inserted (11.10.2019) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 60(3)(b)**, 63(2); S.S.I. 2019/309, reg. 2, sch.

Modifications etc. (not altering text)

- C12** S. 40A excluded (18.9.1998) by S.I. 1998/2251, **art. 16(1)**

[^{F32}**40B Temporary detention of person being returned to prison in England and Wales etc.**

Any person absent, otherwise than with lawful authority, from a place outwith Scotland, being a place to which, by virtue of paragraph 17 of Schedule 1 to the Crime (Sentences) Act 1997 (c. 43) (application throughout United Kingdom and Channel Islands of certain enactments relating to the arrest and return of prisoners etc.), he may be taken, may, until the arrangements to take him can be made, be detained in a prison or young offenders institution in Scotland.]

Textual Amendments

- F32** S. 40B inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 25**, 89(2); S.S.I. 2003/288, art. 2, Sch.

41 Unlawful introduction of tobacco, etc., into prison.

- [^{F33}(1) A person commits an offence if without reasonable excuse the person—
- (a) brings or otherwise introduces into a prison a proscribed article (or attempts to do so),
- (b) takes out of or otherwise removes from a prison a proscribed article (or attempts to do so).
- (1A) A person who commits an offence under this section—
- (a) where the proscribed article falls within paragraphs (b) to (f) of subsection (9A), is liable on summary conviction to imprisonment for a period not exceeding 30 days or to a fine not exceeding level 3 on the standard scale (or to both),

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- (b) where the proscribed article falls within paragraph (a) of subsection (9A) (whether or not also within paragraph (f) of that subsection), is liable to the penalties set out in section 41ZA(5).]

shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding level 3 on the standard scale or to imprisonment for any period not exceeding 30 days.

- (2) For the purposes of ^{F34}subsection (1)(a),] a person shall be deemed to introduce an article into a prison if he conveys it to a prisoner outside the prison or places it anywhere outside the prison with intent that it shall come into the possession of a prisoner.
- ^{F35}(2A) Where an officer of a prison has reasonable grounds for suspecting that a person who is in or is seeking to enter a prison has in his possession any ^{F36}proscribed article] he shall, without prejudice to any other power of search under this Act, have power to search that person and any article in his possession and to seize and detain any ^{F37}proscribed article] found in the course of the search.
- (2B) The power conferred by subsection (2A) above—
- (a) shall be exercised in accordance with rules under section 39 of this Act;
 - (b) shall not be construed as authorising the physical examination of a person's body orifices;
 - (c) so far as relating to any article ^{F38}that is a proscribed article falling within paragraph (d) to (f) of subsection (9A) (but not also within paragraph (b) or (c) of that subsection), or falling within paragraph (a) of that subsection], shall not be construed as authorising an officer of a prison to require a person to remove any of his clothing other than an outer coat, jacket, headgear, gloves and footwear; and
 - (d) shall include power to use reasonable force where necessary.]
- ^{F39}(3) Where an officer of a prison has reasonable grounds for suspecting that any person has committed or is committing an offence under ^{F40}this section or section 41ZA] he may, for the purpose of facilitating investigation by a constable into the offence, detain that person in any place in the prison in question and may, where necessary, use reasonable force in doing so.
- (4) Detention under subsection (3) above shall be terminated not more than six hours after it begins or (if earlier)—
- (a) when the person is detained in pursuance of any other enactment or subordinate instrument;
 - (b) when the person is arrested by a constable; or
 - (c) where the governor of the prison or a constable investigating the offence concludes that there are no such grounds as are mentioned in subsection (3) above or the officer of the prison concludes that there are no longer such grounds,
- and the person detained shall be informed immediately upon the termination of his detention that his detention has been terminated.
- (5) Where a person has been released at the termination of a period of detention under subsection (3) above he shall not thereafter be detained under that subsection on the same grounds or on any grounds arising out of the same circumstances.

