

1989 No. 331

**YOUNG OFFENDER INSTITUTIONS
ENGLAND AND WALES**

**The Young Offender Institution (Amendment) Rules
1989**

<i>Made</i> - - - -	<i>6th March 1989</i>
<i>Laid before Parliament</i>	<i>10th March 1989</i>
<i>Coming into force</i>	<i>1st April 1989</i>

In exercise of the powers conferred upon me by section 47 of the Prison Act 1952(a), I hereby make the following Rules:

1. These Rules may be cited as the Young Offender Institution (Amendment) Rules 1989 and shall come into force on 1st April 1989.

2. The Young Offender Institution Rules 1988(b) shall be amended as follows:-

(a) for rules 50 to 60 there shall be substituted-

"Offences against discipline

50. An inmate is guilty of an offence against discipline if he-

- (1) commits any assault;
- (2) detains any person against his will;
- (3) denies access to any part of the young offender institution to any officer;
- (4) fights with any person;
- (5) intentionally endangers the health or personal safety of others or, by his conduct, is reckless whether such health or personal safety is endangered;
- (6) intentionally obstructs an officer in the execution of his duty;
- (7) escapes or absconds from a young offender institution or from legal custody;
- (8) fails-
 - (a) to return to a young offender institution when he should return after being temporarily released under rule 6 of these Rules, or
 - (b) to comply with any condition upon which he was so released;

(a) 1952 c.52; section 47 was extended by section 23(2) of the Criminal Justice Act 1961 (c.39), section 13(5) of the Criminal Justice Act 1982 (c.48) and paragraph 14 of Schedule 8 to the Criminal Justice Act 1988 (c.33); and amended by Schedule 4 to the Criminal Justice Act 1961, section 66(5) of the Criminal Justice Act 1967 (c.80), paragraph 33 of Schedule 8 to the Courts Act 1971 (c.23) and paragraph 7 of Schedule 14 to the Criminal Justice Act 1982. Section 47 of the 1952 Act was also affected by an amendment to section 52(2) of that Act by section 66(4) of the Criminal Justice Act 1967. Paragraph 1 of Schedule 8 to the Criminal Justice Act 1988 contains amendments affecting these provisions.

(b) S.I. 1988/1422.

- (9) has in his possession—
 - (a) any unauthorised article, or
 - (b) a greater quantity of any article than he is authorised to have;
- (10) sells or delivers to any person any unauthorised article;
- (11) sells or, without permission, delivers to any person any article which he is allowed to have only for his own use;
- (12) takes improperly any article belonging to another person or to a young offender institution;
- (13) intentionally or recklessly sets fire to any part of a young offender institution or any other property, whether or not his own;
- (14) destroys or damages any part of a young offender institution or any other property other than his own;
- (15) absents himself from any place where he is required to be or is present at any place where he is not authorised to be;
- (16) is disrespectful to any officer or any person visiting a young offender institution;
- (17) uses threatening, abusive or insulting words or behaviour;
- (18) intentionally fails to work properly or, being required to work, refuses to do so;
- (19) disobeys any lawful order;
- (20) disobeys or fails to comply with any rule or regulation applying to him;
- (21) in any way offends against good order and discipline;
- (22) (a) attempts to commit,
 - (b) incites another inmate to commit, or
 - (c) assists another inmate to commit or to attempt to commit any of the foregoing offences.

Disciplinary charges

51.—(1) Where an inmate is to be charged with an offence against discipline, the charge shall be laid as soon as possible and, save in exceptional circumstances, within 48 hours of the discovery of the offence.

(2) An inmate who is to be charged with an offence against discipline may be kept apart from other inmates pending adjudication.

(3) Every charge shall be inquired into, in the first instance, by the governor.

(4) Every charge shall be first inquired into not later, save in exceptional circumstances, than the next day, not being a Sunday or public holiday, after it is laid.

Rights of inmates charged

52.—(1) Where an inmate is charged with an offence against discipline, he shall be informed of the charge as soon as possible and, in any case, before the time when it is inquired into by the governor.

(2) At any inquiry into charge against an inmate he shall be given a full opportunity of hearing what is alleged against him and of presenting his own case.

