

NORTHERN IRELAND PRISON SERVICE

PRISON RULES

NOTE

This text of the Prison and Young Offenders Centre Rules (Northern Ireland) 1995 is a consolidated version of the Rules as in force on 3 May 2005 showing the effects of amendments made since the revised Rules published in 1995, SR2004 No.4, SR2008 No.452 and SR2009 No.429 and The Northern Ireland Act 1998 (Devolution of Policing and Justice Function) Order 2010. In this version amendments are shown in bold print and underlined with annotations provided.

STATUTORY RULES OF NORTHERN IRELAND

1995 NO.8

PRISONS AND YOUNG OFFENDERS CENTRES

The Prison and Young Offenders Centres Rules (Northern Ireland) 1995

Made 10th January 1995
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SCHEDULE

Prisons

The Secretary of State in pursuance of section 13 of the Prison Act (Northern Ireland) 1953(a), as extended by section 2 of the Treatment of Offenders Act (Northern Ireland) 1968(b), hereby makes the following rules-

-
- (a) 1953 c. 18 (N.I.) as modified by S.I. 1973/2163 (1973 III, p. 7541)
 - (b) 1968 c. 29 (N.I.) as modified by S.I. 1973/2163

PART I

PRELIMINARY

Citation and commencement

1. These rules may be cited as the Prison and Young Offenders Centre Rules (Northern Ireland) 1995 and shall come into operation on 1st March 1995.

General principals

- 2.- (1) These rules are made with regard to the following general principles-
- (a) All prisoners committed by the courts shall be held safely and securely for the protection of the community and in the interests of justice;
 - (b) The treatment of prisoners shall be such as to sustain their self-respect, **health and well-being** and to encourage them to develop a sense of personal responsibility;
 - (c) Prisoners' living conditions shall be compatible with human dignity and acceptable standards in the community;
 - (d) Prisoners will be offered to use their time constructively while in prison and will be encouraged to do so;
 - (e) Each prisoner will be considered individually and where appropriate will be able to contribute to decisions regarding how he spends his time while in prison;
 - (f) Facilities and privileges shall be made available to prisoners, individually or as members of a class, without discrimination on the basis of race, colour, sex, **religion**, language, political opinion, national or other origin, birth, economic or other status;
 - (g) Where a decision is taken which affects the conditions of imprisonment of a prisoner, or a class or prisoners, the reasons for that decision will be made available;
 - (h) Order and discipline in prison shall be maintained at all times with firmness and fairness but with no more restriction than is necessary for safe custody and well-ordered community life;
 - (i) Prisoners shall be given facilities to maintain links with their families and encouraged to do so and assisted in other respects to prepare themselves for eventual release;
 - (j) Prisoners retain all rights and privileges except those removed as a necessary consequence of their imprisonment;
 - (k) Information will be made available to prisoners to enable them to understand the prison regime and to make use of the facilities available under it.

(2) These principles, taken together, are intended as a guide to the interpretation and application of the rules.

Annotation

Rule 2(f) - the criterion of "religion" is inserted by the 1997 Amendment Rules.
Rule 2(1)(b) amended by SR2009 No.429

Application

- 3.- (1) These rules shall apply to all prisoners held in lawful custody.
- (2) The rules shall apply to women prisoners subject to Part X.
- (3) The rules shall apply to inmates held in a young offenders centre subject to Part XI.
- (4) The rules shall apply to untried prisoners subject to Part XII.
- (5) The rules shall apply to prisoners committed for contempt or otherwise lawfully detained without conviction subject to Part XIII.
- (6) These Rules shall apply to separated prisoners, subject to Part XIII A**
- (7) Rules 79E to 79H (complaints by former prisoners) and rules 79I to 79N (complaints to the Ombudsman) apply to former prisoners.**

Annotation

Rule 3(6) – The 2004 Amendment Rules inserts this new Rule to make arrangements in relation to separated prisoners.

Rule 3(7) – The 2005 Amendment Rules inserts this new Rule to make arrangements in relation to a new prisoner complaints system for both serving and former prisoners.

Interpretation

- 4.- (1) In these rules –
- “the Act” means the Prison Act (Northern Ireland) 1953;
- “the 1997 Order” means the Prescription Only Medicines (Human Use) Order 1997;**
- “Assistant Director of Prison Health Care” means the officer of the relevant Health and Social Care trust with responsibility for prison health care;**
- “the Board” means the Regional Health and Social Care Board established under the Health and Social Care (Reform) Act (Northern Ireland) 2009;**
- “centre” means a young offenders centre provided under section 2(a) of the Treatment of Offenders Act (Northern Ireland) 1968;
- “chaplain” means a minister of any religious denomination appointed under section 9(1) of the Act;
- “chief medical officer” means the chief medical officer of the Department of Health and Social Services;
- “code of conduct” means any code of conduct approved by the **Department of Justice** under rule 6;
- “Commissioner”** means a Commissioner appointed under section 2(2) of the Act, for the purpose of hearing referrals under rule 109B;

“communication” includes any written or drawn communication between a prisoner and any other person, whether intended to be transmitted by means of a postal service or not, and any communication between a prisoner and any other person transmitted by means of a telecommunications system.

“complaint form” means a form made available to prisoners for the purpose of submitting a complaint under part VIII of these rules;

“foreign national” does not include a citizen of the Republic of Ireland;

“former prisoner” means a prisoner, within the meaning of the rules who has been permanently released;

“the governor” means the governing governor of a prison whether or not present at the prison;

“a governor” means any governor and includes an officer acting with authority under rule 117(2) or rule 117(3);

“Health and Social Care trust” means **a Health and Social Care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991;**

“health care manager” means **the officer who is in charge of the health care unit in a prison;**

“health care officer” means **a person who has received specialist training in order to provide health care to prisoners;**

“health care professional” means **a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002;**

“health care unit” means **the unit in a prison where health care is provided to prisoners;**

“independent monitoring board” means a group of independent monitors appointed for a prison, young offenders centre or remand centre under section 10 of the Act;

“inmate” means a person required to be detained in a young offenders centre;

“intercepted material” means the contents of any communication intercepted pursuant to these Rules.

“legal adviser” means , in relation to a prisoner, the prisoner’s counsel or solicitor and includes an accredited clerk acting on behalf of a solicitor;

“member of the Senior Civil Service” means **a member of either the Home Civil Service or of the Northern Ireland Civil Service who is classified as a member of the Senior Civil Service and who works in the Northern Ireland Prison Service;**

“nurse independent prescriber” has the same meaning as in article 1(2) of **the 1997 Order;**

“officer” means an officer of a prison;

“the Ombudsman” means the person appointed under section 2(2) of the Act to act as the Prisoner Ombudsman for Northern Ireland;

“the Ombudsman’s staff” means persons employed in the **Department of Justice** to assist the Ombudsman;

“pharmacist independent prescriber” has the same meaning as in article 1(2) of the 1997 Order;

“prescription only medicine” has the same meaning as in article 1(2) of the 1997 Order,

“prisoner” means any person to be detained in a prison;

“privilege” means any of the privileges under rule 10;

“public holiday” means any holiday which is published by means of a Circular Instruction made by the *Department of Justice* and includes bank and privilege holidays;

“registered general practitioner” mean a registered medical practitioner whose name is included on the General Practitioner Register kept by the General Medical Council;

“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practice under that Act;

“registered nurse” means a nurse registered under Article 5 of the Nursing and Midwifery Order 2002;

“residential manager” means an officer who is normally required by the governor to supervise a residential unit;

“residential officer” means an officer who is normally required by the governor to work in a residential unit;

“separated prisoner” means a prisoner *whom the Secretary of State has decided is to be accommodated in separated conditions on the grounds of security, safety or good order and who is so accommodated;*

“telecommunications system” means any system (including the apparatus comprised in it) which exists for the purpose of facilitating the transmission of communications by any means involving the use of electrical or electro-magnetic energy.

Annotation

Rule 4 - The three new definitions of “communication”, “intercepted material” and “telecommunication system” are inserted by the 2001 RIPA Amendment Rules to comply with the RIPA and European Council Directive 97/66/EC on the interception of telecommunications.

Rule 4 - The two new definitions of “Commissioner” and “separated prisoner” are inserted by the 2004 Amendment Rules for the purpose of making arrangements for separated prisoners.

Rule 4 – Five new definitions of “complaint form”, “former prisoner”, “member of the Senior Civil Service”, “the Ombudsman”, and “the Ombudsman’s staff” are inserted by the 2005 Amendment Rules for the purpose of making arrangements for a new prisoner complaints system. A new definition of “registered nurse” is also inserted by the 2005 Amendment Rules to make it possible for certain functions of a medical officer to be carried out by a registered nurse.

Rule 4 – New definitions are inserted and the term “medical officer” omitted by SR2009 No.429.

Amended by SI 2010 No.976

Prisons

- 5.- (1) The ***Department of Justice*** may, in pursuance of section 1 of the Act:-
- (a) declare that any premises, building, enclosure or place shall be a prison;
 - (b) alter the boundaries of any prison;
 - (c) amend or revoke any such declaration.

(2) The prisons specified in the Schedule to these Rules are hereby declared to be prisons for the purposes of the Act and of these rules.

Amended by SI 2010 No.976

Code of Conduct

6. The ***Department of Justice*** may approve a code, or codes, of conduct to have effect in relation to the conduct, duties and discipline of the staff of prisons.

Amended by SI 2010 No.976

Application of these rules during an emergency

7. – (1) Where there is an emergency affecting the safe and secure operation of a prison, or prisons, the ***Department of Justice*** may declare an emergency and direct that these rules shall only have effect to the extent consistent with action taken with regard to that emergency.

(2) Where any constable or other person, not being an officer, is employed by reason of any emergency to assist the governor of a prison by performing duties ordinarily performed by an officer, any reference in these rules to an officer, except in parts XIV and XV, shall be treated as including a reference to a constable or other person so employed.

(3) In paragraph (1) the reference to these rules does not include rules 50A, 73A, 79A and 109ZA.

Amended by SI 2010 No.976

Revocation

8. The Prison Rules (Northern Ireland) 1982, The Young Offenders Centre Rules (Northern Ireland) 1982, **The Prison Rules (Northern Ireland) 1983**, The Prison (Amendment) Rules (Northern Ireland) 1983, **The Young Offenders Centre Rules (Northern Ireland) 1983** and The Young Offenders Centre (Amendment) Rules (Northern Ireland) 1983 are revoked.

Annotation

Rule 8 - The 1995 Amendment Rules amend the list of revoked Rules by adding to that list the Prison Rules (Northern Ireland) 1983 and the Young Offenders Centre Rules (Northern Ireland) 1983.

PART II

CLASSIFICATION, PRIVILEGES AND ACCOMMODATION

Classification

9.- (1) Prisoners shall be classified in accordance with any directions made by the **Department of Justice**, having regard to their age, offence, length of sentence, previous record, conduct in prison or while on temporary release under rule 27 and the requirements of security, good order and discipline at the prison in which they are confined.

(2) A prisoner may be re-classified following a review by the governor taking into account any of the matters set out in paragraph (1).

(3) A prisoner shall not be re-classified as a punishment for an offence against discipline.

(4) Prisoners may be located in such part of the prison as the governor may determine by reference to their classification and any other factors which he may decide to take into account; and may subsequently be transferred to other locations in the prison either in groups or as individuals.

(5) The classification of prisoners under this Rule will not be such as to unnecessarily deprive prisoners of the benefits of association with other persons.

Amended by SI 2010 No.976

Privileges

10.- (1) There shall be established at every prison a system or systems of privileges appropriate to the classes of prisoners held there.

(2) The system of privileges shall have regard to prisoners' personal possessions, private cash and prison earnings in addition to access to other facilities.

(3) Where an order for the forfeiture of privileges is made by a governor under Rule 39(1) of these Rules, it shall apply only to those privileges specified in the order.

Accommodation

11.- (1) Accommodation for prisoners shall be in accordance with directions approved by the **Department of Justice** and shall be of such size and be lighted, warmed, ventilated and fitted in such a manner as is requisite for health and human dignity subject to paragraph (4) of this Rule.

(2) Accommodation shall be provided with means by which prisoners locked inside may communicate at any time with an officer.

(3) Each prisoner shall have a separate room or cell, but where necessary the governor, in accordance with any directions approved by the Department of Justice, may accommodate two or more prisoners in a room or cell.

(4) The provision of accommodation above the standard required for the preservation of health is subject to the requirements of security and good order and to the use made of the accommodation by the prisoner or prisoners.

Amended by SI 2010 No.976

Cleanliness of the prison

12.- (1) The governor shall take all practical steps to ensure the cleanliness and hygiene of all parts of the prison in which prisoners, officers and other staff live, work, or otherwise have reason to be.

(2) To this end the governor shall consult with a registered nurse or a health care officer and with the authorities responsible for environmental health and for health and safety at work.

(3) The governor may grant reasonable facilities to authorised officers of those authorities under paragraph (2) for the inspection of those parts of the prison in which they have a proper interest.

(4) An officer may direct a prisoner to clean and sweep the yards, passages and other parts of the prison.

Heating, lighting and ventilation

13. The governor shall ensure that the arrangements for heating, lighting and ventilation in the prison are satisfactory, and the provisions of rule 12(2) and 12(3) shall apply to these matters.

Beds and bedding

14. Every prisoner shall be provided with a separate bed and with separate bedding adequate for warmth and well-being.

Annotation

Rule 12(2) substitutes “medical officer” for “a registered nurse or a health care officer” SR2009 No.429

Rule 14 substitutes “health” for “well-being” SR2009 No.429

PART III

RECEPTION, TRANSFER AND DISCHARGE

General

15. No prisoner shall be received without a valid commitment order, warrant or certificate authorising his detention in custody.

Search

16. – (1) Every prisoner shall be searched on reception to prison.

(2) A prisoner may be searched before or following a visit, on any occasion on which the prisoner has come into contact with, or is likely to come into contact with, persons from outside the prison, or when his cell or property is searched.

(3) A search under paragraphs (1) and (2) may include a full search.

(4) The governor may direct that a prisoner or prisoners be searched at such other times as is considered necessary for the safety and security of the prison.

(5) Where the governor has grounds to believe that a prisoner is in possession of a prohibited or unauthorised article and that item may only be discovered by means of a full search the governor may direct that the prisoner be required to submit to a full search.

(6) A prisoner shall not be undressed, or required to undress, in the sight of another prisoner, or any persons other than the officers conducting the search, but a prisoner may be required to remove a hat, coat or overcoat.

(7) Any search for which a prisoner must undress may only be carried out by an officer of the same sex as the prisoner.

(8) Where a prisoner refuses to co-operate with a search, including a full search, such force as is necessary to effect the search may be used.

(9) This rule does not permit the search of a body cavity, but a prisoner may be required to open his mouth to permit a visual inspection.

(10) Under this rule a search of a prisoner may include a search of any prisoner's cell and property.

Prisoners' property on reception

17.- (1) Any property or clothing which a prisoner is not allowed to retain for his own use shall be taken into safe custody under the authority and responsibility of the governor.

(2) If clothing is in an infested or in a state of total disrepair it may be destroyed, in which event the details shall be recorded and the prisoner informed.

(3) Any cash which a prisoner has on reception to prison shall be paid into an account under the control of the governor and the prisoner shall be credited with the amount in the books of the prison.

(4) If a prisoner has any form of medicine in his possession on reception it shall be for **a health care professional** to decide on its use or disposal as the case may be.

(5) **In the absence of a health care professional a health care officer may perform the duty referred to in paragraph (4).**

Annotation

Rule 17(4) substitutes “the medical officer” for “a health care professional” SR2009 No.429.

Rule 17(5) SR2009 No.429.

Money and articles received at a prison

18. – (1) Any money or other article (other than a letter or other communication) sent to a prisoner through the post office or otherwise received at prison shall be dealt with in accordance with the provisions of this rule and the prisoner shall be told how it is dealt with.