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- (6) At the time when an officer of a prison detains a person under subsection (3) above he shall inform the person of his suspicion, of the suspected offence and of the reason for the detention; and there shall be recorded—
- (a) the place where and the time when the detention begins;
 - (b) the suspected offence;
 - (c) the time when a constable or an officer of the police authority is informed of the suspected offence and the detention;
 - (d) the time when the person is informed of his rights in terms of subsection (7) below and the identity of the officer of the prison so informing him;
 - (e) where the person requests such intimation as is specified in subsection (7) below to be sent, the time when such request is—
 - (i) made; and
 - (ii) complied with; and
 - (f) the time when, in accordance with subsection (4) above, the person’s detention terminates.
- (7) A person who is being detained under subsection (3) above, other than a person in respect of whose detention subsection (8) below applies, shall be entitled to have intimation of his detention and of the place where he is being detained sent without delay to a solicitor and to one other person reasonably named by him and shall be informed of that entitlement when his detention begins.
- (8) Where a person who is being detained under subsection (3) above appears to the officer of the prison to be under 16 years of age, the officer of the prison shall send without delay to the person’s parent, if known, intimation of the person’s detention and of the place where he is being detained; and the parent—
- (a) in a case where there is reasonable cause to suspect that he has been involved in the alleged offence in respect of which the person has been detained, may; and
 - (b) in any other case, shall,
- be permitted access to the person.
- (9) The nature and extent of any access permitted under subsection (8) above shall be subject to any restriction essential for the furtherance of the investigation or the well-being of the person.

[In this section, a “proscribed article” is—

- ^{F41}(9A) (a) any personal communication device,
(b) any drug,
(c) any firearm or ammunition,
(d) any offensive weapon,
(e) any article which has a blade or is sharply pointed,
(f) any article (or other article) which is a prohibited article within the meaning of rules made under section 39.

(9B) In this section, a “personal communication device” includes—

- (a) a mobile telephone,
- (b) any other portable electronic device that is capable of transmitting or receiving a communication of any kind,
- (c) any—

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- (i) component part of a device mentioned in paragraph (a) or (b),
- (ii) article that is designed or adapted for use with such a device.]

(10) In this section—

“ drug ” means any drug which is a controlled drug for the purposes of the ^{M5} Misuse of Drugs Act 1971;

“ firearm ” and “ ammunition ” have the same meanings as in the ^{M6} Firearms Act 1968;

“ offensive weapon ” has the same meaning as in [^{F42}section 47 of the Criminal Law (Consolidation) (Scotland) Act 1995 (c.39)]; and

“ parent ” includes a guardian and any person who has actual custody of a person under 16 years of age.]

Textual Amendments

- F33** S. 41(1)(1A) substituted for s. 41(1) (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 34\(1\)\(a\)](#), 206(1); S.S.I. 2010/413, art. 2, Sch.
- F34** Words in s. 41(2) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 34\(1\)\(b\)](#), 206(1); S.S.I. 2010/413, art. 2, Sch.
- F35** S. 41(2A)(2B) inserted (3.2.1995) by [1994 c. 33](#), [s. 153\(1\)\(3\)](#); S.I. 1995/127, art. 2(1), [Sch. 1](#)
- F36** Words in s. 41(2A) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 34\(1\)\(c\)\(i\)](#), 206(1); S.S.I. 2010/413, art. 2, Sch.
- F37** Words in s. 41(2A) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 34\(1\)\(c\)\(ii\)](#), 206(1); S.S.I. 2010/413, art. 2, Sch.
- F38** Words in s. 41(2B)(c) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 34\(1\)\(d\)](#), 206(1); S.S.I. 2010/413, art. 2, Sch.
- F39** S. 41(3)-(10) substituted for s. 41(3) (3.2.1995) by [1994 c. 33](#), [s. 153\(1\)\(4\)](#); S.I. 1995/127, art. 2(1), [Sch. 1](#)
- F40** Words in s. 41(3) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 34\(1\)\(e\)](#), 206(1); S.S.I. 2010/413, art. 2, Sch.
- F41** S. 41(9A)(9B) inserted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 34\(1\)\(f\)](#), 206(1); S.S.I. 2010/413, art. 2, Sch.
- F42** Words in s. 41(10) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 34\(1\)\(g\)](#), 206(1); S.S.I. 2010/413, art. 2, Sch.

