
STATUTORY INSTRUMENTS

1994 No. 3195

PRISONS

The Prison (Amendment) Rules 1994

Made - - - - *10th December 1994*
Laid before Parliament *16th December 1994*
Coming into force - - *9th January 1995*

In exercise of the powers conferred upon me by section 47 of the Prison Act 1952(1), I hereby make the following rules:

1. These Rules may be cited as the Prison (Amendment) Rules 1994 and shall come into force on 9th January 1995.
2. The Prison Rules 1964(2) shall have effect subject to the amendments set out in the Schedule to these Rules.

Home Office
10th December 1994

Michael Howard
One of Her Majesty's Principal Secretaries of
State

(1) 1952 c. 52; section 47 was affected by an amendment to section 52(2) of that Act by section 66(4) of the Criminal Justice Act 1967 (c. 80) and was extended by section 85(2) and (4) of the Criminal Justice Act 1991 (c. 53) and by section 16A of the Prison Act 1952 (as inserted by section 151 of the Criminal Justice and Public Order Act 1994 (c. 33)).

(2) S.I. 1964/388; relevant amending instruments are S.I. 1989/330 (which substituted a new rule 47) and 1992/514 (which inserted a new rule 98A).

SCHEDULE

Rule 2

AMENDMENTS TO THE PRISON RULES 1964

1. After rule 46 there shall be inserted the following rule:

“Compulsory Testing for Controlled Drugs

46A.—(1) This rule applies where an officer, acting under the powers conferred by section 16A of the Prison Act 1952 (power to test prisoners for drugs)(**3**), requires a prisoner to provide a sample for the purpose of ascertaining whether he has any controlled drug in his body.

(2) In this rule “sample” means a sample of urine or any other description of sample specified in the authorisation by the governor for the purposes of section 16A.

(3) When requiring a prisoner to provide a sample, an officer shall, so far as is reasonably practicable, inform the prisoner:

- (a) that he is being required to provide a sample in accordance with section 16A of the Prison Act 1952; and
- (b) that a refusal to provide a sample may lead to disciplinary proceedings being brought against him.

(4) An officer shall require a prisoner to provide a fresh sample, free from any adulteration.

(5) An officer requiring a sample shall make such arrangements and give the prisoner such instructions for its provision as may be reasonably necessary in order to prevent or detect its adulteration or falsification.

(6) A prisoner who is required to provide a sample may be kept apart from other prisoners for a period not exceeding one hour to enable arrangements to be made for the provision of the sample.

(7) A prisoner who is unable to provide a sample of urine when required to do so may be kept apart from other prisoners until he has provided the required sample, save that a prisoner may not be kept apart under this paragraph for a period of more than 5 hours.

(8) A prisoner required to provide a sample of urine shall be afforded such degree of privacy for the purposes of providing the sample as may be compatible with the need to prevent or detect any adulteration or falsification of the sample; in particular a prisoner shall not be required to provide such a sample in the sight of a person of the opposite sex.”

2. In rule 47 (offences against discipline), the following paragraph shall be substituted for paragraph (3):

“(3) denies access to any part of the prison to any officer or any person (other than a prisoner) who is at the prison for the purpose of working there;”.

3. In rule 47 the following paragraph shall be substituted for paragraph (6):

“(6) intentionally obstructs an officer in the execution of his duty, or any person (other than a prisoner) who is at the prison for the purpose of working there, in the performance of his work;”.

4. In rule 47 the following paragraph shall be added after paragraph (8):

“(8A) administers a controlled drug to himself or fails to prevent the administration of a controlled drug to him by another person (but subject to rule 47A below);”.

(3) As inserted by section 151 of the Criminal Justice and Public Order Act 1994 (c. 33).

5. In rule 47 the following paragraph shall be substituted for paragraph (16):

“(16) is disrespectful to any officer, or any person (other than a prisoner) who is at the prison for the purpose of working there, or any person visiting a prison;”.
6. The following rule shall be inserted after rule 47:

“**47A.** It shall be a defence for a prisoner charged with an offence under rule 47(8A) to show that:

 - (a) the controlled drug had been, prior to its administration, lawfully in his possession for his use or was administered to him in the course of a lawful supply of the drug to him by another person;
 - (b) the controlled drug was administered by or to him in circumstances in which he did not know and had no reason to suspect that such a drug was being administered; or
 - (c) the controlled drug was administered by or to him under duress or to him without his consent in circumstances where it was not reasonable for him to have resisted.”.
7. In rule 98A(1):
 - (a) for the words “shall apply to that prison” there shall be substituted the words “shall have effect in relation to that prison”;
 - (b) at the end of sub-paragraph (c) there shall be added the words “in relation to a prisoner custody officer certified as such under section 89(1) of the 1991 Act and performing custodial duties”.
8. After rule 98A there shall be inserted the following rules:

“Contracted out parts of prisons

98B. Where the Secretary of State has entered into a contract for the running of part of a prison under section 84(1) of the Criminal Justice Act 1991(4), that part and the remaining part shall each be treated for the purposes of Parts I to III and Part V of these Rules as if they were separate prisons.

Contracted out functions at directly managed prisons

98C.—(1) Where the Secretary of State has entered into a contract under section 88A(1) of the Criminal Justice Act 1991(5) (“the 1991 Act”) for any functions at a directly managed prison to be performed by prisoner custody officers who are authorised to perform custodial duties under section 89(1) of the 1991 Act, references to an officer in these Rules shall, subject to paragraph (2) below, include references to a prisoner custody officer who is so authorised and who is performing contracted out functions for the purposes of, or for purposes connected with, the prison.

 - (2) Paragraph (1) shall not apply to references to an officer in rule 84.
 - (3) In this rule, “directly managed prison” has the meaning assigned to it by section 88A(5) of the 1991 Act.”.
9. In rule 99 (interpretation), in paragraph (1), the following definition shall be inserted before the definition of a “convicted prisoner”:

(4) Section 84 was substituted by section 96 of the Criminal Justice and Public Order Act 1994 (c. 33).

(5) Section 88A was inserted by section 99 of the Criminal Justice and Public Order Act 1994.

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““controlled drug” means any drug which is a controlled drug for the purposes of the Misuse of Drugs Act 1971(6)

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Prison Rules 1964 (“the 1964 Rules”), as amended.

They make three separate groups of changes. First, they make provision for the collection of samples from prisoners for the purposes of conducting tests for the presence of controlled drugs and also introduce a new disciplinary offence of (when read with its defences) misusing a controlled drug. Secondly, they extend the scope of three existing disciplinary offences. Thirdly, they make a number of amendments which are expedient in the light of changes made to the arrangements for the contracting out of prisons and of functions performed within prisons by Chapter 1 of Part VIII of the Criminal Justice and Public Order Act 1994.

Amendments relating to controlled drugs

The amendments concerned are set out in paragraphs 1,4,6 and 9 of the Schedule.

Paragraph 1 sets out certain procedures which must or may be followed where an officer requires a prisoner to provide a sample under the powers conferred by section 16A of the Prison Act 1952 (power to test prisoners for drugs) as inserted by section 151 of the Criminal Justice and Public Order Act 1994. Paragraph 4 of the Schedule inserts a new disciplinary offence into rule 47 of the 1964 Rules (offences against discipline) which, when read with the express defences to a charge under the offence created by the new rule 47A inserted by paragraph 6 of the Schedule, penalises misuse of a controlled drug. Paragraph 9 makes a consequential amendment to rule 99 (interpretation).

Amendments extending existing disciplinary offences

The amendments concerned are set out in paragraphs 2, 3 and 5 of the Schedule. These amend three paragraphs of rule 47 of the 1964 Rules (offences against discipline). For each of three existing disciplinary offences which penalise certain conduct by a prisoner in relation to an officer, the scope of the offence is extended to cover the same conduct in relation to any other person (other than a prisoner) who is at the prison for the purpose of working there.

Amendments related to contracting out

The amendments concerned are set out in paragraphs 7 and 8 of the Schedule.

Paragraph 7 amends rule 98A(1) of the 1964 Rules so as to make it clear that references to an officer shall include references to a prisoner custody officer performing custodial duties in relation to a prisoner who is outside a contracted out prison for temporary purposes.

Paragraph 8 inserts new rules 98B and 98C into the 1964 Rules. The new rule 98B provides that, where the running of part of a prison has been contracted out, that part and the remaining part shall each be treated as if they were separate prisons. The new rule 98C provides that, where any

(6) 1971 c. 38.

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functions at a directly managed prison have been contracted out, references to an officer shall include references to a prisoner custody officer performing such functions for the purposes of, or for purposes connected with, such a prison.