- (2) Any cash shall, at the discretion of the governor, be –
 - (a) dealt with in accordance with rule 17(3); or
 - (b) returned to the sender if his name and address are known; or
 - (c) where the sender’s name and address are unknown, otherwise dealt with subject to any discretion by the Department of Justice.

provided that in relation to a prisoner committed to prison in default of payment of a sum of money, cash received at the prison shall be applied in or towards the satisfaction of the amount due from him unless the prisoner objects.

- (3) Any security for money shall, at the discretion of the governor, be –
 - (a) placed with the prisoner’s property; or
 - (b) returned to the sender if his name and address are known; or
 - (c) encashed and the cash dealt with in accordance with paragraph (2) of this rule.

- (4) Any other article to which this rule applies shall, at the discretion of the governor, be –
 - (a) delivered to the prisoner or placed with his property; or
 - (b) returned to the sender if his name and address are known; or
 - (c) if the sender’s name and address are not known or if the article is of such a nature that it would be unreasonable to return it, sold or otherwise disposed of, and the net proceeds of any sale dealt with in accordance with paragraph (2) of this rule.

Amended by SI 2010 No.976

Record, photograph and finger-prints

19. –(1) The name, age, height, weight, distinctive marks and any measurements or other particulars which may be required in regard to a prisoner shall, on his reception and subsequently as necessary, be taken and recorded in such a way as the Department of Justice may direct.

(2) A convicted prisoner may be photographed, palm-printed and finger-printed on reception and at subsequent times as may be necessary for the purposes of prison records.

(3) No copy of a photograph of a prisoner, or other personal details taken in under this rule, may be given to any person not authorised to receive them.

Amended by SI 2010 No.976

Baths

20. Every prisoner on his reception shall have a hot bath or shower as directed by the governor unless exempted by **him** from doing so.

Annotation

Rule 20 “medical officer” is omitted SR2009 No.429

Health care screening on reception

21. –(1) Subject to paragraph (2) **a registered nurse or a health care officer** shall separately examine every prisoner as early as practicable on the day of his reception and shall record the result.

(2) **Where possible an appropriate health care professional shall conduct a detailed health assessment of each prisoner within 72 hours of the examination conducted under paragraph (1).**

(4) If any prisoner is found to have any infectious disease or to be in any condition which may threaten the health or well-being of others, **a registered nurse or a health care officer** shall report the matter to the governor and **a registered general practitioner, the health care manager and the Board** and steps shall at once be taken to treat the disease or condition appropriately.

Annotation

Rule 21 the heading, paragraph (1), (2) and (4) SR2009 No.429. Paragraph (3) is omitted

Interview with governor after reception

22. The governor shall interview every prisoner as soon as practicable after his reception, and shall ensure that any relevant matters to which the prisoner may draw attention are noted and dealt with.

Information to prisoners

23. –(1) As soon as practicable after reception every prisoner shall be provided with information sufficient to enable him to understand the disciplinary and other requirements of the prison, the facilities available and the proper methods of seeking further information and of making complaints.

(2) Information provided under this rule shall be made available in writing for a prisoner to consult in his own time.

(3) In the case of a prisoner who cannot read or who for any reason has difficulty in understanding, the governor shall ensure that the necessary information has been properly explained to him.

(4) A prisoner may consult these rules at any reasonable time and a prisoner shall be informed during reception of the right to do so.

Foreign nationals

24. –(1) Foreign nationals shall be informed without delay that they may communicate with the appropriate diplomatic representative of the state to which they belong and be given reasonable facilities to do so.

(2) Refugees or stateless persons shall be given reasonable facilities to communicate with the diplomatic representative of the state which looks after their interests, or any national or international authority which serves the interests of such persons.

(3) Special arrangements shall be made to meet the needs of foreign nationals with linguistic difficulties.

Custody outside prison

25. –(1) Subject to paragraph (2) and (5) a prisoner who is directed by any court or by the *Department of Justice* to be taken to any place shall be kept in the custody of the officers ordered by the governor to take him to that place.

(2) A prisoner who is directed to be brought before a court of summary jurisdiction may be kept in the custody of police officers outside the prison.

(3) When a prisoner is being transferred to or from prison, he shall be exposed to public view as little as possible, and as far as is practicable be protected from insult, curiosity and publicity of any kind.

(4) Prisoners shall on all occasions be transported in conditions which avoid any unnecessary physical hardship or indignity.

(5) A prisoner having been removed from prison and detained in hospital shall remain under the control of the governor of that prison and may be kept in the custody of an officer, a police officer or any person to whose custody he may temporarily be committed with the approval of the governor.

Amended by SI 2010 No.976

Transfer

26. –(1) Where practicable, every prisoner shall be interviewed by the governor before transfer.

(3) If **a health care professional** is of the opinion that the prisoner is not fit to be transferred he shall inform the governor **of that opinion and shall make a record of that opinion.**

(4) Where a prisoner is transferred from one prison to another he shall be allowed reasonable facilities to inform his next-of-kin and if he is an unconvicted prisoner or engaged in litigation, his legal advisor.

Annotation

Rule 26 SR2009 No.429 paragraph (2) is omitted.

Temporary release

27. –(1) A prisoner to whom this rule applies may be temporarily released for any period or periods and subject to any conditions.

(2) A prisoner may be temporarily released under this rule for any special purpose or to enable him to have **health care**, to engage in employment, to receive instruction or training or to assist him in his transition from prison to outside life.

(3) 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.

(4) This rule applies to prisoners other than persons-

(a) remanded in custody by any court; or

(b) committed in custody for trial; or

(c) committed to be sentenced or otherwise dealt with before or by the Crown Court.

(5) In considering any application for temporary release under this rule previous applications, including any fraudulent applications, may be taken into account.

Annotation

Rule 27 (5) - The 1997 Amendment Rules insert this paragraph which allows previous and fraudulent applications for temporary release to be taken into account in considering any application for temporary release. This amendment should be read in conjunction with the new offence of making a fraudulent application for temporary release in rule 38 (11) (B).

Rule 27(2) “medical treatment” was substituted by “health care” SR2009 No.429

Discharge

28. –(1) Every prisoner shall be interviewed by the governor before discharge.

(3) On the discharge of a prisoner his own clothes and other property shall, subject to paragraph (4), be returned to him.

(4) If a prisoner’s clothes have been destroyed under Rule 17(2) suitable clothing shall be provided for him.

Annotation

Rule 28(2) is omitted SR2009 No.429

Death or serious illness of prisoner

29. –(1) If a prisoner dies, becomes seriously ill, sustains any severe injury or is removed to hospital, the governor shall, if he knows the address, at once inform the prisoner's next-of-kin, and also any person the prisoner may reasonably have asked should be informed.

(2) If a prisoner dies, the governor shall immediately notify the coroner having jurisdiction, the independent monitoring board and the **Department of Justice**.

(3) If a prisoner dies, **the health care manager** shall record and report to the governor and **the Assistant Director of Prison Health Care** –

- (a) when the deceased was injured or taken ill;
- (b) the time at which he was first told of the injury or illness;
- (c) the nature of the injury or illness;
- (d) when the prisoner died;

and in cases where a post-mortem examination is made, **a registered general practitioner** shall report on its findings and make any observations which he considers appropriate.

Annotation

Rule 29(3) SR2009 No.429
Amended by SI 2010 No.976

Remission of sentence

30. –(1) A prisoner serving a sentence of imprisonment for an actual term of more than 5 days may, on the ground of his good conduct, be granted remission in accordance with the provisions of this rule, but this rule shall not permit the reduction of the actual term to less than 5 days.

(2) The remission granted shall not exceed half the total of the actual term and any period spent in custody which is taken into account under section 26(2) of the Treatment of Offenders Act (Northern Ireland) 1968 (which relates to the duration of sentences).

(3) <_____>

(4) <_____>

(5) The foregoing provisions of this rule shall have effect subject to any disciplinary award of loss of remission and shall not apply to a sentence of imprisonment for life.

(6) A prisoner who would otherwise be discharged on any of the following days, that is to say –

- (a) a Sunday, Christmas Day, Good Friday;
- (b) a public holiday in Northern Ireland;
- (c) in the case of a person who is serving a term (as pronounced) of

more than 7 days, a Saturday;
(d) a day on which he would be granted temporary release under rule 27;
may be discharged on the next preceding day which is not one of those days.

(7) In this rule “actual term” means the term of a sentence of imprisonment as reduced by section 26(2) of the Treatment of Offenders Act (Northern Ireland) 1968 and, in the case of a sentence pronounced outside Northern Ireland, any reference to the said section 26(2) includes a reference to any corresponding provision having effect where the sentence was pronounced.

- (8) For the purposes of this rule-
- (a) consecutive terms of imprisonment and, in the case of terms of imprisonment imposed before 1st March 1976, terms which are wholly or partly concurrent shall be treated as a single term;
 - (b) a person committed to prison in default of a payment of a sum adjudged to be paid by a conviction shall be treated as serving a sentence of imprisonment;
 - (c) a person ordered to be returned to prison under article 3 of the Treatment of Offenders (Northern Ireland) Order 1976 shall be treated as serving a sentence of imprisonment.

(9) Paragraphs (1) and (2) of this Rule have effect subject to sections 14 and 15 of the Northern Ireland (Emergency Provisions) Act 1991 which restrict the remission available to prisoners convicted of scheduled offences.

Annotation

Rules 30(3) and 30(4) are revoked by the 2004 Amendment Rules because that power is incompatible with Article 6 of the European Convention on Human Rights.

PART IV

DISCIPLINE AND CONTROL

Supervision

31. –(1) Prisoners may be supervised by officers of either sex.

(2) In circumstances in which privacy would be expected a prisoner will be supervised by an officer of the same sex.

Restriction of association

32. –(1) Where it is necessary for the maintenance of good order or discipline, **or to ensure the safety of officers, prisoners or any other person** or in his own interests that the association permitted to a prisoner should be restricted, either generally or for particular purposes, the governor may arrange for the restriction of his association.

(1A) Where a prisoner's association is restricted to ensure the safety of officers, prisoners or any other person, the prisoner may be accommodated in a cell equipped to aid the retrieval of any unauthorized or prohibited article which he may have in his possession.

(2) A prisoner's association under this rule may not be restricted under this rule for a period of more than 72 hours without the agreement <_____> of the *Department of Justice*.

(2A) The governor shall inform a member of the independent monitoring board:

(a) that he has arranged for the restriction of the association of the prisoner, and

(b) of the date, time and location of the first review of the restriction of the prisoner's association.

(2B) The governor shall inform a member of the independent monitoring board of the matters in paragraph (2A) as soon as practicable and in any event no later than 24 hours after the prisoner's association is restricted.

(2C) The governor shall keep a written record of all contact and attempted contact with members of the independent monitoring board under this rule.

(2D) Unless it is not reasonably practicable, a member of the independent monitoring board shall be present at all reviews of the restriction of the association of the prisoner.

(2E) The governor shall as soon as reasonably practicable inform a member of the independent monitoring board:

(a) of any changes to the date, time or location of the first review of the restriction of the association of the prisoner,

(b) the date, time and location of any subsequent reviews of the restriction of association of the prisoner, and

(c) any changes to the date, time or location of any subsequent reviews.

(2F) The independent monitoring board shall satisfy itself that:

(a) the procedure in this rule for arranging and reviewing the restriction of the association of the prisoner has been followed, and

(b) the decision of the governor to restrict the association of the prisoner is reasonable in all the circumstances of the case.

(2G) In order to satisfy itself of the matters in paragraph (2F) the independent monitoring board shall be entitled to inspect the evidence on which

the governor's decision was based, unless such evidence falls within paragraph (2H).

(2H) Evidence falls within this paragraph if:

- (a) it should not be inspected by the independent monitoring board for the purpose of safeguarding national security;
- (b) its inspection by the independent monitoring board would, or would be likely to prejudice the administration of justice;
- (c) its inspection by the independent monitoring board would, or would be likely to endanger the physical or mental health of any individual; or
- (d) its inspection by the independent monitoring board would, or would be likely to endanger the safety of any individual.

(2I) If the independent monitoring board is not satisfied of any of the matters set out in paragraph (2F) it shall draw this to the attention of the governor, in writing, who must, review the procedure for arranging and reviewing the restriction of the association of the prisoner, review his decision to restrict the association of the prisoner and take such other steps as are reasonable in all the circumstances of the case.

(2J) The governor must take the steps in paragraph (2I) promptly and in any event within seven days and the independent monitoring board shall not refer a matter to the *Department of Justice* under paragraph (2K) until the governor has taken the steps in paragraph (2I) or the end of the seven days which ever is earlier.

(2K) If after drawing a matter to the attention of the governor under paragraph (2I) the independent monitoring board is still not satisfied of any of the matters set out in paragraph (2F) it shall draw this to the attention of the Secretary of State in writing.

(2L) If a matter is referred to the *Department of Justice* under paragraph (2K) it must consider the matter and take such steps as are reasonable in all the circumstances of the case.

(3) An extension of the period of restriction under paragraph(2) shall be for a period not exceeding one month, but may be renewed for further periods each not exceeding one month.

(4) The governor may arrange at his discretion for a prisoner who is subject to restriction of association to resume full or increased association with other prisoners at any time, and in exercising that discretion the governor shall fully consider any recommendation that the prisoner resumes full or increased association on health and well-being grounds made by a registered general practitioner or a health care officer.

(5) Rule 55(1) shall not apply to a prisoner who is subject to restriction of association under this rule but such a prisoner shall be entitled to one hour of exercise each day which shall be taken in the open air, weather permitting.

Annotation

Rule 32(2) – The 2005 Amendment Rules removes the reference to board of visitors to bring their function in line with their primary role which is to monitor rather than authorise.

Rules 32(2A) to 32 (2L) – The 2005 Amendment Rules insert these rules to amend the role of board of visitors to monitor the decision and decision making process surrounding the restriction of the association of a prisoner.

Rule 32(1),(1A) and (4) SR2009 No.429.

Amended by SI 2010 No.976

Unauthorised articles

33. A governor may confiscate any article which a prisoner is not allowed to have in his possession after his reception into prison.

Prohibited articles

34. –(1) Except as provided by statute, or with the authority of the **Governor**, no person may-

- (a) bring, send, throw or cause to be taken into prison by post or otherwise; or
- (b) bring, take or throw out of a prison; or
- (c) deposit in any place with intent that it should come into a prisoner's possession any article.

(2) Any **article conveyed, removed or deposited** contrary to paragraph (1) may be confiscated by the governor and shall then be dealt with as the **Department of Justice** may direct.

List C Articles

34A. A list C article is any article or substance in the following list –

- (a) tobacco;**
- (b) money;**
- (c) clothing;**
- (d) food;**
- (e) drink;**
- (f) letters;**
- (g) paper;**
- (h) books;**
- (i) tools;**

(j) information technology equipment.

Annotation

Rule 2 of SR 2008 No. 452 amends rule 34(1) of the principal rules to remove the illustrative list of prohibited articles which may be confiscated by the governor and clarifies when articles can be confiscated by the governor under rule 34(2).

Article 77 of the Criminal Justice (Northern Ireland) Order 2008 inserted sections 34 to 34B into the Prison Act (Northern Ireland) 1953 (“the 1953 Act”). In consequence, rule 3 inserts a new rule 34A into the principal rules which lists for the purpose of section 34 of the 1953 Act the List C articles which it an offence to bring, or attempt to bring into a prison intending to give to a prisoner, or intending to come into a prisoner’s possession, or to take out of a prison on a prisoner’s behalf.

Amended by SI 2010 No.976

Laying of disciplinary charges

35. –(1) Where a prisoner is to be charged with an offence against prison discipline the charge shall be laid in writing before the governor within 48 hours of the discovery of the offence save in exceptional circumstances.

(2) The prisoner shall be informed of the charge and the grounds on which it has been made within 24 hours of the charge being laid before the governor and, in any case, before the inquiry by the governor, to enable him to consider any defence he may wish to make.