Modifications etc. (not altering text)

- C13** S. 41 excluded (18.9.1998) by [S.I. 1998/2251](#), [art. 16\(1\)](#)
- C14** S. 41(2A) modified (3.2.1995) by [1994 c. 33](#), [ss. 110\(6\)](#), 112(5); S.I. 1995/127, art. 2(1), [Sch. 1](#)
- C15** S. 41(2B) modified (3.2.1995) by [1994 c. 33](#), [ss. 110\(6\)](#), 112(5); S.I. 1995/127, art. 2(1), [Sch. 1](#)
- C16** S. 41(3) modified (3.2.1995) by [1994 c. 33](#), [ss. 110\(4\)](#), 112(3)(4)(f)(6); S.I. 1995/127, art. 2(1), [Sch. 1](#)
- C17** S. 41(4) modified (3.2.1995) by [1994 c. 33](#), [ss. 110\(3\)\(4\)](#), 112(3)(4)(f)(6); S.I. 1995/127, art. 2(1), [Sch. 1](#)
- C18** S. 41(6) modified (3.2.1995) by [1994 c. 33](#), [ss. 110\(4\)](#), 112(3)(4)(f)(6); S.I. 1995/127, art. 2(1), [Sch. 1](#)
- C19** S. 41(8) modified (3.2.1995) by [1994 c. 33](#), [ss. 110\(4\)](#), 112(3)(4)(f)(6); S.I. 1995/127, art. 2(1), [Sch. 1](#)

Marginal Citations

- M5** 1971 c. 38 .
- M6** 1968 c. 27 .

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

[^{F43} **41A Powers of search by authorised employees.**

- (1) An authorised employee at a prison shall have the power to search any prisoner for the purpose of ascertaining whether he has any unauthorised property on his person.
- (2) An authorised employee searching a prisoner by virtue of this section—
 - (a) shall not be entitled to require a prisoner to remove any of his clothing other than an outer coat, jacket, headgear, gloves and footwear;
 - (b) may use reasonable force where necessary; and
 - (c) may seize and detain any unauthorised property found on the prisoner in the course of the search.
- (3) In this section “ authorised employee ” means an employee of a description for the time being authorised by the governor to exercise the powers conferred by this section.
- (4) The governor of a prison shall take such steps as he considers appropriate to notify to prisoners the descriptions of employees who are for the time being authorised employees.
- (5) In this section—
 - “ employee ” means an employee (not being an officer of a prison) appointed under section 2(1) of this Act; and
 - “ unauthorised property ”, in relation to a prisoner, means property which the prisoner is not authorised by rules under section 39 of this Act or by the governor to have in his possession or, as the case may be, in his possession in a particular part of the prison.]

Textual Amendments

F43 S. 41A inserted (3.2.1995) by 1994 c. 33, s. 152(2); S.I. 1995/127, art. 2(1), Sch. 1

Modifications etc. (not altering text)

C20 S. 41A modified (3.2.1995) by 1994 c. 33, s. 110(6); S.I. 1995/127, art. 2(1), Sch. 1

S. 41A excluded (18.9.1998) by S.I. 1998/2251, art. 16(1)

[^{F44} **41B Testing prisoners for drugs.**

- (1) If an authorisation is in force for the prison, any officer of the prison may, at the prison, in accordance with rules under section 39 of this Act, require any prisoner who is confined in the prison to provide a sample of urine^{F45}or saliva] for the purpose of ascertaining whether he has any drug in his body.
- (2) If the authorisation so provides, the power conferred by subsection (1) above shall include power to require a prisoner to provide a sample of any other description specified in the authorisation, not being an intimate sample, whether instead of or in addition to a sample of urine^{F46}or saliva].
- (3) In this section—
 - “ authorisation ” means an authorisation by the governor;
 - “ drug ” means any drug which is a controlled drug for the purposes of the ^{M7} Misuse of Drugs Act 1971; ^{F47}...
 - “ intimate sample ” means a sample of [^{F48}—]]
 - (a) [^{F49}blood, semen or any other tissue fluid;

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

- (b) pubic hair; or
- (c) material from a body orifice other than the mouth;
[^{F49}; and]

