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## DIRECTIONS

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### Scottish Prison Rules (Escorted Day Absence) Direction 2011

Made - - - - 30th November 2011

The Scottish Ministers make the following Direction in exercise of the powers conferred by section 39 of the Prisons (Scotland) Act 1989(a) and rules 101 and 156 of the Prisons and Young Offenders Institutions (Scotland) Rules 2011(b) and all other powers enabling them to do so.

#### Citation, commencement and application

1.—(1) This Direction may be cited as the Scottish Prison Rules (Escorted Day Absence) Direction 2011 and comes into force at 0905 hours on 30th November 2011.

(2) Any reference in this Direction to a rule is a reference to the rule in the Prison Rules bearing that number.

(3) References in this Direction to prisons and prisoners are to be construed as including young offenders institutions and young offenders respectively unless otherwise specified or the context otherwise requires.

#### Interpretation

2. In this Direction—

“Deputy Governor” has the same meaning as in rule 2(1);

“escorted day absence” has the same meaning as in rule 101(1);

“Governor” means—

(a) the Governor in Charge;

(b) the Deputy Governor;

(c) any authorised Unit Manager; or

(d) where there is no officer as mentioned in paragraphs (a) to (c) present for the time being in the prison, the most senior officer who is present in the prison at that time;

“Governor in Charge” has the same meaning as in rule 2(1);

“healthcare professional” has the same meaning as in rule 2(1);

“officer” has the same meaning as in rule 2(1);

“prisoner” is to be interpreted in accordance with rule 2(4);

“the Prison Rules” means the Prisons and Young Offenders Institutions (Scotland) Rules 2011.

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(a) 1989 c.45; section 39 was amended by the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9), section 24 and 25, Schedule 5, paragraph 6(6)(b) and Schedule 7, paragraph 1; by the Criminal Justice and Public Order Act 1994 (c.33), section 116(4); by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), Schedule 4, paragraph 75(4)(a); and by the Crime and Disorder Act 1998 (c. 37), Schedule 8, paragraph 71 and Schedule 10, paragraph 1. Section 39 is to be read with the following sections of the 1989 Act: 19 (as amended by the 1993 Act, Schedule 5, paragraph 6(4)), 20A (which was added by the 1993 Act, section 23); 41(2B) (which was added by the 1994 Act section 153(3) and amended by the 2010 Act section 34(1)); 41B(1) (which was added by the 1994 Act, section 151(2) and amended by the 2005 Act, section 16); and 41C(1) (which was added by the Crime and Punishment (Scotland) Act 1997 (c.48), section 42). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.S.I. 2011/331

### **Criteria applicable to escorted day absence**

3. The criteria about which the Governor must be satisfied before granting escorted day absence are—

- (a) the Governor has received an application from a prisoner stating—
  - (i) why escorted day absence is required;
  - (ii) in relation to escorted day absence for the purposes specified in rule 101(1)(a) or (b), the name of the near relative and the name and location of the place at which escorted day absence is to be taken; and
  - (iii) in relation to escorted day absence for the purpose specified in rule 101(1)(c), the name and location of the place at which escorted day absence is to be taken and the exceptional circumstances which justify escorted day absence under rule 101(1)(c);
- (b) in relation to escorted day absence for the purposes specified in rule 101(1)(a), the Governor has received confirmation that the near relative of the prisoner is dangerously ill which confirmation must be given—
  - (i) in writing by a registered medical practitioner; or
  - (ii) where escorted day absence is required urgently, orally by a healthcare professional;
- (c) in relation to escorted day absence for the purposes specified in rule 101(1)(b), the Governor has received written confirmation from a registered medical practitioner that the near relative of the prisoner has died;
- (d) the Governor has not been made aware of any objections from any victims of an offence or offences for which the prisoner is serving a sentence which make it inappropriate to grant escorted day absence; and
- (e) the Governor has not been made aware of any objections from any persons residing in the community in which the prisoner will spend the escorted day absence which make it inappropriate to grant escorted day absence.

### **Persons to be treated as a near relative of the prisoner**

4. For the purposes of escorted day absence, the persons to be treated as a near relative of the prisoner are—

- (a) a spouse or a civil partner;
- (b) a parent;
- (c) any person who has or has had the care and custody of the prisoner;
- (d) a sibling;
- (e) a grandparent or great-grandparent;
- (f) a child, grandchild or great-grandchild
- (g) any parent, grandparent or sibling of the prisoner's spouse or civil partner;
- (h) a stepchild or any person for whom the prisoner has, or has had, the care and custody; and
- (i) any person with whom the prisoner cohabited (whether of the same sex or not) prior to the prisoner's imprisonment.

### **Proceedings applicable to escorted day absence**

5. In relation to escorted day absence for the purpose specified in rule 101(1)(b), a prisoner may be permitted to attend any service or proceedings which forms part of the funeral but the prisoner may not otherwise be permitted to attend any family gathering in connection with the funeral.

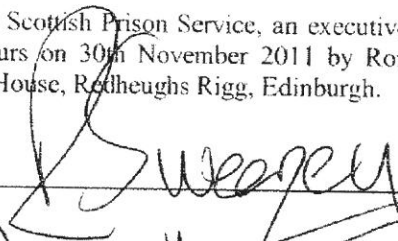
**Revocation of previous directions**

6. All directions made under rule 112 of the Prisons and Young Offenders Institutions (Scotland) Rules 2006(a) and rule 92 of the Prisons and Young Offenders Institutions (Scotland) Rules 1994(b) are revoked.

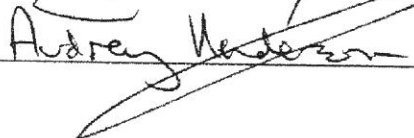
This direction consisting of this and the two preceding pages is subscribed as follows—

It is signed for and on behalf of the Scottish Prison Service, an executive agency of the Scottish Ministers at Edinburgh at 0900 hours on 30<sup>th</sup> November 2011 by Rona Sweeney before this witness, Audrey Henderson, Calton House, Redheughs Rigg, Edinburgh.

For the Scottish Prison Service:

  
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Witness:

  
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(a) S.S.I. 2006/94  
(b) S.I. 1994/1931