(3) Before any inquiry the prisoner who has been charged will be provided with information about the procedure and purpose of the inquiry and will be informed of the right to request legal representations at the inquiry.

(4) A prisoner who is to be charged with an offence against discipline may be kept apart from other prisoners pending adjudication, if the governor considers that it is necessary, but may not be held separately for more than 48 hours.

Inquiry into charge

36. –(1) The governor shall hold an inquiry into any charge that a prisoner has committed an offence against prison discipline.

(2) The governor shall first inquire into any charge not later, save in exceptional circumstances, than the next day after the laying of the charge unless that day is a Saturday, Sunday or public holiday, or is a day of religious observance for the prisoner in accordance with his religious denomination as recorded under rule 57.

(3) The governor may adjourn the inquiry , but must give reasons for doing so which shall be recorded in the record made under rule 37; any adjournment must not unfairly prejudice the interests of the prisoner.

(4) At any inquiry into a charge against a prisoner the governor shall satisfy himself that the prisoner has had sufficient time to prepare his defence; the prisoner

shall be given a full opportunity of hearing what is alleged against him and of presenting his own case.

(5) < _____ >

(6) Every charge against a prisoner shall be dealt with by the governor or, in a prison where a deputy governor has been appointed, by the deputy governor, but where neither the governor nor the deputy governor is available the governor may delegate the inquiry to another governor authorised by the ***Department of Justice*** to deal with charges.

(7) A reference to the ***governor*** in paragraph (1) and rules 37 and 39 < _____ > shall include a reference to a deputy governor or other governor authorised to deal with the charge under paragraph (6).

Annotation

Rule 36(3) and (5) - The 1995 Amendment Rules make provision for the extension of a governor's adjournment powers through the deletions highlighted above.

Rule 36(7) The 2000 Amendment Rules delete the reference to the BOV adjudication powers formerly contained in rule 40.

Rule 36(7) substitutes "officer" for "governor" SR2009 No.429

Amended by SI 2010 No.976

Findings

37. –(1) A record will be kept of every inquiry into an offence against prison discipline and shall include the charge preferred, the facts alleged, a summary of the evidence presented, the governor's findings and, if the charge is upheld, any award made against the prisoner.

(2) The governor may find a prisoner guilty of a lesser charge if it appears to him appropriate to do so and if it would not unfairly prejudice the interests of the prisoner. If the governor does so he shall give his reasons in the record made under paragraph (1).

Offences against prison discipline

38. A prisoner shall be guilty of an offence against prison discipline, if he –

- (1) mutinies or commits any act of collective indiscipline;
- (2) assaults an officer or other member of staff;
- (3) commits an assault causing injury against any other person including another prisoner;
- (4) commits any other assault;
- (5) fights or wrestles with any prisoner or other person;
- (6) escapes or absconds from prison or legal custody;
- (7) endangers the health or personal safety of any person or persons, including prisoners, through intentional or reckless conduct;
- (8) detains any person against his will;

- (9) intentionally obstructs an officer in the execution of his duty or any other person going about his authorised duties within the prison;
- (10) denies access to any part of a prison to any officer or other authorised person;
- (11) (a) fails to comply with a condition of temporary release under rule 27;
(b) provides false information in an application for temporary release.
- (12) has in his possession any unauthorised article, or a greater quantity of any article that he is authorised to have, or sells or delivers to or receives from any person unauthorised article, or sells, or without permission, delivers to any person any article which he is allowed to have only for his own use;
- (13) takes improperly any article belonging to another person or to a prison;
- (14) intentionally or recklessly sets fire to any part of a prison or any property, whether or not his own, or, destroys or damages any part of a prison or other property not being 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 person or uses threatening, abusive, or insulting words or behaviour;
- (17) pierces himself or another prisoner with a needle or other implement, or consents to another prisoner piercing him with a needle or other implement, for the purpose of making a tattoo, for bodily piercing (including ear piercing), or for any other purpose;
- (18) commits an indecent or obscene act;
- (19) prepares, manufactures, consumes, inhales or administers to himself or any other prisoner, with or without consent, any intoxicating substance or drug, or buys, sells, passes or possesses any such item;
- (19A) is found with any substance in a sample taken under rule 48B which demonstrates that he has alcohol in his body (but subject to rule 39A);**
- (19B) is found with any substance in a sample taken under rule 48C which demonstrates that a drug has, whether in prison or while on temporary release under rule 27, been administered to him by himself or by another person (but subject to rule 39B);**
- (19C) refuses to provide a sample under either rule 48B or rule 48C;**
- (20) bribes or attempts to influence any officer or other person going about authorised duties within a prison;
- (21) being required to work refuses to do so, or intentionally fails to work properly;
- (22) disobeys any lawful order;
- (23) disobeys or fails to comply with any rule or regulation applying to him;
- (23A) wears an item of clothing, or wears, carries or displays an article in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or a supporter of a proscribed organisation within the meaning of section 3 of the Terrorism Act 2000;**
- (23B) without reasonable excuse wears any hood, mask, or other article made, adapted or used for concealing his identity or features;**
- (24) in any other way offends against good order and discipline;

(25) attempt to commit, incites another prisoner to commit, or assists another prisoner to commit or attempt to commit any of the foregoing offences.

Annotation

Rule 38(11) (b) - The 1997 Amendment Rules introduce this new offence against discipline and this amendment should be read in conjunction with rule 27 (5) , which allows fraudulent applications for temporary release to be taken into consideration when considering any temporary release application.

Rules 38(23A) and 38(23B) – The 2004 Amendment Rules create new prison disciplinary offences applicable to all prisoners.

Rules (19A), (19B) and (19C) inserted by SR2009 No.429

Governor's awards

39. –(1) The governor may, subject to rule ≤ 41, make one or more of the following awards for an offence against prison discipline-

- (a) caution;
- (b) < _____ >;
- (c) stoppage of earnings for a period not exceeding **56** days;
- (d) stoppage of any or all privileges other than earnings, for a period not exceeding **42** days or 90 days in the case of evening association;
- (e) exclusion from associated work for a period not exceeding 14 days;
- (f) cellular confinement for a period not exceeding **14** days.

(2) A prisoner found guilty of an offence against discipline under rule 38(14) may, in addition to or in lieu of an award of stoppage of earnings under paragraph (1)(c), be required to pay a sum out of earnings thereafter made by him.

(3) Such a sum shall not exceed 10 times the amount of the prisoner's earnings for the week in which the offence was committed, and the rate of deduction from earnings shall not exceed one half of the prisoner's earnings in any one week.

(4) If a prisoner 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 cellular confinement the total period shall not exceed 14 days.

Annotation

Rule 39(4) SR2009 No.429

Defences to rule 39(19A)

39A. It shall be a defence for a prisoner charged with an offence under rule 38(19A) to show that –

- (a) the alcohol was consumed by him in circumstances in which he did not know and had no reason to suspect that he was consuming alcohol;**

(b) the alcohol was consumed by him without his consent in circumstances where it was not reasonable for him to have resisted.

Defences to rule 39(19B)

39B. It shall be a defence for a prisoner charged with an offence under rule 38(19B) to show that –

(a) the 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 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 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.

Annotation

Rule 39(1) - The 2000 Amendment Rules delete the reference to rule 40 (the former BOV adjudication powers).

Rule 39(1) – The 2004 Amendment Rules increase the level of governor’s awards for all adult prisoners by deleting rule 39(1)(b) and revising the level of awards in rules 39(1)(c), 39(1)(d) and 39(1)(f). The amendments made to 39(1)(c), 39(1)(d) and 39(1)(f) only apply in respect of offences against prison discipline committed after 1 February 2004.

More serious offences – inquiry and awards by the Secretary of State or board of visitors

Annotation

Rules 39A and 39B inserted by SR2009 No.429

40. < _____ >

Annotation

Rule 40 - The 2000 Amendment Rules remove the BOV disciplinary powers in respect of adjudications. This should be read in conjunction with the revocation of rule 125 (the BOV adjudication procedure).

Provisions in relation to particular awards

41. –(1) An award of stoppage of earnings may, instead of forfeiting all a prisoner’s earnings for a specified period not

exceeding 28 days <_____>, 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.

(2) No award of cellular confinement shall be given effect unless **an appropriate health care professional** has certified that the prisoner is in a fit state of health to undergo it.

(3) The governor shall visit every prisoner undergoing cellular confinement at least once a day, and an appropriate officer shall visit such a prisoner at intervals of not more than 3 hours during the day.

Annotation

Rule 41(1) The 2000 Amendment Rules delete the BOV power to award a period of 56 days.

Rule 41(2) SR2009 No.429

Prospective loss of remission

42. <_____>

Annotation

Rule 42 - is revoked by the 2004 Amendment Rules because that power is incompatible with Article 6 of the European Convention on Human Rights.

Suspended awards

43. –(1) Subject to any directions by the ***Department of Justice***, the power to make a disciplinary award (other than a caution) shall include power to direct that the award 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 prisoner commits another offence against discipline and a direction is given under paragraph (2).

(2) Where a prisoner commits an offence against prison discipline during the period specified in a direction given under paragraph (1) **the governor** dealing with that offence may-

- (a) direct that the suspended award shall take effect; or
- (b) reduce the period or amount of the suspended award 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 period of variation; or
- (d) give no direction in respect of the suspended award.

Annotation

Rule 43(2) - The 2000 Amendment Rules substitute the words “the governor” in place of the former words “the authority” as a collateral amendment resulting from the removal of the BOV adjudication powers.

Amended by SI 2010 No.976

Remission and mitigation of awards

44. –(1) The **Department of Justice** may quash any finding of guilt or remit any punishment or mitigate it.

(2) Subject to any directions of the **Department of Justice**, the governor may remit or mitigate any punishment imposed by a governor or a board of visitors.

(3) In this rule mitigate means reducing the punishment or substituting another punishment which is, in the opinion of the **Department of Justice** or the governor less severe.

Annotation

Rule 44 (2) and (3) - The 2000 Amendment Rules remove the BOV adjudication powers to remit or mitigate any punishment.

Amended by SI 2010 No.976

Annotation

Rules 45(1) and 45(2)(b) – The 2005 Amendment Rules removes references to the board of visitors as it is no longer possible for a BoV to make an award that might be subject of a petition under rule 45.

Rule 45 omitted by SR2009 No.429.

Use of force

46–(1) Any officer in dealing with a prisoner shall not use force unnecessarily.

(2) If force is necessary no more force should be used than is necessary in the circumstances prevailing.

(3) If force is used, for whatever reason, the officer or officers concerned shall report details to the governor as soon as possible.

*Temporary confinement **for refractory or violent prisoners***

47. –(1) For the purpose of preventing disturbance, damage or injury, a refractory or violent prisoner may be temporarily confined in a special cell or **observation cell** approved for the purpose by the **Department of Justice**; but a

prisoner shall not be confined in such a cell as a punishment or after he has ceased to be refractory or violent.

(2) The governor shall inform **an appropriate health care professional** of the intended removal of any prisoner to a special cell or observation cell, but where this is not possible **an appropriate health care professional** shall be informed as soon as possible thereafter.

(2A) The governor shall consult with a registered general practitioner or the health care manager in relation to the intended removal of any prisoner to an observation cell.

(4) The governor, the *Department of Justice* and a member of the independent monitoring board shall be informed of any prisoner who is so confined.

(5) Every prisoner who is temporarily confined in a special cell or observation cell shall be visited at least once a day by the governor and by **an appropriate health care professional**.

(6) Every prisoner so confined shall be observed at least once every 15 minutes by an officer and a record shall be kept of such observations.

Annotation

Rule 47 heading, (1), (2), (2A) and (5) SR2009 No.429

Rule 47(3) omitted by SR2009 No.429

Amended by SI 2010 No.976

Restraints

48. –(1) Where it is necessary to prevent a prisoner from injuring himself or others, damaging property, or creating a disturbance, the governor may order him to be put under restraint.

(2) Notice of such an order shall be given without delay to <_____> **the Assistant Director of Prison Health Care** and to the *Department of Justice*.

(3) On receipt of the notice the **Assistant Director of Prison Health Care** shall inform the governor whether he concurs with the order and the governor shall give effect to any recommendation that the **Assistant Director of Prison Health Care** may make.

(3A) The governor shall inform a member of the independent monitoring board:

(a) that he has ordered that a prisoner be put under restraint, and

(b) of the date, time and location of the first review of the order;

(3B) The governor shall inform a member of the independent monitoring board of the matters in paragraph (3A) as soon as practicable and in any event no later than 24 hours after the order that the prisoner be put under restraint is made.

(3C) The governor shall keep a written record of all contact and attempted contact with members of the independent monitoring board under this rule.

(3D) Unless it is not reasonably practicable, a member of the independent monitoring board shall be present at all reviews of the order that a prisoner be put under restraint.

(3E) The governor shall as soon as reasonably practicable inform a member of the independent monitoring board:

- (a) of any changes to the date, time or location of the first review of the order that the prisoner be put under restraint,
- (b) the date, time and location of any subsequent reviews of the order that the prisoner be put under restraint, and
- (c) any changes to the date, time or location of any subsequent reviews.

(3F) The independent monitoring board shall satisfy itself that:

- (a) the procedure under this rule for making and reviewing the order to put the prisoner under restraint has been followed, and
- (b) the decision of the governor to make the order putting the prisoner under restraint is reasonable in all the circumstances of the case.

(3G) In order to satisfy itself of the matters in paragraph (3F) the independent monitoring board shall be entitled to inspect the evidence on which the governor's decision was based, unless such evidence falls within paragraph (3H).

(3H) Evidence falls within this paragraph if:

- (a) it should not be inspected by the independent monitoring board for the purpose of safeguarding national security;
- (b) its inspection by the independent monitoring board would, or would be likely to prejudice the administration of justice;
- (c) its inspection by the independent monitoring board would, or would be likely to endanger the physical or mental health of any individual; or
- (d) its inspection by the independent monitoring board would, or would be likely to endanger the safety of any individual.

(3I) If the independent monitoring board is not satisfied of any of the matters set out in paragraph (3F) it shall draw this to the attention of the governor, in writing, who must, review the procedure for arranging and reviewing the order to put the prisoner under restraint, review his decision to make the order putting the prisoner under restraint and take such other steps as are reasonable in all the circumstances of the case.

(3J) The governor must take the steps in paragraph (3I) promptly and in any event within seven days and the independent monitoring board shall not refer a matter to the *Department of Justice* under paragraph (3K) until the governor has taken the steps in paragraph (3I) or the end of the seven days which ever is earlier.

(3K) If after drawing a matter to the attention of the governor under paragraph (3I) the independent monitoring board is still not satisfied of any of the matters set out in paragraph (3F) it shall draw this to the attention of the Secretary of State in writing.

(3L) If a matter is referred to the *Department of Justice* under paragraph (3K) it must consider the matter and take such steps as are reasonable in all the circumstances of the case.

(4) Except as provided by this rule no prisoner shall be put under restraint otherwise than for their safe custody during transfer or on **health care grounds** by order of **a registered general practitioner**.

(5) No prisoner shall be put under restraint as a punishment.

(6) No prisoner shall be kept under restraint longer than is necessary.

(7) A governor may only order that a prisoner be kept under restraint for more than 24 hours with the agreement of **a registered general practitioner**.

(8) Where an authorisation is given under paragraph (7) it shall be reviewed daily by the governor and **a registered general practitioner**.

(9) Every prisoner who is under restraint shall be observed at intervals of not more than 15 minutes by an officer and a record shall be kept of such observations.

(10) The governor shall record the particulars of every case of restraint.

(11) Any means of restraint shall be of a pattern authorised by the ***Department of Justice*** and shall be used in such manner and under such conditions as *it* may direct.

Annotation

Rule 48(2) and 48(7) – The 2005 Amendment Rules removes the reference to board of visitors to bring their function in line with their primary role which is to monitor rather than authorise.