Textual Amendments

- F44** S. 41B inserted (9.1.1995) by 1994 c. 33, s. 151(2); S.I. 1994/3192, art. 2, Sch.
- F45** Words in s. 41B(1) inserted (8.2.2006) by Management of Offenders etc. (Scotland) Act 2005 (asp 14), ss. 16(a), 24(2); S.S.I. 2006/48, art. 3(1), Sch. Pt. 1
- F46** Words in s. 41B(2) inserted (8.2.2006) by Management of Offenders etc. (Scotland) Act 2005 (asp 14), ss. 16(b), 24(2); S.S.I. 2006/48, art. 3(1), Sch. Pt. 1
- F47** Word in s. 41B(3) repealed (8.2.2006) by Management of Offenders etc. (Scotland) Act 2005 (asp 14), ss. 16(c)(ii), 24(2); S.S.I. 2006/48, art. 3(1), Sch. Pt. 1
- F48** Words in s. 41B(3) substituted (8.2.2006) by Management of Offenders etc. (Scotland) Act 2005 (asp 14), ss. 16(c)(i), 24(2); S.S.I. 2006/48, art. 3(1), Sch. Pt. 1
- F49** Words in s. 41B(3) added (8.2.2006) by Management of Offenders etc. (Scotland) Act 2005 (asp 14), ss. 16(c)(iii), 24(2); S.S.I. 2006/48, art. 3(1), sch. Pt. 1

Modifications etc. (not altering text)

- C21** S. 41B(1) modified (3.2.1995) by 1994 c. 33, s. 110(4); S.I. 1995/127, art. 2(1), Sch. 1
- C22** S. 41B(3) modified (3.2.1995) by 1994 c. 33, s. 110(3); S.I. 1995/127, art. 2(1), Sch. 1

Marginal Citations

- M7** 1971 c. 38.

^{F50} 41C Testing of prisoners for alcohol.

- (1) If an authorisation is in force for the prison, any officer of the prison may, at the prison, in accordance with rules under section 39 of this Act, require any prisoner who is confined in the prison, and whom he reasonably believes to have taken alcohol, to provide a sample of breath for the purpose of ascertaining whether he has any alcohol in his body.
- (2) If the authorisation so provides, the power conferred by subsection (1) above shall include the power to require a prisoner to provide a sample of any other description specified in the authorisation, not being an intimate sample, whether instead of or in addition to a sample of breath.
- (3) In this section—
 - “authorisation” means an authorisation by the governor; and
 - “intimate sample” means a sample of blood, semen or other tissue fluid, saliva or pubic hair, or a swab taken from a person’s body orifice.]

Textual Amendments

- F49** Words in s. 41B(3) added (8.2.2006) by Management of Offenders etc. (Scotland) Act 2005 (asp 14), ss. 16(c)(iii), 24(2); S.S.I. 2006/48, art. 3(1), sch. Pt. 1
- F50** S. 41C inserted after s. 41B (1.1.1998 with application as mentioned in s. 33(1)-(8) of the amending Act) by 1997 c. 48, s. 42; S.I. 1997/2323, art. 4, Sch. 2

41D **Unlawful disclosure of information by medical officer.**

- F51** **41D**
F52 (1) This section applies to—
- (a) a medical officer for a prison, and
 - (b) any person acting under the supervision of such a medical officer.]
- (2) Any person to whom this section applies who discloses, otherwise than in the course of his duty or as authorised by the Secretary of State, any information relating to a particular prisoner which he has acquired in the course of carrying out his duties shall be guilty of an offence.
- (3) A person guilty of an offence under subsection (2) above shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.]

Textual Amendments

- F49** Words in s. 41B(3) added (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 16\(c\)\(iii\), 24\(2\)](#); S.S.I. 2006/48, art. 3(1), sch. Pt. 1
- F51** S. 41D inserted after s. 41B (1.1.1998 with application as mentioned in [s. 33\(1\)-\(8\)](#) of the amending Act) by [1997 c. 48, s. 44\(1\)](#); S.I. 1997/2323, art. 4, [Sch. 2](#)
- F52** S. 41D(1) substituted (1.11.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 110\(2\), 206\(1\)](#); S.S.I. 2011/354, art. 2, Sch.

