
STATUTORY INSTRUMENTS

1995 No. 983

PRISONS

The Prison (Amendment) Rules 1995

<i>Made</i>	- - - -	<i>1st April 1995</i>
<i>Laid before Parliament</i>		<i>4th April 1995</i>
<i>Coming into force</i>	- -	<i>25th April 1995</i>

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 1995 and shall come into force on 25th April 1995.

2. The Prison Rules 1964(2) shall have effect subject to the amendments set out in the Schedule to these Rules.

3.—(1) Without prejudice to the operation of the Interpretation Act 1978(3), where, prior to the coming into force of these Rules, a prisoner has been temporarily released under rule 6 of the Prison Rules 1964 as then in force and is still at large at the moment these Rules come into force, he shall be deemed, after the coming into force of these Rules, to have been released under rule 6 of the Prison Rules 1964 as substituted by paragraph 2 of the Schedule to these Rules, notwithstanding the fact (if it be the case) that he would not have qualified for release under rule 6 as so substituted.

(2) Without prejudice to the operation of the Interpretation Act 1978, references in the following provisions of the Prison Rules 1964, however expressed, to rule 6 of those Rules shall be construed as including a reference to rule 6 of those Rules as in force prior to the coming into force of these Rules: rules 6(5)(b) and (6) (as substituted by these Rules) and 47(8).

4. Paragraphs 3 and 4 of the Schedule shall not apply in relation to offences against discipline committed before the coming into force of these Rules.

(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 sections 42, 85(2) and 85(4) of the Criminal Justice Act 1991 (c. 53).
(2) S.I. 1964/388; relevant amending instruments are S.I. 1971/2019, 1989/330, 1989/2141, 1992/514, 1992/2080 and 1993/3075.
(3) 1978 c. 30.

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Home Office
1st April 1995

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

SCHEDULE

Rule 2

AMENDMENTS TO THE PRISON RULES 1964

1. In rule 3 (classification of prisoners), the following paragraph shall be substituted for paragraph (2):

“(2) Unconvicted prisoners:

- (a) shall be kept out of contact with convicted prisoners as far as the governor considers this can reasonably be done, unless and to the extent that they have consented to share residential accommodation or participate in any activity with convicted prisoners; and (b) shall under no circumstances be required to share a cell with a convicted prisoner.”.

2. For rule 6 (temporary release) there shall be substituted the following rule:

“Temporary release

6.—(1) The Secretary of State may, in accordance with the other provisions of this rule, release temporarily a prisoner to whom this rule applies.

(2) A prisoner may be released under this rule for any period or periods and subject to any conditions.

(3) A prisoner may only be released under this rule:

- (a) on compassionate grounds or for the purpose of receiving medical treatment;
- (b) to engage in employment or voluntary work;
- (c) to receive instruction or training which cannot reasonably be provided in the prison;
- (d) to enable him to participate in any proceedings before any court, tribunal or inquiry;
- (e) to enable him to consult with his legal adviser in circumstances where it is not reasonably practicable for the consultation to take place in the prison;
- (f) to assist any police officer in any enquiries;
- (g) to facilitate the prisoner’s transfer between prisons;
- (h) to assist him in maintaining family ties or in his transition from prison life to freedom; or
- (i) to enable him to make a visit in the locality of the prison, as a reward for good behaviour or performance.

(4) A prisoner shall not be released under this rule unless the Secretary of State is satisfied that there would not be an unacceptable risk of his committing offences whilst released or otherwise of his failing to comply with any condition upon which he is released.

(5) The Secretary of State shall not release under this rule a prisoner serving a sentence of imprisonment if, having regard to:

- (a) the period or proportion of his sentence which the prisoner has served; and
- (b) the frequency with which the prisoner has been granted temporary release under this rule, the Secretary of State is of the opinion that the release of the prisoner would be likely to undermine public confidence in the administration of justice.

(6) If a prisoner has been temporarily released under this rule during the relevant period and has been sentenced to imprisonment for a criminal offence committed whilst at large following that release, he shall not be released under this rule unless his release, having

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regard to the circumstances of his conviction, would not, in the opinion of the Secretary of State, be likely to undermine public confidence in the administration of justice; and for this purpose “the relevant period”:

- (a) in the case of a prisoner serving a determinate sentence of imprisonment, is, if the prisoner has previously been released on licence under Part II of the Criminal Justice Act 1991⁽⁴⁾ during that sentence, the period since the date of his last recall or return to prison in respect of that sentence or, where the prisoner has not been so released, the period he has served in respect of that sentence;
- (b) in the case of a prisoner serving an indeterminate sentence of imprisonment, is, if the prisoner has previously been released on licence under Part II of the Criminal Justice Act 1991, the period since the date of his last recall to prison in respect of that sentence or, where the prisoner has not been so released, the period he has served in respect of that sentence, or
- (c) in the case of a prisoner detained in prison for any other reason, is the period for which the prisoner has been detained for that reason, save that where a prisoner falls within two or more of sub-paragraphs (a) to (c) above, the “relevant period”, in the case of that prisoner, shall be determined by whichever of the applicable sub-paragraphs that produces the longer period.

(7) A prisoner released under this rule may be recalled to prison at any time whether the conditions of his release have been broken or not.

(8) This rule applies to prisoners other than persons committed in custody for trial or to be sentenced or otherwise dealt with before or by the Crown Court or remanded in custody by any court.

(9) For the purposes of any reference in this rule to a prisoner’s sentence, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term; in addition in this rule:

- (a) any reference to a sentence of imprisonment shall be construed as including any sentence to detention or custody; and
- (b) any reference to release on licence under Part II of the Criminal Justice Act 1991 includes any release on licence under any earlier legislation providing for early release on licence.”.

3. In rule 50 (governor’s punishments):

- (a) in paragraph (1):
 - (i) in sub-paragraph (b) (forfeiture of privileges) for the words “28 days” there shall be substituted the words “42 days”;
 - (ii) in sub-paragraph (c) (exclusion from associated work) for the words “14 days” there shall be substituted the words “21 days”;
 - (iii) in sub-paragraph (d) (stoppage of or deduction from earnings) for the words “56 days” there shall be substituted the words “84 days” and for the words “28 days’ earnings” there shall be substituted the words “42 days’ earnings”;
 - (iv) in sub-paragraph (f) (additional days) for the words “28 days” there shall be substituted the words “42 days”;
- (b) in paragraph (2) (total of consecutive punishments) for the words “28 days” there shall be substituted the words “42 days”.

4. In rule 52(1) (offences committed by young persons):

(4) 1991 c. 53.

- (a) in sub-paragraph (a)(i) (forfeiture of privileges) for the words “14 days” there shall be substituted the words “21 days”; and
 - (b) in sub-paragraph (a)(ii) (stoppage of or deduction from earnings) for the words “28 days” there shall be substituted the words “42 days” and for the words “14 days” there shall be substituted the words “21 days”.
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EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Prison Rules 1964 (“the 1964 Rules”), as amended. Paragraph 1 of the Schedule makes certain exceptions to the principle that unconvicted prisoners should be kept out of contact with convicted prisoners. Paragraph 2 of the Schedule substitutes a new rule 6 which makes more detailed provision for temporary release of prisoners (which substitution is subject to certain transitional provisions set out in rule 3 of these Rules). Paragraphs 3 and 4 of the Schedule increase the powers of governors in relation to disciplinary offences committed by prisoners (but by virtue of rule 4 of these Rules do not apply in relation to offences committed before the coming into force of these Rules).