Rule 48(3A) to 48(3L) – The 2005 Amendment Rules insert these rules to amend the role of board of visitors to monitor the decision and decision making process to put a prisoner under restraint.

Observation of prisoners by means of an overt closed circuit television system

48 A – (1) Without prejudice to his other powers to supervise the prison, prisoners and other persons in the prison, whether by use of an overt closed circuit television system or otherwise, the governor may make arrangements for any prisoner to be placed under constant observation by means of an overt closed circuit television system while the prisoner is in a cell or other place in the prison if he considers that

(a) such supervision is necessary for -

- (i) the health and safety of the prisoner or any other person;
- (ii) the prevention, detection, investigation or prosecution of crime; or
- (iii) securing or maintaining prison security or good order and discipline in the prison; and

(b) it is proportionate to what is sought to be achieved.

(2) If an overt closed circuit television system is used for the purposes of this rule, the provisions of rule 68C and 68D shall apply to any material obtained.

Compulsory testing for alcohol

48B.—(1) This rule applies where an officer, acting under the powers conferred by section 19A of the Act (testing prisoners for alcohol) requires a prisoner to provide a sample for the purpose of ascertaining whether he has alcohol in his body.

(2) In this rule “sample” means a sample of urine or any other description of sample specified in the authorisation for the purposes of section 19A of the Act.

(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 19A of the Act; and

(b) that a refusal to provide a sample may lead to a disciplinary charge being laid against him.

(4) 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.

(5) Subject to paragraph (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.

(6) 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, except that a prisoner may not be kept apart under this paragraph for a period of more than 5 hours.

(7) 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.

Compulsory testing for drugs

48C.—(1) This rule applies where an officer, acting under the powers conferred by section 19B of the Act (testing prisoners for drugs), requires a prisoner to provide a sample for the purpose of ascertaining whether he has any drug in his body.

(2) In this rule “sample” means a sample of urine or any other description of sample specified in the authorisation for the purposes of section 19B of the Act.

(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 19B of the Act; and

(b) that a refusal to provide a sample may lead to a disciplinary charge being laid against him.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

Annotation

Rule 48A - The 2001 Amendment Rules insert this section to comply with RIPA and authorise a governor to place a prisoner under constant supervision by means of an overt closed circuit television system.

Rules 48B & 48C inserted by SR2009 No.429
Amended by SI 2010 No.976

General control of admission to the prison

49. –(1) No person may enter the prison without the governor’s permission, unless he is entitled to do so.

(2) Any person entering or leaving the prison may be stopped, examined and, with their consent, searched.

(3) Such person shall be searched only by officers of the same sex as that person.

(4) Any person who does not consent to being searched may be denied access to the prison.

(5) The governor may direct the removal from the prison of any person who does not leave on being required to do so.

(6) Under this rule a search of person may include a search of any item in that person’s possession or of a vehicle.

Visitors viewing the prison

50. –(1) No outside person shall be permitted to view a prison unless authorised to do so by statute or by the *Department of Justice*.

(2) No person viewing the prison shall be authorised to make a sketch, or take a photograph or make a film or sound recording or communicate with a prisoner unless authorised to do so by statute or by the Secretary of State.

(3) In paragraph (2) “film” includes any record however made of a sequence of visual images which is capable of being used as a means of showing that sequence as a moving picture.

Amended by SI 2010 No.976

National security

50A. In a case where evidence is not inspected by the independent monitoring board by virtue of rule 32(2H)(a) or 48(3H)(a), in rule 32(2J) to (2L) or 48(3J) to (3L) (as the case may be) references to the Department of Justice are to be read as references to the Secretary of State.

Amended by SI 2010 No.976

PART V

WORK, EDUCATION AND RECREATION

Work

51. –(1) Work of a useful nature or other purposeful activities shall be provided to keep prisoners actively employed during their normal day.

(2) Any prisoner may be required to work by the governor unless excused by **a registered nurse or a health care officer on health care grounds.**

(3) No prisoner shall be employed on any class of work unless **a registered nurse or a health care officer** has certified him as fit for that class of work.

(4) No prisoner may be required to work for more than 8 hours in any day and any prisoner engaged in a regular pattern of work shall have at least one rest day a week.

(5) As far as practicable, work shall be provided outside the cells and in association with other prisoners.

(6) No prisoner shall be employed except on work of an appropriate nature authorised by the **Department of Justice.**

(7) Except with the authority of the **Department of Justice,** no prisoner shall be employed in the service of any other prisoner or of any officer or for the private benefit of any person.

(8) Prisoners who are recorded as members of a religious denomination under rule 57 shall not be required to work on their days of religious observance.

(9) For the purpose of these rules “work” includes employment in the ordinary service of the prison, in prison occupational services and participation in vocational training.

(10) The **Department of Justice** may make arrangements for prisoners to earn money for work carried out under this rule.

Annotation

Rule 51(2) and (3) SR2009 No.429

Rule 51(8) the word “unnecessarily” is omitted SR2009 No.429

Amended by SI 2010 No.976

Education

52. –(1) Every prisoner who expresses interest in participating in education shall be permitted to do so to the extent practicable; special attention shall be paid to prisoners with problems of illiteracy or innumeracy.

(2) Programmes of educational classes covering as wide a range of subjects as practicable shall be arranged at every prison.

(3) As far as practicable, reasonable facilities should also be made available to prisoners who wish to improve their education by correspondence courses or private study.

(4) Where a prisoner is engaged in education during a period in which he could otherwise have worked he shall be allowed earnings in accordance with rule 51(10) of these rules.

(5) As soon as possible after his reception or following his transfer to another prison, every prisoner shall be informed of the educational facilities which are available.

(6) Where a prisoner's educational activities are interrupted by his transfer to another prison or for any other reason, every effort shall be made to assist him to continue with them.

Handicrafts and hobbies

53. As far as practical reasonable facilities shall be allowed to prisoners who wish to practice handicrafts or other hobbies.

Libraries

54. –(1) A library shall be provided in every prison and every prisoner shall be allowed to have books or other items borrowed from the library, and to exchange them, under such conditions as the governor or the **Department of Justice** may determine.

(2) As far as practicable, and subject to the requirements of security, control and good order, prisoners shall be allowed to go to the library and to choose their books and other items there.

Amended by SI 2010 No.976

Exercise and association

55. –(1) Every prisoner shall be given the opportunity of association for not less than one hour each day which may be taken as exercise in the open air, weather permitting.

(2) Where on any day a prisoner participates in exercise consisting of sport or physical training indoors, or is engaged in outside work the requirement that association be taken as exercise in paragraph (1) shall not apply.

(3) **A registered nurse or a health care officer** shall decide upon the fitness of every prisoner for exercise, sport and physical training and may excuse a prisoner from, or modify, any such activity on **health care grounds**.

(4) Where necessary, special arrangements shall be made, in consultation with **a health care professional**, for remedial physical education or therapy.

Annotation

Rule 55(3) & (4) SR2009 No.429

PART VI

RELIGION

General

56. All prisoners shall be allowed to practice their religion to the extent compatible with good order and discipline.

Religious denomination

57. –(1) On reception each prisoner shall be required to state his religious denomination, if any, and the governor shall record the denomination so stated.

(2) A prisoner may change his recorded religious denomination with the agreement of the governor.

Chaplains

58. –(1) A chaplain in carrying out his duties shall support the governor.

(2) A chaplain shall be subject to the rules and regulations of the prison.

Duties of chaplains

59. –(1) A chaplain shall interview individually every prisoner who is recorded as belonging to his denomination and is willing to be interviewed –

- (a) as soon as possible after his reception;
- (b) from time to time as often as practicable during his imprisonment; and
- (c) a short time before his discharge.

(2) A chaplain shall give such religious instruction as may be practicable to any prisoner of his denomination wishing it.

(3) A chaplain shall conduct divine service for prisoners of his denomination at such times as may be arranged.

(4) A chaplain shall, as often as possible, visit all prisoners of his denomination who are sick, under restraint, or confined to a cell.

(5) A chaplain shall, if no other arrangements are made, read the burial service at the funeral of any prisoner of his denomination who dies in the prison.

(6) The **Department of Justice** may require a chaplain to report to **the Department of Justice** on the carrying out of any of his duties as a chaplain.

Amended by SI 2010 No.976

Substitute for chaplain

60. –(1) A person or persons, not exceeding 3 in number, approved by the ***Department of Justice***, may act for the chaplain in his absence, and any such person or persons shall be subject to the rules and regulations of the prison in like manner as a chaplain.

(2) Any person or persons approved by the ***Department of Justice*** may assist the chaplain in the carrying out of religious services or in such duties as may be approved.

(3) The ***Department of Justice*** may withdraw any such approval so granted.

Amended by SI 2010 No.976

Visits by chaplains of other denominations

61. –(1) As far as practicable access to a chaplain of any religious denomination shall not be refused to any prisoner.

(2) Any request by a prisoner to see a chaplain of a denomination other than that of his recorded denomination shall be passed to the chaplain concerned and unless the prisoner requests otherwise, the chaplain of the prisoner's denomination shall also be informed.

(3) If a prisoner objects to the visit of any religious representative, he shall not be compelled to receive the visit.

Visits by other ministers

62. –(1) Where a prisoner belongs to a denomination for which no chaplain has been appointed the governor shall do what he reasonably can, if so requested by the prisoner, to arrange for him to be visited regularly by a minister of that denomination.

(2) Without prejudice to paragraph (1), any other request by a prisoner to see a minister of any denomination may be permitted at the governor's discretion and unless the prisoner requests otherwise, the chaplain of the prisoner's denomination shall be informed.

(3) Any minister as referred to in paragraphs (1) and (2) shall be subject to the rules and regulations that apply to visitors to a prison.

Privacy

63. Any interview under this part shall be accorded a degree of privacy appropriate to its nature and purpose.

Religious books

64. –(1) Every prisoner shall be allowed to have a Bible or other appropriate religious book approved by his denomination.

(2) There shall, as far as reasonably practicable, be available for every prisoner's personal use such other religious books as his denomination recognises.

(3) So far as is practicable, every prisoner shall be allowed to satisfy the needs of his religious, spiritual and moral life by having in his possession any other necessary books or other appropriate material not provided under paragraphs (1) and (2).

PART VII

SOCIAL RELATIONS AND COMMUNICATIONS

Family relationships, welfare and after-care

65. –(1) Special attention shall be paid to the maintenance of relationships between a prisoner and his family.

(2) Prisoners shall be encouraged and assisted to establish and maintain such relations with persons and agencies outside prison as may, in the opinion of the governor, best promote the interests of his family and his own social rehabilitation.

(3) From the beginning of a prisoner's sentence consideration shall be given, in consultation with all appropriate persons and agencies, to the prisoner's future and any practical assistance which he can be given on and after his release.

(4) The governor shall ensure that any officer with responsibility for prisoner's welfare is provided with appropriate facilities to carry out his duties.

Current affairs

66. –(1) Prisoners shall be allowed to keep themselves informed of current affairs by such means as may be permitted by the governor.

(2) A prisoner may receive newspapers and periodicals subject to any restrictions imposed by the governor.

Communications

67. –(1) **Except as provided by statute and in these Rules, a prisoner shall not be permitted to communicate with any person outside the prison, or that person with him, without the authority of the Department of Justice.**

(2) Notwithstanding paragraph (1) above, and except as otherwise provided in these Rules, the Department of Justice may impose any restriction or condition, either generally or in a particular case, upon the communications to be permitted between a prisoner and other persons if the Department of Justice considers that the restriction or condition to be imposed –

(a) does not interfere with the convention rights of any person; or

(b)

(i) is necessary on any of the grounds specified in paragraph (3) below;

(ii) reliance on the grounds is compatible with the convention right to be interfered with; and

(iii) the restriction or condition is proportionate to what is sought to be achieved.

- (3) The grounds referred to in paragraph (2) above are –
- (a) the interests of national security;
 - (b) the prevention, detection, investigation or prosecution of crime;
 - (c) the interests of public safety;
 - (d) securing or maintaining prison security or good order and discipline in prison;
 - (e) the protection of health or morals;
 - (f) the protection of the reputation of others;
 - (g) maintaining the authority and impartiality of the judiciary; or
 - (h) the protection of the rights and freedoms of any person.

(4) Except as provided in these Rules, every letter or communication to or from a prisoner may be read or examined by the governor who may, at his discretion, stop any such letter or communication on any of the grounds permitted under paragraph (3) above.

(5) Subject to paragraph (2) above, the governor may at any time, having regard to circumstances obtaining or expected to obtain in the prison, suspend all or any visits for such period as the *Department of Justice* may approve.

(6) Subject to paragraph (2) above, the *Department of Justice* may require that any visit, or class of visits, shall be held in facilities which include special features restricting or preventing physical contact between a prisoner and a visitor.

(7) Every visit to a prisoner shall take place within the sight of an officer unless the *Department of Justice* otherwise directs, and for the purposes of this paragraph a visit to a prisoner shall be taken to take place within the sight of an officer if it can be seen by an officer by means of an overt closed circuit television system.

(8) Subject to rule 71, every visit to a prisoner shall take place within the hearing of an officer, unless the *Department of Justice* otherwise directs.

(9) The *Department of Justice* may give directions, either generally or in relation to any visit or class of visits, concerning the day and times when prisoners may be visited and the duration of such visits.

(10) No more than three persons shall be allowed to visit a prisoner at one time, except with the leave of the governor.

(11) In this rule –

- (a) references to communications include reference to communications during visits;
- (b) references to restrictions and conditions upon communications include references to restrictions and conditions in relation to the length, duration and frequency of communications; and
- (c) references to convention rights are to the convention rights within the meaning of the Human Rights Act 1998(a)

Annotation

Rule 67 - The 2001 Amendment Rules substitute this new rule 67. It re-enacts the former rule 67 in substance, but makes clear that any restrictions and conditions may only be imposed on communications if they are compatible with the rights of any person under the Human Rights Act 1998.

Amended by SI 2010 No.976

Personal letters and visits

68. –(1) A prisoner shall be entitled to send and receive a letter on his reception to prison.

(2) A prisoner is entitled to send and receive one letter each week, but the ***Department of Justice*** may as a privilege allow additional letters to be sent and received by any class of prisoners.

(3) A prisoner is entitled to a visit once in a period of 4 weeks, but the ***Department of Justice*** may as a privilege allow additional visits to any class of prisoner.

(4) The governor may allow additional letters or visits in any particular case.

(5) The governor may allow a prisoner entitled to a visit to send and receive a letter instead.

(6) The governor may defer the right of a prisoner to a visit until the expiration of any period of cellular confinement.

(7) Save in exceptional circumstances visits under this rule shall be of at least 30 minutes duration.

(8) A prisoner shall not be entitled under this rule to receive a visit from any person other than a relative or friend, except with the leave of the governor or the ***Department of Justice***.

(9) Any letter or visit under the succeeding provisions of these rules shall not be counted as a letter or visit for the purposes of this rule.

Amended by SI 2010 No.976

Interception of communications

68A. –(1) The Department of Justice may give directions to any governor concerning the interception in a prison of any communication to or by any prisoner or class of prisoners if the Department of Justice considers that the directions are –

- (a) necessary on the grounds specified in paragraph (4) below; and**
- (b) proportionate to what is sought to be achieved.**

(2) Subject to any directions given by the Department of Justice, the governor may make arrangements for any communication by a prisoner or class of prisoners to be intercepted in a prison by an officer or a person employed in the prison authorised by the governor for the purposes of this rule (referred to in this rule as an “authorised employee”) if he considers that the arrangements are –

- (a) necessary on any of the grounds specified in paragraph (4) below; and**
- (b) proportionate to what is sought to be achieved.**

(3) Any communication to or by a prisoner may, during the course of its transmission in a prison, be terminated by an officer or an authorised employee if he considers that to terminate the communication is –

- (a) necessary on any of the grounds specified in paragraph (4) below; and**
- (b) proportionate to what is sought to be achieved by the termination.**

(4) The grounds referred to in paragraph (1)(a), (2)(a) and (3)(a) above are –

- (a) the interests of national security;**
- (b) the prevention, detection, investigation or prosecution of crime;**
- (c) the interests of public safety;**
- (d) securing or maintaining prison security or good order and discipline in prison;**
- (e) the protection of health and morals;**
- (f) the protection of the rights and freedom of any person.**

(5) Any reference to the grounds specified in paragraph (4) in relation to the interception of a communication by means of a telecommunications system in a prison, or the disclosure or retention of intercepted material from such a communication, shall be taken to be a reference to those grounds with the omission of sub-paragraph (f).