41ZA **Further provision for communication devices**

- F53** **41ZA**
- (1) A person commits an offence if, knowing another person to be a prisoner, the person gives a personal communication device to the prisoner while the prisoner is inside a prison.
 - (2) A person commits an offence if, by means of a personal communication device, the person—
 - (a) transmits, from inside a prison, a communication of any kind, or
 - (b) intentionally receives, when inside a prison, a communication of any kind.
 - (3) A person commits an offence if, while inside a prison, the person is in possession of a personal communication device.
 - (4) A person who commits an offence under subsections (1) to (3) is liable to the penalties set out in subsection (5).
 - (5) The penalties are—
 - (a) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine (or to both),
 - (b) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both).
 - (6) In this section, “personal communication device” is to be construed in accordance with section 41(9B).]

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

Textual Amendments

- F49** Words in s. 41B(3) added (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 16\(c\)\(iii\), 24\(2\)](#); S.S.I. 2006/48, art. 3(1), sch. Pt. 1
- F53** S. 41ZA - S. 41ZB inserted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 34\(2\), 206\(1\)](#); S.S.I. 2010/413, art. 2, Sch.

Exceptions as to communication devices

^{F53} 41ZB

- (1) No offence—
- (a) under section 41, where the proscribed article falls within paragraph (a) of subsection (9A) (whether or not also within paragraph (f) of that subsection), or
 - (b) under section 41ZA(1) to (3),
- is committed by a person where subsection (2) applies.
- (2) This subsection applies—
- (a) if (and in so far as) the act which constitutes the offence is done by the person at or in relation to a designated area at the prison, or
 - (b) if (and in so far as) the person is acting in circumstances to which an authorisation under subsection (8) applies.
- (3) No offence—
- (a) under section 41, where the proscribed article falls within paragraph (a) of subsection (9A) (whether or not also within paragraph (f) of that subsection), or
 - (b) under section 41ZA(2) or (3),
- is committed by a prison officer (or other prison official) where subsection (4) applies.
- (4) This subsection applies—
- (a) if the device is one supplied to the person specifically for use in the course of the person's official duties at the prison, or
 - (b) if (and in so far as) the person is acting in accordance with those duties.
- (5) No offence under section 41ZA(3) is committed by a person other than a prisoner if in the circumstances there is a reasonable excuse for the possession.
- (6) The defences mentioned in subsection (7) apply in any proceedings for an offence under—
- (a) section 41(1), where the proscribed article falls within paragraph (a) of subsection (9A) (whether or not also within paragraph (f) of that subsection), or
 - (b) section 41ZA(1) to (3).
- (7) In relation to such an offence, it is a defence for the accused person to show that—
- (a) the person reasonably believed that the person was acting in circumstances to which an authorisation under subsection (8) applied (even though no such authorisation did apply), or
 - (b) in the circumstances there was an overriding public interest which justified the person's actions.

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

- (8) An authorisation under this subsection is a written authorisation that is given—
- (a) in favour of any person specified in the authorisation (or person of a specified description),
 - (b) for a specified purpose, and
 - (c) by—
 - (i) the governor or director of a prison in relation to activities at that prison, or
 - (ii) the Scottish Ministers in relation to activities at any specified prison.
- (9) A designated area referred to in subsection (2)(a) is any part of the prison, used solely or principally for an administrative or similar purpose, that is specified as such by a written designation given under this paragraph by the governor or director of the prison.
- (10) Prison officers (or other prison officials) who are Crown servants or agents do not benefit from Crown immunity in relation to an offence under—
- (a) section 41, where the proscribed article falls within paragraph (a) of subsection (9A) of that section (whether or not also within paragraph (f) of that subsection), or
 - (b) section 41ZA.]

Textual Amendments

- F49** Words in s. 41B(3) added (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 16\(c\)\(iii\), 24\(2\)](#); S.S.I. 2006/48, art. 3(1), sch. Pt. 1
- F53** S. 41ZA - S. 41ZB inserted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 34\(2\), 206\(1\)](#); S.S.I. 2010/413, art. 2, Sch.