Governor's punishments

53.—(1) If he finds an inmate guilty of an offence against discipline the governor may, subject to rule 60 of these Rules, impose one or more of the following punishments:

- (a) caution;
- (b) forfeiture for a period not exceeding 14 days of any of the privileges under rule 7 of these Rules;

- (c) removal for a period not exceeding 14 days from any particular activity or activities of the young offender institution, other than education, training courses, work and physical education in accordance with rules 34, 35, 36, 37 and 38 of these Rules;
- (d) extra work outside the normal working week for a period not exceeding 14 days and for not more than 2 hours on any day;
- (e) stoppage of earnings for a period not exceeding 14 days;
- (f) confinement to a cell or room for a period not exceeding 3 days;
- (g) removal from his wing or living unit for a period not exceeding 14 days;
- (h) forfeiture of remission of sentence of a period not exceeding 28 days.

(2) If an inmate is found guilty of more than one charge arising out of an incident punishments under this rule may be ordered to run consecutively.

Referrals to the Board of Visitors

54.—(1) Where, at an inquiry held pursuant to rule 51(3) of these Rules, the governor decides that, if the inmate were found guilty, the punishments provided under rule 53 of these Rules would, having regard to the nature and circumstances of the offence, be inadequate, he may refer the charge to the board of visitors.

(2) Where a charge is referred to the board of visitors under this rule, the chairman thereof shall summon a special meeting at which not more than 5 nor fewer than 2 members shall be present.

(3) The board so constituted shall inquire into the charge, and, if they find the inmate guilty, may, subject to rule 60 of these Rules, impose one or more of the following punishments:

- (a) caution;
- (b) forfeiture for a period not exceeding 28 days of any of the privileges under rule 7 of these Rules;
- (c) removal for a period not exceeding 28 days from any particular activity or activities of the young offender institution other than training courses, work, education and physical education in accordance with rules 34, 35, 36, 37 and 38 of these Rules;
- (d) extra work outside the normal working week for a period not exceeding 28 days and for not more than 2 hours on any day;
- (e) stoppage of earnings for a period not exceeding 28 days;
- (f) confinement to a cell or room for a period not exceeding 7 days;
- (g) removal from his wing or living unit for a period not exceeding 28 days;
- (h) forfeiture of remission of sentence of a period not exceeding 90 days.

(4) The Secretary of State may require any charge to which this rule applies to be referred to him, instead of to the board of visitors, and in that case an officer of the Secretary of State (not being an officer of a young offender institution) shall inquire into the charge and, if he finds the inmate guilty, may, subject to rule 60 of these Rules, impose one or more of the punishments listed in paragraph (3) of this rule.

(5) If an inmate is found guilty of more than one charge arising out of an incident, punishments may be ordered to run consecutively, but, in the case of forfeiture of remission of sentence, the total period forfeited shall not exceed 135 days.

Stoppage of earnings

55. A punishment of stoppage of earnings may, instead of forfeiting all an inmate's earnings for a specified period not exceeding 14, 28 or 56 days, as the case may be, be expressed so as to forfeit a proportion (not being less than one-half) of his earnings for a specified period not exceeding a correspondingly greater number of days.

Confinement to a cell or room

56.—(1) No punishment of confinement to a cell or room shall be imposed unless the medical officer has certified that the inmate is in a fit state of health to be so dealt with.

(2) No cell or room shall be used as a detention cell or room for the purpose of a punishment of confinement to a cell or room unless it has been certified by an officer of the Secretary of State (not being an officer of a young offender institution) that it is suitable for the purpose; that its size, lighting, heating, ventilation and fittings are adequate for health; and that it allows the inmate to communicate at any time with an officer.

Removal from wing or living unit

57. Following the imposition of a punishment of removal from his wing or living unit, an inmate shall be accommodated in a separate part of the young offender institution under such restrictions of earnings and activities as the Secretary of State may direct.

Suspended punishments

58.—(1) Subject to any directions of the Secretary of State, the power to impose a disciplinary punishment (other than a caution) shall include a power to direct that the punishment is not to take effect unless, during a period specified in the direction (not being more than 6 months from the date of the direction), the inmate commits another offence against discipline and a direction is given under paragraph (2) below.