(6) For the purposes of this rule “interception” –

- (a) in relation to a communication by means of a telecommunications system, means any action taken in relation to the system or its operation so as to make some or all of the contents of the communication available, while being transmitted, to a person other than the sender or intended recipient of the communication; and the contents of a communication are to be taken to be made available to a person while being transmitted where the contents of the communication, while being transmitted, are diverted or recorded so as to be available to a person subsequently; and**
- (b) in relation to any written or drawn communication. Includes opening, reading, examining and copying the communication.**

Annotation

Rule 68A - The 2001 Amendment Rules insert this new rule which makes provision for the interception of prisoners' communications and new rules 68C and 68D to implement, in relation to telecommunications in prisons, article 5 of the Council

Directive 97/66/EC of 15 December 1997, known as the “ Telecommunications Data Protection Directive”, which requires member states to safeguard the confidentiality of communications and in particular concerns the processing of personal data and the protection of privacy in the telecommunications sector.

Rule 68A(2) & (3) further amended to allow for persons other than prison officers to view intercepted material SR2009 No.429

Permanent log of communication

68 B. –(1) The governor may arrange for a permanent log to be kept of all communications by or to a prisoner.

(2) The log referred to in paragraph (1) above may include, in relation to a communication by means of a telecommunications system in a prison, a record of the destination, duration and cost of the communication and, in relation to any written or drawn communication, a record of the sender and addressee of the communication.

Annotation

Rule 68B - The 2001 Amendment Rules insert this new rule to make provision for a log to be kept of all communications by or to a prisoner.

Amended by SI 2010 No.976

Disclosure of material

68 C. The governor may not disclose to any person who is not an officer of a prison or of the Department of Justice any intercepted material, informed retained pursuant to rule 68B or material obtained by means of an overt closed circuit television system used during a visit unless –

(a) he considers that such disclosure is –

(i) necessary on any of the grounds specified in rule 68A(4);

and

(ii) proportionate to what is sought to be achieved by the disclosure; or

(b) (i) in the case of intercepted material or material obtained by means of an overt closed circuit television system used during a visit, all parties to the communication or visit consent to the disclosure; or (ii) in the case of information retained pursuant to rule 68B, the prisoner to whose communication the information relates, consents to the disclosure.

Annotation

Rule 68C - The 2001 Amendment Rules insert this new rule provides for the disclosure of any intercepted material, information relating to the communications or material obtained by means of an overt closed circuit television system during a visit

Amended by SI 2010 No.976

Retention of material

68D. –(1) The governor shall not retain any intercepted material or material obtained by means of an overt closed circuit television system used during a visit for a period longer than 3 months beginning with the day on which the material was intercepted or obtained unless he is satisfied that continued retention of it is

(a) necessary on the grounds specified in rule 68A(4); and

(b) proportionate to what is sought to be achieved by the continued retention.

(2) Where such material is retained for longer than 3 months pursuant to paragraph (1) above shall review its continued retention at periodic intervals until such time as it is no longer held by the governor.

(3) The first review referred to in paragraph (2) above shall take place not more than 3 months after the decision to retain the material taken pursuant to paragraph (1) above, and subsequent review shall take place not more than 3 months apart thereafter.

(4) If the governor, on a review conducted pursuant to paragraph (2) above or at any other time, is not satisfied that the continued retention of the material satisfies the requirements set out in paragraph (1) above, he shall arrange for the material to be destroyed.

Annotation

Rule 68D - The 2001 Amendment Rules insert this new rule to provide for the retention of intercepted material obtained by means of an overt closed television system during a visit.

Police and other law enforcement agency interviews

69. –(1) A police officer may, on production of an order issued by or on behalf of the Chief Constable of the Police Service of Northern Ireland, interview any prisoner willing to see him.

(1A) A member of the Serious Organised Crime Agency's staff designated under section 43 of the Serious Organised Crime and Police Act 2005, an officer of Her Majesty's Revenue and Customs, or a member of the Security Service may, on production of an authorisation issued by or on behalf of a person specified in paragraph (1B), interview any prisoner willing to see him.

(1B) Those persons are –

(a) the Director General of the Serious Organised Crime Agency;

(b) the Commissioners of Her Majesty's Revenue and Customs;

(c) the Director General of the Security Service.

(2) An interview under this rule shall take place in the sight and, if the governor directs, the hearing of a prison officer.

Annotation

Rule 69 The 1997 Amendment Rules insert the words “willing to see him” to require the consent of a prisoner to a police interview to comply with voluntary procedures under the Police and Criminal Evidence (Northern Ireland) Order 1989.

Rule 69 SR2009 No.429 amends the title, inserts PSNI for the RUC and widens the list of agencies who can interview.

Securing release

70. –(1) A person detained in prison in default of finding a surety, or of payment of a sum of money, may communicate with, and be visited at any reasonable time on a weekday by any relative or friend to arrange for a surety or payment in order to ensure his release from prison.

(2) Every prisoner detained as specified in paragraph (1) shall be told of this rule on his reception.

Legal advisers

71. –(1) Reasonable facilities shall be allowed for the legal adviser of a prisoner who is party to legal proceedings, civil or criminal, to interview the prisoner in connection with those proceedings in the sight but not in the hearing of an officer.

(2) A prisoner’s legal adviser may, with the *Department of Justice’s* permission, interview the prisoner in connection with any other legal business in the sight but not in the hearing of an officer.

Amended by SI 2010 No.976

Correspondence in connection with legal matters

72. –(1) A prisoner who is a party to any legal proceedings may correspond with his legal adviser or any court, national or international, in connection with those proceedings.

(2) A prisoner may correspond with a solicitor for the purpose of obtaining legal advice concerning any matter in relation to which he may become a party to legal proceedings or for the purpose of instructing the solicitor to issue proceedings, or to allow him to conduct any legal business.

(3) A prisoner shall on request be provided with any writing materials necessary for the purpose of paragraph (1).

(4) No letter to which this rule applies shall be opened by the governor unless he has reason to believe that it contains matter not related to actual or potential legal proceedings or other legal business.

(5) Subject to any directions given in the particular case by the Department of Justice, a registered medical practitioner selected by or on behalf of a prisoner to whom paragraph (1) applies shall be afforded reasonable facilities for examining him in connection with the proceedings and may do so out of hearing but in the sight of an officer.

Amended by SI 2010 No.976

Control of visitors to prisoners

73. –(1) The governor may require the name and address of any visitor to a prisoner and may require the visitor to be searched.

(2) Any search under this rule requires the consent of the visitor and if the visitor does not consent the governor may refuse the visitor admission.

(3) Where the governor denies admission to any visitor he shall record his reasons for doing so.

(4) No search of a visitor shall be made in the presence of any prisoner or other visitor or by, or in the presence of, an officer of the other sex.

(5) If there are reasonable grounds for suspecting that anyone visiting a prisoner is bringing in or taking out any article for an improper purpose, or contrary to the rules and regulations of the prison, or that his conduct may tend to subvert discipline or good order, the governor may suspend his visit and remove him from the prison.

(6) Where a visit is suspended under paragraph (3) the fact shall be recorded and reported to the Department of Justice.

(7) A copy of the law regarding the introduction of prohibited articles into the prison shall be displayed in the visiting area and, before the prisoner is brought into that area, the visitor's attention shall be drawn to it.

(8) Without prejudice to any other powers to prohibit or restrict entry to prisons, the governor may prohibit visits by a person to a prison for such periods of time as he considers necessary if the governor considers that such a prohibition is –

(a) necessary on any of the grounds specified in rule 68A(4); and

(b) is proportionate to what is sought to be achieved by the prohibition.

Annotation

Rule 73(8) The 2001 Amendment Rules insert this new paragraph to amend rule 73 to clarify the grounds on which visiting prohibitions may be imposed in accordance with the rights of any person under the Human Rights Act 1998.

Rule 73(8) SR2009 No.429 substitutes the SofS for the governor

Amended by SI 2010 No.976

National security

73A. – (1) The Secretary of State may if he considers it necessary in the interests of national security –

(a) exercise any power of the Department of Justice under rule 67(1), (2) or (5) to (9), 68(8) or 68A(1) or (2) above;

(b) by direction provide for anything done by the Department of Justice in the exercise of any of those powers to cease to have effect to the extent set out in the direction.

(2) In relation to –

(a) any intercepted material which is intercepted under a direction of the Secretary of State or which is otherwise information held by the governor as an officer of the Secretary of State in accordance with arrangement made under section 1A(7) of the Act, or

(b) any information retained pursuant to rule 68B above in relation to any intercepted material within sub-paragraph (a),

rule 68C above has effect as if for the words “an officer of a prison or of the Department of Justice” there were substituted “an officer of the Secretary of State (including a person treated as such an officer under arrangements made under section 1A(7) of the Act).

Amended by SI 2010 No.976

PART VIII

PRISONERS' REQUESTS AND COMPLAINTS

Prisoner requests

74.—(1) A prisoner may make any request relating to his imprisonment to an officer, a governor, a member of the independent monitoring board, or an officer of the Department of Justice visiting the prison.

(2) Any such request shall be recorded by the person to whom it is made and it shall be reported to the governor as soon as possible.

(3) A prisoner may make a request orally or in writing.

(4) Every request shall be considered by, or on behalf of, the governor, and a reply given as soon as possible.

Amended by SI 2010 No.976

Complaints by prisoners: subject matter of complaints

75.—(1) A prisoner may complain, using the procedure set out in rules 76 to 79B about the following matters:

- (a) his treatment by any person employed in the Northern Ireland Prison Service, including provision for his welfare while in prison, and treatment includes an omission;
- (b) the facilities available to him at the prison; and
- (c) the cleanliness and adequacy of prison premises.

(2) If a prisoner submits a complaint which does not deal with a matter set out in paragraph (1) the residential manager referred to in rule 76(2) shall write to the prisoner within seven days of the complaint being recorded under rule 76(1A), informing him that his complaint is not appropriate to be dealt with under the procedure set out in rules 76 to 79B.

Complaints by prisoners: first stage

76.—(1) A prisoner makes a complaint by putting a completed complaint form into a box provided for complaints (referred to in these Rules as a “complaints post box”) or by submitting it to a residential officer who shall put it into a complaints post box.

(1A) The contents of the complaints post box shall be recorded on a daily basis.

(2) The complaint shall be passed to a residential manager who shall interview the prisoner within 24 hours of the complaint being recorded under paragraph (1A).

(2A) The residential manager referred to in paragraph (2) shall pass the complaint to an appropriate person within three days of the complaint being recorded under paragraph (1A).

(3) Subject to rule 79B (complaints by prisoners: treatment of vexatious etc. complaints), the appropriate person shall consider the complaint and provide a response to the complaint as soon as possible and in any event no more than ten days after receiving the complaint .

(4) The appropriate person shall pass the response to a residential manager who shall return it to the prisoner within 24 hours of receiving it.

(5) In the rule “an appropriate person” means an officer or an employee of the Northern Ireland Prison Service with supervisory or managerial responsibility for the subject matter of the complaint.

Complaints by prisoners: second stage

77.—(1) If a prisoner is not satisfied with the response of the appropriate person, or, he has not received a response within 14 days of complaint having been recorded under rule 76(1A) he may make the complaint a second time.

(2) The complaint shall be passed to a residential manager who shall pass it to an appropriate person within three days of the complaint having been recorded under rule 76(1A) for the second time.

(3) Subject to rule 79B, the appropriate person shall consider the complaint and provide a response to the complaint as soon as possible and in any event no more than ten days after receiving the complaint.

(4) The appropriate person shall pass the response to a residential manager who shall return it to the prisoner within 24 hours of receiving it.

(5) In the rule “an appropriate person” means an officer or an employee of the Northern Ireland Prison Service with supervisory or managerial responsibility for the subject matter of the complaint and who is senior to the appropriate person referred to in rule 76(2).

Annotation

Rules 75-77 SR2009 No.429

Rule 78 complaints by prisoners: third stage is omitted SR2009 No.429.

Complaints by prisoners: failure of residential manager

79.—(1) If at any stage the residential manager to whom the complaint was submitted fails to perform any of his functions under rules 75 to 77 the prisoner may refer the matter to the residential manager’s line manager.

(2) If a matter is referred under this rule to the line manager referred to in paragraph (1) that line manager shall perform the functions of the residential manager set out in rules 75 to 77.

Complaints by prisoners: time limits

79A. A prisoner must submit:

(a) his complaint under rule 76(1) within 21 days of the act, omission or other matter which forms the subject matter of the complaint;

(b) his complaint under rule 77(1) within ten days of the response being passed to him under rule 76(4) or, as the case may be, within 14 days of not receiving a response under the procedure set out in rule 76 or 77.

Complaints by prisoners: treatment of vexatious etc. complaints

79B.—(1) If the appropriate person under rule 76 or 77 or the line manager of either is of the view that a complaint:

(a) is vexatious;

(b) is repetitive;

(c) is frivolous;

(d) raises no substantial issue; or

(e) either on its own or taken together with other complaints, is intended to seriously hamper the proper operation of the complaints procedure set out in this part of the rules;

he shall refer the complaint to the governor, or if he does not work under a governor to a member of the Senior Civil Service.

(2) If the governor, or as the case may be a member of the Senior Civil Service, receives a referral under paragraph (1) he shall decide if he considers the complaint that is the subject of the referral:

(a) to be vexatious;

(b) to be repetitive;

(c) to be frivolous;

(d) raises no substantial issue; or

(e) either on its own or taken together with other complaints, is intended to seriously hamper the proper operation of the complaints procedure set out in this part of the rules.

(3) If the governor or the member of the Senior Civil Service considers the complaint to be of one or more of the descriptions set out in paragraph 2(a) to (e) he shall write to the prisoner who submitted the complaint informing him that he considers it to be a complaint of a description set out in paragraph (2)(a) to (e) and setting out why and as a consequence it will not be dealt with any further.

(4) If the governor or the member of the Senior Civil Service does not consider the complaint to be of one of the descriptions set out in paragraph 2(a) to (e) he shall refer it back to the person that made the referral under paragraph (1) setting out the reasons for his decision and inform him in writing to process the complaint in accordance with the procedure set out in rules 76 to 79A.

(5) The governor or the member of the Senior Civil Service must write to the prisoner or, as the case may be, provide a response to the person who made the referral under paragraph (1) within two days of receiving the referral under paragraph (1).

(6) If a person receives a referral under paragraph (4) he shall process that complaint in accordance with the procedure set out in rules 76 to 79A and he shall not refer the complaint in question a second time under paragraph (1) of this rule.

Complaints by prisoners: interpretation etc.

79C.—(1) If the governor or a member of the Senior Civil Service is the appropriate person under rule 76 or 77 the procedure in rules 76 to 79A shall be at an end and shall be exhausted for the purposes of rule 79I(1) (complaints to the Ombudsman: exhaustion of internal procedure) once the complaint has been considered by the governor or a member of the Senior Civil Service and a response has been provided to the prisoner.

(5) If the complaint relates to the ill-treatment of a prisoner the appropriate person shall not be the person alleged to be responsible for the ill-treatment but shall be that person's line manager.

(6) In this part of the rules "line manager" means the person with management responsibility for a person.