42 Exercise of power to make rules, etc.

- (1) Any power of the Secretary of State to make rules or regulations under this Act, and the power of the Secretary of State to make an order under section ^{F54} . . . [^{F55} section 22(2) or 37(1)] of this Act, shall be exercisable by statutory instrument.
- (2) Any statutory instrument containing [^{F56}regulations made under section 7A(4),] [^{F57}an order made under section 37(1) or rules made under section 39 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament].

^{F58}(3)

^{F58F59}(4)

Textual Amendments

- F49** Words in s. 41B(3) added (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 16\(c\)\(iii\), 24\(2\)](#); S.S.I. 2006/48, art. 3(1), sch. Pt. 1
- F54** Words in s. 42(1) repealed (1.10.1993) by 1993 c. 9, s. 47(3), [Sch. 7 Pt.I](#) (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, [art. 3\(4\)](#).
- F55** Words in s. 42(1) substituted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), s. 89(2), [Sch. 4 para. 1\(a\)](#); S.S.I. 2003/288, art. 2, Sch.

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

- F56** Words in s. 42(2) 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(10)** (with art. 5)
- F57** Words in s. 42(2) substituted (18.8.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 6(8)** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, art. 3(2), **Sch. 1**.
- F58** S. 42(3)(4) repealed (1.10.1993) by 1993 c. 9, s. 47(3), **Sch. 7 Pt.I** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, art. 3(4).
- F59** s. 42(4) further amended (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), s. 89(2), **Sch. 4 para. 1(b)**; S.S.I. 2003/288, art. 2, Sch.

43 Interpretation.

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them—

[^{F60} “ the 1995 Act ” means the Criminal Procedure (Scotland) Act 1995;]

[^{F61} “Chief Inspector” means the Chief Inspector of Prisons for Scotland;]

“ court ” does not include a court-martial;

“ criminal prisoner ” means a person committed to prison in respect of a charge or conviction of a criminal offence and “ civil prisoner ” includes any other prisoner;

[^{F62} “independent prison monitor” means an independent prison monitor appointed under section 7B(2)(a);

“OPCAT” means the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment adopted on 18th December 2002 at the fifty-seventh session of the General Assembly of the United Nations by resolution A/RES/57/199;]

^{F63} . . .

^{F63} . . .

“ prison ” includes any prison other than a naval, military or air force prison;

[^{F64} “prison monitoring co-ordinator” means a prison monitoring co-ordinator appointed under section 7A(2);]

“ prisoner ” means a person committed for trial, safe custody, punishment or otherwise; and

[^{F65} “SPT” means the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment established under Article 2 of OPCAT.]

^{F66} . . .

- (2) For the purposes of any reference, however expressed, in this Act ^{F67} . . . to the term of imprisonment or other detention to which a person has been sentenced or which, or part of which, he has served, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term.
- (3) Any reference in this Act, however expressed, to a previous conviction or sentence shall be construed as a reference to a previous conviction by a court in any part of Great Britain and to a previous sentence passed by any such court.
- (4) Any reference in this Act to an offence punishable with imprisonment shall be construed, in relation to any offender, without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of offenders of his age.

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

- (5) References, however expressed, in this Act^{F68} . . . to imprisonment shall, so far as those provisions apply to institutions provided under section 19 of this Act, be construed as including detention in those institutions.
- (6) For the purpose of this Act the maintenance of a prisoner shall include all necessary expenses incurred in respect of the prisoner for food, clothing, custody and removal from one place to another from the period from the date of the order for his committal to prison until his death or discharge from prison.
- (7) Where the age of any person at any time is material for the purposes of any provision of this Act regulating the powers of a court, his age at the material time shall be deemed to be or to have been that which appears to the court, after considering any available evidence, to be or to have been his age at that time.