(2) Where an inmate commits an offence against discipline during the period specified in a direction given under paragraph (1) above, the person or board dealing with that offence may—

- (a) direct that the suspended punishment shall take effect; or
- (b) reduce the period or amount of the suspended punishment and direct that it shall take effect as so reduced; or
- (c) vary the original direction by substituting for the period specified therein a period expiring not later than 6 months from the date of variation; or
- (d) give no direction with respect to the suspended punishment.

Remission and mitigation of punishments and quashing of findings of guilt

59.—(1) The Secretary of State may quash any finding of guilt and may remit a disciplinary punishment or mitigate it either by reducing it or by substituting a punishment which is, in his opinion, less severe.

(2) Subject to any directions of the Secretary of State, the governor may remit or mitigate any punishment imposed by a governor and a board of visitors may remit or mitigate any punishment.

Adult female inmates: disciplinary punishments

60.—(1) In the case of a female inmate aged 21 years or over who is serving a sentence of imprisonment or who has been committed to prison for default—

- (i) rule 53 of these Rules shall not apply, but the governor may, if he finds the inmate guilty of an offence against discipline, impose one or more of the following punishments:
 - (a) caution;
 - (b) forfeiture for a period not exceeding 28 days of any of the privileges under rule 7 of these Rules;
 - (c) removal for a period not exceeding 14 days from any particular activity or activities of the young offender institution, other than education, training courses, work and physical education in accordance with rules 34, 35, 36, 37 and 38 of these Rules;

- (d) extra work outside the normal working week for a period not exceeding 14 days and for not more than 2 hours on any day;
- (e) stoppage of earnings for a period not exceeding 28 days;
- (f) confinement to a cell or room for a period not exceeding 3 days;
- (g) forfeiture of remission of sentence of a period not exceeding 28 days;

(ii) rule 54(3) of these Rules shall not apply, but if the board of visitors find the inmate guilty of an offence against discipline, they may impose one or more of the following punishments—

- (a) caution;
- (b) forfeiture for any period of the privileges under rule 7 of these Rules;
- (c) stoppage of earnings for a period not exceeding 56 days;
- (d) confinement to a cell or room for a period not exceeding 56 days;
- (e) forfeiture of remission of sentence of a period not exceeding 120 days.

(2) An officer of the Secretary of State acting under rule 54(4) of these Rules may, if he finds an inmate to whom this rule applies guilty of an offence against discipline, impose one or more of the punishments specified in subparagraph (ii) above.

(3) If an inmate is found guilty of more than one charge arising out of an incident, punishments under this rule may be ordered to run consecutively, but in the case of forfeiture of remission of sentence, the total period forfeited shall not exceed 180 days.”;

(b) in rule 73—

(i) after the words “Prison Act 1952 shall” in paragraph (1) there shall be inserted “subject to paragraph (1A) below,”,

(ii) after paragraph (1) there shall be inserted—

“(1A) The Secretary of State may terminate the appointment of a member if satisfied that—

- (a) he has failed satisfactorily to perform his duties,
- (b) he is by reason of physical or mental illness, or for any other reason, incapable of carrying out his duties, or
- (c) he has been convicted of such a criminal offence, or his conduct has been such, that it is not in the Secretary of State’s opinion fitting that he should remain a member.”, and

(iii) for paragraphs (3) and (4) there shall be substituted—

“(3) Subject to paragraph (2) above, at their first meeting in any year of office the Board shall appoint one of their members to be chairman and one to be vice-chairman for that year and thereafter shall fill any casual vacancy in either office promptly.

(4) The vice-chairman’s term of office shall come to an end when, for whatever reason, that of the chairman comes to an end.”;

(c) there shall be deleted from rule 75(4) the words from “knowledge” to the end.

Home Office
6th March 1989

Douglas Hurd
One of Her Majesty’s Principal Secretaries of State

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Young Offender Institution Rules 1988 to make new provision for offences against discipline (rule 2(a)). In particular the offences of mutiny, doing gross personal violence, making a false and malicious allegation against an officer and repeatedly making groundless complaints are abolished and new offences of detaining a person against his wish, denying an officer access to part of a young offender institution, fighting, intentionally endangering the health or personal safety of another, obstructing an officer and intentionally or recklessly starting a fire are created. They also amend some of the rules relating to the constitution and functions of boards of visitors (rule 2(b) and (c)).

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