Annotation

Rules 79, 79A and 79B SR2009 No.429

Rule 79C Sr2009 No.429 omits paragraphs (2) to (4)

Complaints by prisoners: records of complaints

79D. All those who deal with a complaint under the procedure in rules 75 to 79B must keep an appropriate record of the completed complaint form, the response to the complaint and the investigation of the complaint.

Complaints by former prisoners: subject matter of complaints

79E.—(1) Subject to paragraph (2), a former prisoner may complain, using the procedure set out in rule 79F and 79G about the following matters:

- (a) his treatment by any person employed in the Northern Ireland Prison Service, including provision for his welfare while in prison, and treatment includes an omission;**
- (b) the facilities available to him at the prison; and**
- (c) the cleanliness and adequacy of the prison premises.**

(2) If a former prisoner submits a complaint which does not deal with a matter set out in paragraph the governor shall write to the former prisoner within 14 days of receiving the complaint informing him that his complaint is not appropriate to be dealt with under the procedure set out in rule 79F and 79G.

Complaints by former prisoners: procedure

79F.—(1) A former prisoner submits a complaint by making a complaint in writing to the governor of the prison where he was most recently imprisoned.

(2) A former prisoner must submit his complaint within 21 days of the act, omission or other matter which forms the subject matter of the complaint.

(3) Subject to rule 79G (complaints by former prisoners: treatment of vexatious etc. complaints), the governor who received the complaint must pass the complaint as soon as reasonably practicable to the appropriate person, unless he is the appropriate person in which case he must retain it.

(4) The appropriate person must investigate and consider the complaint and, unless he is the governor, provide the governor who received the complaint with a response for the former prisoner.

(5) The governor who received the complaint must respond to the complaint as soon as possible and in any event not more than 14 days after receiving it.

(6) The governor who received the complaint shall respond to the complaint by sending a written response to the former prisoner.

(7) In this rule “the appropriate person” is an officer or an employee of the Northern Ireland Prison Service with supervisory or managerial responsibility for the subject matter of the complaint.

Complaints by former prisoners: treatment of vexatious etc. complaints

79G.—(1) The governor who receives a complaint under rule 79F may not deal with that complaint, other than in accordance with the procedure in paragraph (2) if he considers:

- (a) it to be vexatious;
- (b) it to be repetitive;
- (c) it to be frivolous;
- (d) it to raise no substantial issue; or
- (e) that the complaint either on its own or taken together with other complaints is intended to seriously hamper the proper operation of the complaints procedure set out in this part of the rules.

(2) The former prisoner who submitted the complaint will be told in writing that his complaint is considered by the governor who receives the complaint under rule 79F to fall under paragraph (1)(a) to (e), and why, and that as a consequence it will not be dealt with any further.

Complaints by former prisoners: records of complaints

79H. All those who deal with a complaint under rule 79F and 79G must keep an appropriate record of the written complaint, the response to the complaint and the investigation of the complaint.

“Complaints by visitors: subject matter of complaints

79HA.—(1) A visitor may complain, using the procedure set out in rules 79HB to 79HE about the following matters:

- (a) his treatment by any person employed in the Northern Ireland Prison Service and treatment includes an omission;
- (b) the facilities available to him at the prison; and
- (c) the cleanliness and adequacy of prison premises.

(2) If a visitor submits a complaint which does not deal with a matter set out in paragraph (1) the visits manager referred to in rule 79HB(1) shall write to the visitor, within seven days of receiving the complaint, informing him that his complaint is not appropriate to be dealt with under the procedure set out in rules 79HB to 79HE.

(3) A complaint under paragraph (1) is only appropriate to be dealt with under the procedure set out in rules 79HB to 79HE if it deals with a matter which is the responsibility of the Northern Ireland Prison Service.

(4) In this Part “visitor” means a person who is visiting or has visited a prisoner or former prisoner.

Complaints by visitors

79HB.—(1) On receipt of a complaint by a visitor the visits manager or the governor, as the case may be, shall pass it to the appropriate person within five days.

(2) Subject to rule 79HE (complaints by visitors: treatment of vexatious etc. complaints), the appropriate person to whom the complaint was passed under paragraph (1) shall consider the complaint and provide a response to the complaint as soon as possible and in any event no more than ten days after receiving the complaint.

(3) The appropriate person to whom the complaint was passed under paragraph (1) shall respond to the complaint by writing to the visits manager.

(4) On receiving a response under paragraph (3) the visits manager shall forward the response to a governor with responsibility for the subject matter of the complaint who shall return it to the visitor within seven days.

(5) In this rule “the appropriate person” means an officer or an employee of the Northern Ireland Prison Service with supervisory or managerial responsibility for the subject matter of the complaint.

Complaints by visitors: failure of the visits manager

79HC. If at any stage the visits manager to whom the complaint was submitted fails to perform any of his functions under rules 79HA to 79HB the visitor may refer the matter to the governor or the Ombudsman.

Complaints by visitors: time limits

79HD. A visitor must submit his written complaint under rule 79HB(1) within 21 days of the act, omission or other matter which forms the subject matter of the complaint.

Complaints by visitors: treatment of vexatious etc. complaints

79HE.—(1) If the appropriate person under rule 79HB or his line manager is of the view that a complaint:

(a) is vexatious;

(b) is repetitive;

(c) is frivolous;

(d) raises no substantial issue; or

(e) either on its own or taken together with other complaints, is intended to seriously hamper the proper operation of the complaints procedure set out in this Part of the rules;

he shall refer the complaint to the governor or, if he does not work under a governor, to a member of the Senior Civil Service.

(2) If the governor or, as the case may be, a member of the Senior Civil Service receives a referral under paragraph (1) he shall decide if he considers the complaint that is the subject of the referral:

(a) to be vexatious;

(b) to be repetitive;

(c) to be frivolous;

(d) raises no substantial issue; or

(e) either on its own or taken together with other complaints, is intended to seriously hamper the proper operation of the complaints procedure set out in this Part of the rules.

(3) If the governor or the member of the Senior Civil Service considers the complaint to be of one or more of the descriptions set out in paragraph (2)(a) to (e) he shall write to the visitor who submitted the complaint informing him that he considers it to be a complaint of a description set out in paragraph (2)(a) to (e) and setting out why and as a consequence it will not be dealt with any further.

(4) If the governor or the member of the Senior Civil Service does not consider the complaint to be of one of the descriptions set out in paragraph (2)(a) to (e) he shall refer it back to the person that made the referral under paragraph (1), setting out the reasons for his decision, and inform him in writing to process the complaint in accordance with the procedure set out in rules 79HB to 79HD.

(5) The governor or the member of the Senior Civil Service shall write to the visitor or, as the case may be, provide a response to the person who made the referral under paragraph (1) within seven days of receiving the referral under paragraph (1).

(6) If a person receives a referral under paragraph (4) he shall process that complaint in accordance with the procedure set out in rules 79HB to 79HD and he shall not refer the complaint in question a second time under paragraph (1).

Complaints by visitors: interpretation etc.

79HF. If the governor or a member of the Senior Civil Service is the appropriate person under rule 79HB the procedure in rules 79HB to 79HD shall be at an end and shall be exhausted for the purposes of rule 79I(1) (complaints to the Ombudsman: exhaustion of internal procedure) once the complaint has been considered by the governor or a member of the Senior Civil Service and a response has been provided to the visitor.

Complaints by visitors: records of complaints

79HG. All those who deal with a complaint under the procedure in rules 79HA to 79HE must keep an appropriate record of the written complaint, the response to the complaint and the investigation of the complaint.

Annotation

Rules 79HA to 79HG inserted by SR2009 No.429

Complaints to the Ombudsman: exhaustion of internal procedure

79I.—(1) If a prisoner has exhausted the procedure set out in rules 76 to 79B he may submit a complaint to the Ombudsman.

(2) If a former prisoner has exhausted the procedure set out in rules 79F and 79G he may submit a complaint to the Ombudsman.

(2A) If a visitor has exhausted the procedure set out in rules 79HB to 79HE he may submit a claim to the Ombudsman.

(3) A complaint by a prisoner or former prisoner to the Ombudsman shall be dealt with in accordance with rules 79J to 79N.

(4) A procedure is exhausted for the purpose of this rule and rule 79K if one of the following applies:

- (a) a prisoner has received a response to his complaint under rule 77(5);
- (b) a prisoner has not received a response to his complaint under rule 77(5) and 14 days have passed since he submitted his completed complaint form under rule 77(1);
- (c) rule 79C(1) applies to the prisoner's complaint and he has received a response from the governor or the member of the Senior Civil Service under rule 76(5);
- (d) rule 79C(1) applies to the prisoner's complaint and 14 days has passed since the prisoner submitted his completed complaint form under rule 76(1);
- (e) a prisoner has received a response to his complaint under rule 79B(3) (complaints by prisoners: treatment of vexatious etc. complaints);
- (f) a former prisoner has received a response to his complaint under rule 79F(6);
- (g) a former prisoner has not received a response to his complaint under rule 79F(6) and 14 days have passed since he submitted his complaint under rule 79F(1);
- (h) a former prisoner has received a response to his complaint under rule 79G(2) (complaints by former prisoners: treatment of vexatious etc. complaints).
- (i) a visitor has received a response to his complaint under rule 79HB(5);
 - (j) a visitor has not received a response to his complaint under rule 79HB(5) and 22 days have passed since he submitted his complaint under rule 79HB(1);
 - (k) rule 79HF applies to the visitor's complaint and he has received a response from the governor or the member of the Senior Civil Service under rule 79HB(5);
 - (l) rule 79HF applies to the visitor's complaint and 22 working days have passed since the visitor submitted his written complaint under rule 79HB(1);
 - (m) a visitor has received a response to his complaint under rule 79HE(3).

Complaints to the Ombudsman: subject matter of the complaint

79J.—(1) A prisoner, former prisoner or visitor may complain to the Ombudsman about the following matters:

- (a) his treatment by any person employed in the Northern Ireland Prison Service, including provision for his welfare while in prison, and treatment includes an omission;
- (b) the facilities available to him at the prison; and
- (c) the cleanliness and adequacy of the prison premises.

(2) If a prisoner, former prisoner or visitor submits a complaint which does not deal with a matter set out in paragraph (1) the Ombudsman shall write to the prisoner, former prisoner or visitor, within 14 days of receiving the complaint, informing him that his complaint is not appropriate to be dealt with by the Ombudsman.

(3) In the case of a visitor a complaint under paragraph (1) is only appropriate to be dealt with by the Ombudsman if it deals with a matter which is the responsibility of the Northern Ireland Prison Service.

Complaints to the Ombudsman: submission of complaints

79K.—(1) A prisoner submits a complaint to the Ombudsman by submitting a complaint to him orally or in writing.

(2) A prisoner shall submit his complaint to the Ombudsman no more than 30 days after he has exhausted the procedure set out in rules 76 to 79B.

(3) If a prisoner does not comply with paragraph (2) the Ombudsman may accept a complaint out of time if he is satisfied that it was not reasonably practicable for the prisoner to comply with paragraph (2).

(4) A former prisoner submits a complaint to the Ombudsman by submitting a complaint to him orally or in writing.

(5) A former prisoner shall submit a complaint to the Ombudsman no more than 30 days after he has exhausted the procedure set out in rules 79F and 79G.

(6) If a former prisoner does not comply with paragraph (5) the Ombudsman may accept a complaint out of time if he is satisfied that it was not reasonably practicable for the former prisoner to comply with paragraph (5).

(7) A visitor submits a complaint to the Ombudsman by submitting a complaint to him orally or in writing.

(8) A visitor shall submit his complaint to the Ombudsman no more than 30 days after he has exhausted the procedure set out in rules 79HB to 79HE.

(9) If a visitor does not comply with paragraph (8) the Ombudsman may accept a complaint out of time if he is satisfied that it was not reasonably practicable for the visitor to comply with paragraph (8).

Ombudsman's procedure

79L.—(1) Subject to rule 79N (Ombudsman's treatment of vexatious etc. complaints), the Ombudsman shall:

- (a) investigate and consider a complaint submitted under rule 79K;
- (b) prepare a final report on the complaint;

(c) submit the final report to the prisoner , former prisoner or visitor who made the complaint and the Department of Justice.

(2) Once the Department of Justice has received the Ombudsman's final report on the complaint the Department of Justice shall:

(a) consider the final report;

(b) submit a response and the reasons for that response to the Ombudsman.

(3) The Department of Justice shall submit the Department's response within 21 days of receipt of the Ombudsman's final report on the complaint.

(4) On receipt of a response under paragraph (2)(b) the Ombudsman shall submit the response to the prisoner , former prisoner or visitor who made the complaint.

(5) The Ombudsman may submit an interim report, before the submission of his final report, to the Department of Justice if a matter comes to his attention that requires urgent attention.

(6) If the Department of Justice receives an interim report from the Ombudsman the Department of Justice shall take such steps as are necessary to deal with the matters raised by that report as soon as reasonably practicable.

(7) The Ombudsman shall submit a final report or an interim report as soon as reasonably practicable.

(8) If during the course of the investigation and consideration of a complaint it comes to the Ombudsman's attention that a criminal offence may have been committed the Ombudsman shall draw this to the attention of the Police Service of Northern Ireland.

(9) If during the course of the investigation and consideration of a complaint it comes to the Ombudsman's attention that a prisoner or any person employed in the Northern Ireland Prison Service may have committed a disciplinary offence the Ombudsman shall draw this to the attention of the Department of Justice.

(10) The Ombudsman shall take the steps set out in paragraph (8) or (9) as soon as reasonably practicable after the matter in either paragraph comes to his attention.

Amended by SI 2010 No.976

Ombudsman's powers

79M.—(1) The Ombudsman may request information relating to the complaint, in addition to the information contained in the written complaint, from the prisoner, former prisoner or visitor and the Department of Justice.

(2) The Department of Justice may release information to the Ombudsman in response to a request for information under paragraph (1).

(3) The Ombudsman may visit any prison, Young Offenders Centre or any other premises used by the Northern Ireland Prison Service for the purpose of investigating a complaint.

(4) The Ombudsman may interview, with the consent of the person concerned, the prisoner or former prisoner making the complaint, any prisoner or any other person who has information relevant to the complaint.

(5) Those employed in the Northern Ireland Prison Service shall, *subject to any legal constraints*, co-operate fully with the Ombudsman.

(6) Within this rule and rule 79L references to the Ombudsman include members of the Ombudsman's staff.

Annotation

Rule 79I to 79M SR2009 No.429

Rule 79M removes the words “written” (4) and adds “subject to any legal constraints, co-operate fully with” (5) SR2009 No.429

Amended by SI 2010 No.976

National security etc

79MA. – (1) In carrying out any function under these Rules or otherwise, the Ombudsman (including members of the Ombudsman's staff) must have regard to any guidance given by the Secretary of State for purposes connected with national security (including, in particular, any matter within section 1A(2)(c)(i) to (iii) of the Act).

(2) In relation to any matter mentioned in section 1A(2) of the Act, in rule 79M references to the Department of Justice are to be read as including references to the Secretary of State.

Amended by SI 2010 No.976

Treatment by Ombudsman of vexatious etc. complaints

79N.—(1) The Ombudsman may not deal with a complaint, other than in accordance with the procedure in paragraph (2) if he considers:

(a) it to be vexatious;

(b) it to be repetitive;

(c) it to be frivolous;

(d) it to raise no substantial issue; or

(e) that the complaint either on its own or taken together with other complaints is intended to seriously hamper the proper operation of the complaints procedure set out in this part of the rules.

(2) The prisoner, former prisoner or visitor who submitted the complaint will be told in writing that his complaint is considered by the Ombudsman to fall under either rule 79N (1)(a), (b), (c), (d) or (e) and as a consequence it will not be dealt with any further.

Annotation

Rules 74 to 79 – The 2005 Amendment Rules insert a new prisoner complaints system, including provision in relation to the operation of the new Prisoner Ombudsman for Northern Ireland.