Textual Amendments

- F49** Words in s. 41B(3) added (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 16\(c\)\(iii\), 24\(2\)](#); [S.S.I. 2006/48](#), [art. 3\(1\)](#), [sch. Pt. 1](#)
- F60** Words in s. 43(1) substituted (1.4.1996) by 1995 c. 40, [ss. 5, 7\(2\)](#), [Sch. 4 para. 7](#)
- F61** Words in s. 43(1) 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\(11\)\(a\)](#) (with [art. 5](#))
- F62** Words in s. 43(1) 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\(11\)\(b\)](#) (with [art. 5](#))
- F63** Definitions in s. 43(1) repealed (1.10.1993) by 1993 c. 9, [s. 47\(3\)](#), [Sch. 7 Pt. I](#) (with [s. 47\(2\)](#), [Sch. 6 paras. 1, 2](#)); [S.I. 1993/2050](#), [art. 3\(4\)](#).
- F64** Words in s. 43(1) 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\(11\)\(c\)](#) (with [art. 5](#))
- F65** Words in s. 43(1) 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\(11\)\(d\)](#) (with [art. 5](#))
- F66** Definition in s. 43(1) repealed (1.10.1993) by 1993 c. 9, [s. 47\(1\)\(3\)](#), [Sch. 5 para. 6\(9\)\(a\)](#), [Sch. 7 Pt. I](#) (with [s. 47\(2\)](#), [Sch. 6 paras. 1, 2](#)); [S.I. 1993/2050](#), [art. 3\(4\)](#).
- F67** Words in s. 43(2) repealed (1.10.1993) by 1993 c. 9, [s. 47\(1\)\(3\)](#), [Sch. 5 para. 6\(9\)\(b\)](#), [Sch. 7 Pt. I](#) (with [s. 47\(2\)](#), [Sch. 6 paras. 1, 2](#)); [S.I. 1993/2050](#), [art. 3\(4\)](#).
- F68** Words in s. 43(5) repealed (1.10.1993) by 1993 c. 9, [s. 47\(3\)](#), [Sch. 7 Pt. I](#) (with [s. 47\(2\)](#), [Sch. 6 paras. 1, 2](#)); [S.I. 1993/2050](#), [art. 3\(4\)](#).

Modifications etc. (not altering text)

- C23** [S. 43](#) extended (1.10.1997) by 1997 c. 43, [ss. 41, 56\(1\)](#), [Sch. 1 Pt. II paras. 10\(2\)\(5\), 11\(2\)\(4\)](#), [Sch. 5 paras. 11\(2\)\(a\)\(b\), 12\(2\)\(a\)\(b\)\(c\)](#); [S.I. 1997/2200](#), [art. 2\(1\)\(g\)\(n\)](#) (with [art. 5](#))
- [S. 43](#) modified (30.6.1999) by [S.I. 1999/1748](#), [art. 4\(2\)](#), [Sch. 3 paras. 5-8, 9](#)
- [Ss. 18, 19\(4\), 22, 24, 26, 28, 29, 30, 32, 39, 43](#), [Sch. 1](#): certain functions made exercisable in Scotland (30.6.1999) by [S.I. 1999/1748](#), [art. 4\(2\)](#), [Sch. 3 Pts. II, III paras. 5-9](#)

44 Expenses.

All expenses incurred in the maintenance of prisons and prisoners and all other expenses of the Secretary of State under this Act shall be defrayed out of moneys provided by Parliament.

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

Textual Amendments

F49 Words in s. 41B(3) added (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 16\(c\)\(iii\), 24\(2\)](#); S.S.I. 2006/48, art. 3(1), sch. Pt. 1

45 Amendments and repeals.

- (1) The enactments mentioned in Schedule 2 to this Act shall have effect subject to the amendments specified therein, being amendments consequential on the provisions of this Act.
- (2) The enactments mentioned in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Textual Amendments

F49 Words in s. 41B(3) added (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 16\(c\)\(iii\), 24\(2\)](#); S.S.I. 2006/48, art. 3(1), sch. Pt. 1

46 Short title, commencement and extent.

- (1) This Act may be cited as the Prisons (Scotland) Act 1989.
- (2) This Act shall come into force at the end of the period of three months beginning with the date on which it is passed.
- (3) This Act shall extend to Scotland only.]

Textual Amendments

F49 Words in s. 41B(3) added (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 16\(c\)\(iii\), 24\(2\)](#); S.S.I. 2006/48, art. 3(1), sch. Pt. 1

Changes to legislation:

There are currently no known outstanding effects for the Prisons (Scotland) Act 1989, Cross
Heading: Miscellaneous.