SR2009 No.429 amended rules relating to complaints to allow complaints from visitors to prisoners, allows for a prisoner making a complaint to be interviewed within 24 hours and removed the third stage from the complaints process.

PART IX

PHYSICAL WELFARE

Health care provision

80. At every prison a separate building or a suitable part of the prison shall be equipped, furnished and staffed in a way appropriate to the **health care** and treatment of sick prisoners.

Annotation

Rule 80 SR2009 No.429

Hygiene

81. –(1) Every prisoner shall be allowed adequate access to sanitation facilities and water for health and cleanliness and will be provided with an appropriate range of toilet articles, which shall be replaced as necessary.

(2) Every prisoner shall be required to keep himself clean by washing at proper times and by having a hot bath or shower at least once a week unless excused by the governor or **a registered nurse or a health care officer**.

(3) Every male prisoner may be required to shave as necessary for health and cleanliness.

(4) A prisoner's hair shall not be cut without his consent unless **a registered nurse or a health care officer** considers it necessary for the sake of health and cleanliness.

(5) A governor may require that a prisoner cover or restrain his hair at such times as are necessary for the protection of health and hygiene.

(6) Every prisoner shall keep his cell, utensils, books and other articles issued for his use, and his clothing and bedding, clean and neatly arranged.

Annotation

Rule 81(2) & (4) SR2009 No.429

Food

82. –(1) Every prisoner shall be provided with sufficient food which is wholesome, nutritious, palatable, adequately presented and well prepared and which takes into account age, health, and work and, as far as practicable, religious or cultural requirements.

(2) Unless the governor **or a registered general practitioner, a registered nurse or a health care officer** directs, no prisoner shall be allowed to have any food other than that ordinarily provided.

(3) A prisoner who wishes to complain about the food supplied to him must make the complaint as soon as possible after he has received the food; any such complaint shall be properly considered by the governor and, where appropriate, action to remedy the complaint shall be taken as soon as possible.

(4) The governor shall ensure that the condition, quality and quantity of food, both before and after it is cooked and at the point of delivery, and the conditions under which it is prepared, are inspected frequently and that appropriate action is taken as soon as possible where any shortcoming is discovered.

(6) A member of the independent monitoring board shall, on behalf of the board, inspect the preparation and delivery of prisoners' food and its palatability at frequent intervals.

(7) In this rule "food" includes drink.

Annotation

Rule 82(2) amended by SR2009 No.429
Rule 82(5) is omitted by SR2009 No.429

Alcohol, drugs and tobacco

83. –(1) A prisoner shall not be given or allowed to have any intoxicating liquor or drug of the medical officer specifying the nature and quantity and the name of the prisoner for whose use it is ordered.

(1A) A prisoner shall not be given or allowed to have any prescription only medicine except where that medicine is prescribed by a registered general practitioner, a nurse independent prescriber or a pharmacist independent prescriber.

(2) A prisoner shall not be allowed to smoke or have in his possession any tobacco except in accordance with such orders as may be given by the governor.

Smoking

83A. No prisoner shall smoke in a prison except—

(a) in a cell or room in which that prisoner is accommodated and which the governor designates in writing as being a cell or room in which smoking is permitted.

(b) in open air areas designated by the governor in writing.

Annotation

Rule 83(1) amended and 83(1A) and 83A are inserted by SR2009 No.429

Clothing

84. –(1) A prisoner shall wear clothing adequate for warmth and health in accordance with a scale approved by the Department of Justice (including any special clothing which the governor considers is required for any particular work or activity), and shall be provided with such clothing except to the extent that he provides his own clothing under paragraph (3).

(2) All clothing shall be clean and be kept in proper condition; facilities shall be available for items to be changed as often as is necessary for the maintenance of health and hygiene.

(3) A prisoner may provide his own clothing except to the extent that-

(a) his own clothing is required for the purposes of justice; or

(b) his own clothing is prohibited under paragraph (4); or

(c) the governor considers that special clothing is required for any particular work or activity.

(4) The governor may prohibit clothing of any particular description or any particular item of clothing if he considers that the wearing of that clothing or item would be prejudicial to security, good order or discipline.

(5) Where such clothing as is provided under paragraph (1) is worn by a prisoner who is required to be taken in custody to court, it shall be such as does not indicate that he is a prisoner.

Annotation

Rules 85(2A) to 85(2C) – The 2005 Amendment Rules inserts new provisions to make it possible for certain functions of a medical officer of a prison or a Young Offenders Centre to be carried out by a registered nurse.

Rule 85 omitted SR2009 No.429

Rule 86 omitted SR2009 No.249

Amended by SI 2010 No.976

Health care records and statistics

87. –(1) A **health care professional** shall record the condition of every sick prisoner, the nature of **his illness**, the medicines and the diet provided and any other treatment which he may order.

(2) **A health care professional** shall keep such statistical records and provide such statistical returns as the Department of Justice may direct relevant to his duties as a **health care professional**.

Annotation

Rule 87 title, 87(1) & 87(2) SR2009 No.429

Rule 87(3) is omitted SR2009 No.429

Amended by SI 2010 No.976

Special medical reports

88. –(1) When **a registered general practitioner or the health care manager** believes that a prisoner's health is likely to be injuriously affected by continued imprisonment, or any conditions of imprisonment, he shall report the circumstances to the governor for the information of the **Department of Justice and to the Board.**

(2) A **registered general practitioner or the health care manager** shall pay special attention to any prisoner whose mental condition appears to require it and where appropriate make any special arrangements which appear necessary for his supervision or care.

Annotation

Rule 88(1) & 88(2) SR2009 No.429

Rules 88(3) & (4) are omitted SR2009 No.429

Amended by SI 2010 No.976

Prisoners at risk of suicide or self-harm

88A.—(1) A governor may require that a prisoner whom he considers to be at risk of suicide or self-harm be accommodated in a cell or room designated for the management of that prisoner's risk of suicide or self-harm.

(2) Where the cell or room designated under paragraph (1) is an observation cell the prisoner shall be accommodated in that cell for such period as is consistent with the management of his risk of suicide or self-harm.

Annotation

88A inserted by SR2009 No.429

Operations

89. Except in urgent circumstances no major surgical procedures shall be performed in the prison.

PART X

WOMEN PRISONERS

Custody

90. –(1) Women prisoners shall be held in separate accommodation.

(2) Prisoners of both sexes may participate together in work, education or other approved activities subject to the approval of the governor.

(3) Nothing in this rule shall unnecessarily deprive prisoners of the benefits of association with other persons.

Regimes

91. –(1) In the provision of work, education, recreation, or privileges the governor may provide a different regime for women prisoners from that available to male prisoners.

(2) This rule does not permit any discrimination which would be unlawful but for the fact it took place in a prison.

Pregnancy, confinement and babies

92. –(1) Where a female prisoner is pregnant on committal and her confinement is expected to take place before the end of her sentence, she shall, if possible, be temporarily removed from the prison to a suitable hospital for the confinement and for any period following delivery which **a registered general practitioner** considers necessary.

(2) The **Department of Justice** shall be notified of any such impending confinement and may thereupon direct removal of the prisoner under such conditions, if any, as **the Department of Justice** thinks fit.

(3) The **Department of Justice** may, subject to any conditions **the Department of Justice** thinks fit, permit a female prisoner to have her baby with her in prison and everything necessary for the baby's maintenance and care may be provided there.

Annotation

Rule 92(1) SR2009 No.429
Amended by SI 2010 No.976

PART XI

PERSONS ORDERED TO BE DETAINED IN A YOUNG OFFENDERS CENTRE

Modifications to these rules

93. The following words shall be substituted in Rule 2 and throughout Parts II to X and XII to XVI of these rules as they apply to those required to be detained in a young offenders centre-

- (a) 'inmate' for 'prisoner';
- (b) 'centre' for 'prison';
- (d) 'confinement to room' for 'cellular confinement'.

Initial transfer to centre

94. –(1) Where a person has been ordered to be detained in a centre he may be kept in custody in a prison other than a centre until arrangements can be made for his transfer to a centre.

(2) An inmate shall not be kept in prison under this rule for longer than 72 hours.

(3) While in custody in such a prison an inmate shall, so far as possible, be kept separate from other prisoners, but an inmate may associate with prisoners for

work, education and exercise and for other purposes if otherwise he would be deprived of the benefits of association.

Inquiry into charge: minor offences

94A.—(1) Without prejudice to rule 36 an officer designated by the Department of Justice (referred to in this rule as a “designated officer”) may hold an inquiry into a charge that an inmate has committed any of the offences against prison discipline listed in paragraphs (7), (9), (15), (16), (21), (22), (23) or (25) of rule 38.

(2) The designated officer shall first inquire into any charge not later, save in exceptional circumstances, than the next day after the laying of the charge unless that day is a day of religious observance for the inmate in accordance with his religious denomination as recorded under rule 57.

(3) The designated officer may adjourn the inquiry but must give reasons for doing so which shall be recorded in the record made under rule 37; any adjournment must not unfairly prejudice the interests of the inmate.

(4) At any inquiry into a charge against an inmate the designated officer shall satisfy himself that the inmate has had sufficient time to prepare his defence; the inmate shall be given a full opportunity of hearing what is alleged against him and of presenting his own case.

Annotation

Rule 94A inserted by SR2009 No.429
Amended by SI 2010 No.976

Disciplinary awards

95. –(1) Rule 39(1) shall not apply to inmates of a young offenders centre.

(2) The governor may, subject to rule 41, make one or more of the following awards for an offence against discipline –

- (a) caution;
- (b) \leq _____ \geq ;
- (c) stoppage of earnings for a period not exceeding **28** days;
- (d) stoppage of any or all privileges other than earnings, for a period not exceeding 28 days or 60 days in the case of evening association;
- (e) exclusion from associated work for a period not exceeding 14 days;
- (f) confinement to room for a period not exceeding **7** days.

(3) \leq _____ \geq ;

(4) Subject to paragraph (5), where a person ordered to be detained in a young offenders centre is kept in custody in a prison under rule **94**, any disciplinary award made under these rules in respect of any offence against discipline committed by him while in prison custody shall have effect as if made under this rule

to the extent (if any) that the award has not been exhausted at the time of such transfer.

(5) No award shall have effect by virtue of paragraph (4) to the extent, if any, that the award made was more severe than could, at the time it was made, have been made under this rule.

Annotation

Rule 95 (1) and (2) - The 2000 Amendment Rules delete the references to rule 40(2) and rule 40 respectively.

Rule 95(2) - The 2004 Amendment Rules increase the level of governor's awards for all young offenders by deleting rule 95(2)(b) and revising the level of awards in rules 95(2)(c) and 95(2)(f). The amendments made to 95(2)(c) and 95(2)(f) only apply in respect of offences against prison discipline committed after 1 February 2004.

Rule 95 (3) - was revoked under The Prison and Young Offenders Centre (Amendment) Rules (Northern Ireland) 2000.

Rule 95 (4) The 1995 Amendment Rules insert the correct reference to rule 94 in place of the earlier incorrect reference to rule 92 in the principal rules.

Recreation

96. –(1) Rule 55 shall not apply to inmates of a young offenders centre.

(2) Subject to paragraph (3) inmates shall regularly be given such physical recreation, training and exercise as are required to promote health and physical well-being.

(3) **A health care professional** may, on health **care grounds**, modify physical recreation, training or exercise or exempt an inmate from any or all of these.

Annotation

Rule 96(3) SR2009 No.429

PART XII

UNTRIED PRISONERS

General

97. This Part shall apply to any person (in these rules referred to as “an untried prisoner”) committed to prison for safe custody in any of the following circumstances

- (a) on his committal for trial for any indictable offence;
- (b) pending the preliminary investigation or inquiry into an indictable offence by a magistrates' court or pending the hearing of a complaint;
- (c) awaiting sentence or pending inquiries after a conviction; or

(d) being held in lawful custody other than on conviction or where rule 107 applies.

(2) The treatment of untried prisoners shall be such as to recognise not only the governor's duty to ensure the course of justice but also their status as persons who have not been convicted of any offence.

Photographing and measuring

98. An untried prisoner shall not be photographed or measured while in prison except with the authority of the **Department of Justice**.

Amended by SI 2010 No.976

Separation from other prisoners

99. –(1) Untried prisoners shall be kept out of contact with other prisoners as far as this can reasonably be done.

(2) Nothing in this rule shall require a prisoner to be deprived unduly of the society of other persons.

Legal assistance

100. –(1) An untried prisoner shall receive –

- (a) all possible assistance with any application which he may wish to make to be released on bail; and
- (b) all possible assistance and facilities to enable him to exercise his legal rights in connection with his trial.

(2) A confidential written communication prepared as instructions for the legal adviser of an untried prisoner may be delivered with seal unbroken to a messenger authorised, in writing, by the legal adviser to receive it, unless the governor has reason to suppose that it contains matter not relating to such instructions.

Contacts with relatives and others

101. –(1) An untried prisoner shall be assisted in maintaining close links with his relatives and friends, and in continuing as far as possible to deal with matters relating to employment, housing, and any legitimate business.

(2) To this end he may send and receive as many letters and may receive as many visits as he wishes within such limits and subject to such conditions as the **Department of Justice** may direct, either generally or in a particular case.

(3) Subject to paragraph (2) and rule 97(2) , an untried prisoner shall be treated as any other prisoner for the purpose of receiving letters and visits.

Amended by SI 2010 No.976

Accommodation and hygiene

102. –(1) An untried prisoner shall if possible be accommodated in a single cell, but if he expresses a wish to share a cell his preference shall be taken into account.

(2) An untried prisoner shall if possible have daily access to a bath or shower, opportunities for frequent changes of clothes, and be provided with the necessary means to keep his cell clean.

Daily activities

103. –(1) Subject to proper requirements of safe custody and good order untried prisoners shall be unlocked each day for such period as the governor or the **Department of Justice** may direct; different periods may apply in different prisons and to different prisoners or classes of prisoners.

(2) Untried prisoners shall if possible have the option of eating in association or in their cells.

(3) Untried prisoners shall not be required to work, but shall have reasonable opportunities for access to purposeful activities including education and library books.

(4) An untried prisoner may, at the discretion of the governor, have supplied to him at his own expense books, newspapers, writing materials and other means of occupation.

(5) Where an untried prisoner works at his own request, he shall be allowed earnings under arrangements made in accordance with rule 51 (10) of these rules.

Amended by SI 2010 No.976

Application of prisoners' money

104. –(1) Any money which an untried prisoner has at a prison may be applied to the purpose of making special provision for him in cases where the prisoner is, by these rules, required to make any payment in respect of such provision.

(2) An untried prisoner may spend as much private cash as he wishes to purchase items which he is allowed to have in his possession.

Appearance and health

105. –(1) An untried prisoner shall, so far as is practical, maintain his external appearance as on committal and shall shave or be shaved as necessary for this purpose.

(2) Notwithstanding the provisions of paragraph (1), **a registered nurse or a health care officer** may direct that an untried prisoner's hair be cut for the sake of health and cleanliness.

(3) If an untried prisoner desires the attendance of **a registered medical practitioner** or dentist, and will pay any expense incurred, the governor shall, if he is satisfied that there are reasonable grounds for the request and unless the **Department**

of Justice otherwise directs, allow him to be visited and treated by that practitioner or dentist in consultation with a registered general practitioner.

Annotation

Rule 105(2) & (3) SR2009 No.429

Amended by SI 2010 No.976

Property

106. –(1) The governor may, on the application of an untried prisoner, allow him, so far as is consistent with security and the good order of the prison, to have in his cell any articles which were in his possession at the time of arrest and are not required for the purposes of justice or reasonably suspected of forming part of property improperly acquired by him.

(2) No article, whether of clothing or any other kind, shall be received into prison for an untried prisoner until it has been examined; any article which appears likely to be used for an improper purpose may be refused by the governor.

(3) An article may also be refused by the governor if it is not of an essential nature and if its addition to the items which the prisoner already has in his possession would make the prisoner's cell unduly cluttered or unreasonably difficult to search.

(4) An untried prisoner shall not sell or transfer to any other person any article allowed to be introduced for his use; and any prisoner offending against this rule may be prohibited from procuring any such article for such a period as the Department of Justice considers proper.

Amended by SI 2010 No.976

PART XIII

PRISONERS COMMITTED FOR CONTEMPT, ETC

Letters and visits

107. Rules 100 and 101 shall have effect in relation to a prisoner committed or attached for contempt of court, or for failing to do so or abstain from doing anything required to be done or left undone, as it has effect in relation to an untried prisoner.

Association

108. Such prisoners shall be treated as a separate class for the purposes of rule 9 but prisoners may be permitted to associate with any other class of prisoners if they are willing to do so.

Remission

109. A person detained in a prison for a stated term of more than 5 days on committal or attachment for contempt of court shall, for the purposes of rule 30, be treated as serving a sentence of imprisonment for a like term.

PART XIII

SEPARATED PRISONERS

Entry into separated accommodation etc

109ZA. – (1) This rule applies where at any time the accommodation of prisoners in separated conditions on the grounds of security, safety or good order is provided for.

(2) It is for the Secretary of State –

(a) to decide whether a prisoner is to be accommodated in separated conditions on the grounds of security, safety or good order or is to cease to be so accommodated, and

(b) to set criteria upon which any such decision is to be based.

Amended by SI 2010 No.976

Rules not applying to separated prisoners

109A. The following rules shall not apply to separated prisoners:

(a) rule 2(d) and (e);

(b) rule 51(1) and (5);

(c) rule 52(4);

(d) rule 99(1);

(e) rule 103(2); and

(f) rule 103(3) from the word “work,” to the end.

Loss of remission

109B-(1) Where a separated prisoner is charged with an offence under rule 38 for which, in the view of the governor, loss of remission may be the appropriate award if the prisoner is found guilty, the governor shall, unless he dismisses the charge, refer the charge to the Commissioner.

(2) The Commissioner shall inquire into any charge referred to him under paragraph (1) and any other charges arising out of the same incident within 28 days, unless it is not reasonably practicable to do so.

(3) If, after inquiring into any charge, the Commissioner is satisfied that the offence has been committed, he may make one or more of the following awards –

- (a) any of the awards mentioned in rule 39;**
- (b) loss of remission for a period not exceeding 180 days.**

(4) If a separated prisoner is found to have committed more than one offence the Commissioner may impose more than one period of loss of remission to run consecutively.

The Commissioner's procedure

109C – (1) Subject to this rule and rule 109D the Commissioner when inquiring into any charge referred to him under rule 109B shall adopt such procedure as he thinks fit.

(2) The Commissioner shall hold an oral hearing.

(3) The Commissioner's decision shall be made public.

Rights of separated prisoner referred to the Commissioner

109D- (1) A separated prisoner charged with an offence referred to the Commissioner is entitled to be present at the oral hearing.

(2) A separated prisoner is entitled to be legally represented at the oral hearing.

Prospective loss of remission for separated prisoners

109E- (1) In the case of an offence against prison discipline committed by a separated prisoner who is detained only on remand or to await trial or sentence, an award of loss of remission may be made as provided in rule 109B notwithstanding that the separated prisoner has not (or had not at the time of the offence) been sentenced to imprisonment or ordered to be detained in a young offenders centre.

(2) An award under paragraph (1) shall have effect only where the sentence of imprisonment or term of detention in a young offenders centre being imposed is reduced by section 26(2) of the Treatment of Offenders Act (Northern Ireland) 1968 by a period which includes the time when the offence against discipline was committed.

Annotation

Rules 109A-109E – The 2004 Amendment Rules inserts new prison rules specifically for separated prisoners.

PART XIV

GENERAL RULES RELATING TO OFFICERS

General duties of officers

110. –(1) Every officer shall conform to these rules and whatever rules and regulations may be in force in the prison and shall assist and support the governor in maintaining them.

(2) Every officer shall perform his duties conscientiously and shall be courteous towards other officers, staff and members of the public.

(3) An officer shall obey the lawful instructions of the governor.

(4) An officer shall inform the governor promptly of any breach of these rules or any abuse or impropriety which comes to his knowledge.

Contact with prisoners

111. –(1) An officer shall ensure that in his dealings with prisoners that he is courteous and that his conduct is correct and proper at all times.

(2) An officer shall inform the governor promptly of any prisoner who appears to be unwell, or whose behaviour or attitude indicates, in the opinion of the officer, that he may be suicidal or otherwise require further attention or advice.

(3) Except with the permission of the governor, an officer shall not discuss his duties or any matter of discipline or prison arrangements within the hearing of a prisoner.

(4) No officer shall take part in any business or pecuniary transaction with, or on behalf of, a prisoner without the permission of the *Department of Justice*.

(5) Except with the permission of the governor, no officer shall bring in or take out, or attempt to bring in or take out, or knowingly allow to be brought in or taken out, to or for a prisoner, or deposit in any place with intent that it shall come into the possession of a prisoner, any article whatsoever.

Amended by SI 2010 No.976

Contact with ex-prisoners

112. –(1) If a former prisoner or relative or friend of a prisoner or former prisoner communicates or attempts to communicate with an officer the officer shall inform the governor.

(2) No officer shall communicate with a former prisoner or a relative or friend of a former prisoner without the permission of the governor.

Gratuities

113. –(1) An officer shall not receive any unauthorised fee, gratuity or other consideration in connection with his office.

(2) If an officer is offered a fee, gratuity or any consideration by any person he will inform the governor.

Contracts

114. Except with the permission of the *Department of Justice*, an officer shall not, directly or indirectly, have any interest in any contract or tender connected with the prison or receive a fee, gratuity or any other consideration from any contractor, or from any person tendering, or any other person whatever in connection with any such contract or tender.

Amended by SI 2010 No.976

Communications to press, etc.

115. –(1) Except with the permission of the *Department of Justice*, an officer shall not directly or indirectly communicate to a representative of the press, television or radio or any other person matters which he has come to know in the course of his official duties.

(2) An officer shall not, without the permission of the *Department of Justice*, publish any matter or make any public pronouncement relating to the administration of any prison or to any of its prisoners.

Amended by SI 2010 No.976

PART XV

SPECIAL RULES RELATING TO GOVERNORS

Status of governor

116. –(1) The governor shall be in command of the prison.

(2) The governor shall be responsible for the safe custody of all prisoners until they are discharged from his custody by the expiration of their sentence or by order of a court or by Royal Warrant or by order of the *Department of Justice*.

(3) The governor shall be responsible for prisoners' treatment according to law, for the safeguarding of their rights and for the maintenance of discipline in the prison.

(4) Subject to any direction from the *Department of Justice*, the governor shall have authority over all officers and employees on the staff of the prison.

(5) The governor shall ensure the safe custody and proper disposal or use of all monies, equipment and materials in the prison and shall keep whatever records and accounts are required by direction of the *Department of Justice*.

Amended by SI 2010 No.976

Delegation by governor

117. –(1) In a prison where a deputy governor has been appointed the deputy governor shall, in the absence of the governor, act for him.

(2) Subject to paragraph (1), the prison shall in the governor's absence be in the charge of an officer approved by the **Department of Justice**, and the officer so approved shall, at such a time, be competent to perform and shall perform any duty required of the governor.

(3) Subject to the Act and to the provisions of Part IV of these rules and any directions by the **Department of Justice**, the governor may delegate to another officer any of his functions under these rules.

Amended by SI 2010 No.976

Powers and duties relating to officers

118. –(1) The governor shall superintend the conduct of the officers under his authority.

(2) The governor may suspend an officer if there is prima facie evidence of misconduct and shall, without delay, report the matter fully to the **Department of Justice** and shall carry out any directions given by the **Department of Justice**.

(3) The governor shall deal with offences against discipline as empowered by the **Department of Justice** under any code of conduct made under rule 6.

(4) The governor shall record all his orders relating to the management and discipline of the prison and shall have such orders communicated to the proper officers.

(5) The governor shall keep such records of officers' conduct as the **Department of Justice** may determine.

(6) The governor shall forward without delay any report or complaint which an officer wishes to make to the **Department of Justice** and may add any reports he feels appropriate.

(7) The governor shall –

- (a) make available, as he considers appropriate to all officers and other staff circulars from the **Department of Justice** and other documents relating to their duties, rights and responsibilities including any code of conduct made under rule 6; and
- (b) also ensure that such officers and staff have adequate opportunity to acquaint themselves with the contents of those documents.

Amended by SI 2010 No.976

*Duties in relation to **health care***

119. Without prejudice to his other duties under these rules the governor shall

- (a) without delay draw the attention of **a registered nurse or a health care officer** to any prisoner whose physical or mental condition appears to require attention.
- (b) at once notify **a registered nurse or a health care officer** of any prisoner who is sick or any officer who is in need of urgent medical attention;
- (c) provide **a registered nurse or a health care officer** daily with a list of prisoners who have reported sick;
- (d) provide **a registered nurse or a health care officer** with a list of prisoners under punishment or confined in special cells;
- (e) support **health care professionals in their care** of prisoners' health and to this end give as full effect as is practicable to recommendations by **a health care professional**.

Annotation

Rule 119 SR2009 No.429

*Duties in relation to **health and well-being** of prisoners and to inquests*

120. –(1) The governor shall, without delay, report to the **Department of Justice** –

- (a) any case in which **a registered general practitioner or the health care manager** believes that a prisoner's mental state is becoming impaired by continued imprisonment;
- (b) any case in which **a registered general practitioner or the health care manager** believes that a prisoner's life will be endangered by further imprisonment, or that a prisoner will not survive his sentence or is totally or permanently unfit for the discipline of the prison.

(2) The governor shall ensure that proper arrangements are made for the safe custody of sick prisoners and shall visit the prison hospital daily to see all prisoners who have been admitted there.

(3) The governor shall inform the appropriate chaplain when a prisoner recorded as of his denomination as dangerously ill, and shall allow such a prisoner to see any minister of religion whom the prisoner wishes to see.

(4) The governor shall satisfy himself that all officers and other staff who may be in contact with prisoners are aware of the proper procedures for seeking to identify, and for dealing with prisoners who for whatever reason may be regarded as suicide risks, and in consultation with **the health care manager** ensure as far as possible that these procedures operate effectively.

(5) The governor shall supply to the coroner holding an inquest on a prisoner who has died while in his custody the name of any prisoner who claims to be able and willing to give relevant evidence.

(6) The governor shall attend any inquest held following the death of a prisoner in his custody, or arrange for an appropriate officer to do so, and shall report to the **Department of Justice** on the findings of the inquest.

Annotation

Rule 120 SR2009 No.429
Amended by SI 2010 No.976

Other duties of governor

121. –(1) The governor shall keep a journal in which he shall record, with the time thereof, any matter or occurrences of a significant or unusual nature.

(2) The governor shall provide such statistical or other information as the **Department of Justice** may direct, whether for the purpose of an annual report required by section 5 of the Act or otherwise.

(3) The provisions of rules 112, 113 and 114 shall have effect in relation to governors as well as to other officers.

Amended by SI 2010 No.976

PART XVI

POWERS AND DUTIES OF INDEPENDENT MONITORING BOARDS

Appointment of members

122. –(1) The members of **an independent monitoring board** appointed under section 10 of the Act shall hold office for a period of 3 years, or such less period as the **Department of Justice** may direct.

(2) Any person interested in any contract for the supply of goods or services to a prison shall not be a member of the **independent monitoring board** for that prison.

(3) The **Department of Justice** may terminate the appointment of a member if **the Department of Justice** is satisfied that –

- (a) he has failed to perform his duties satisfactorily;
- (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 a criminal offence, or his conduct has been such, that is not fitting that he should remain a member.

(4) The first business at the first meeting of **an independent monitoring board** after appointment shall be the election of a chairman.

(5) The chairman of **an independent monitoring board** may be elected for the whole term of office of the board, or, at the discretion of the board, he may be elected annually.

(6) The board may elect, for such a term of office as it decides, a deputy chairman who shall preside at any meeting at which the chairman is not present.

(7) The monitors shall continue in office until the date of the first meeting of their successors.

Amended by SI 2010 No.976

Proceedings of boards

123. –(1) The board shall meet at the prison once a month to discharge its functions under these rules.

(2) The quorum at a meeting of the board shall be 3.

(3) The powers of the board shall not be affected by vacancies in its membership or any defect in the appointment of a member.

(4) The board shall keep minutes of its proceedings and a copy of the minutes shall be sent to the **Department of Justice** as soon as is practicable after any meeting.

(5) At each meeting of the board a rota shall be arranged to ensure that the prison is visited by at least two visitors before the board's next meeting; these arrangements shall be made in such a way as to ensure that all parts of the prison are visited at reasonable intervals.

(6) A member visiting a prison shall report on his visit to the board.

Annotation

Rule 123(2) The 2000 Amendment Rules delete the reference to adjudication quorum requirements of rule 125(3).

SR2009 No.429 amends all references to “Board of Visitors” to “Independent Monitoring Boards”

Amended by SI 2010 No.976

General duties of boards

124. –(1) The independent monitoring board for a prison shall satisfy itself as to –

- (a) the treatment of prisoners including provision for their health care and other welfare while in prison;
- (b) the facilities available to prisoners to allow them to make purposeful use of their time; and
- (c) the cleanliness and adequacy of prison premises.

(2) The board shall enquire into and report upon any matter which the **Department of Justice** refers to it.

(3) The board shall direct the attention of the governor to any matter which it considers calls for his attention, and shall report to the **Department of Justice** any matter which it considers should be reported to **the Department of Justice**.

(4) The board shall inform the Department of Justice immediately of any abuse which comes to its knowledge in connection with the prison.

(5) In the exercise of any of its powers a board shall satisfy itself, in consultation with the governor, that the exercise of power will not –

- (a) undermine the security and good order of the prison;
- (b) prejudice the efficient operation of the prison; or
- (c) prevent the proper treatment of prisoners.

Adjudication procedure by boards

125. < _____ >

Annotation

Rule 125 - The 2000 Amendment Rules remove the BOV adjudication powers and revoke rules 40 and 125.

Amended by SI 2010 No.976

Visits by board members

126. –(1) Members of the board shall have free access at any time to all parts of the prison to which they are appointed, and to all prisoners and may interview any prisoner out of sight and hearing of prison staff.

(2) In exercising their rights under this rule members shall take into consideration the matters referred to in rule 123(5).

(3) The governor shall allow the board reasonable access to any of the records of the prison, but this shall not entitle the board to see records which the governor must keep secret under a duty of confidentiality.

Annual report

127. The board shall, as soon as possible after 31st March in any year, report to the Department of Justice on all or any of their year's duties under these rules together with any advice or suggestions they may wish to make.

Amended by SI 2010 No.976

Northern Ireland Office
10th January 1995

P. B. B. Mayhew
One of Her Majesty's Principal
Secretaries of State

SCHEDULE

Rule 5

Prisons

< _____ >

Maghaberry

Magilligan

< _____ >

Hydebank Wood

Annotation

In exercise of the powers conferred by rule 5(1) the Secretary of State by Order, dated 6 March 2001, amended the declaration set out in rule 5(2) by deleting Belfast Prison and Maze Prison from the Schedule and altered the boundaries of Maghaberry Prison to include the former sites of Belfast Prison and Maze Prison.

Those powers were exercised again on 31 July 2003 to remove that part of the former Belfast Prison site as indicated on the relevant maps from the boundary of Maghaberry Prison on the handover of the site to OFMDFM.

On 31 March 2004 the Secretary of State in exercise of his powers under Prison Rule 5(1) altered the boundaries of Maghaberry Prison by removing from it that part of the former Maze Prison site as indicated on the relevant maps.

On 18 June 2004 the Secretary of State in exercise of the powers conferred on him by rule 5(1) made an order to designate part of HM Young Offenders Centre, Hydebank Wood as Hydebank Wood Prison.