
DIRECTIONS

Scottish Prison Rules (Special Escorted Leave) (No.3) Direction 2019

Made - - - -

29 November 2019

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 100 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 (Special Escorted Leave) (No.3) Direction 2019 and comes into force at 11:00 hours on 29 November 2019.

(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);

“eligible prisoner” has the same meaning as in rule 100(4);

“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);

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

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

“special escorted leave” has the same meaning as in rule 100(1);

(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 S.S.I. 2015/39, article 2(8)), 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, insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (c.46), section 53.

(b) S.S.I. 2011/331, as amended by S.S.I. 2011/356; S.S.I. 2012/26; S.S.I. 2013/119; S.S.I. 2014/26; S.S.I. 2015/39; S.S.I. 2016/131; and S.S.I. 2017/393

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

Availability of special escorted leave

3. Special escorted leave is available and, subject to the provisions of this Direction and of rule 100, may be granted to eligible prisoners in—

- (a) Letham Hall in HMP Barlinnie;
- (b) Peebles House Unit 2 and Peebles House Unit 4 in HMP and YOI Cornton Vale;
- (c) Aberlour, Banff and Level 3 of Cruden in HMP and YOI Grampian;
- (d) Chrisswell House, Arran House and Bute House in HMP Greenock;
- (e) the female unit in HMP Inverness;
- (f) HMP Castle Huntly; and
- (g) Level 3 East of Monro Hall in HMYOI Polmont.

Consideration of applications for special escorted leave

4.—(1) The Governor may consider both written and oral applications for special escorted leave.

(2) In considering whether or not to grant special escorted leave the Governor must—

- (a) check that the prisoner is an eligible prisoner;
- (b) obtain such reports on the prisoner as are necessary in order to consider whether it is appropriate to grant special escorted leave to the prisoner;
- (c) where the Governor considers it appropriate, obtain a report on the suitability of the premises at which the special escorted leave is proposed to be taken;
- (d) assess the risk that the prisoner may abscond or pose a danger to the public; and
- (e) consider whether the criteria applicable to the granting of special escorted leave are satisfied.

(3) Prior to granting special escorted leave, the Governor must consider—

- (a) where appropriate, the stability of the prisoner’s relationship with his or her family;
- (b) the nature of the offence for which the prisoner is serving a sentence;
- (c) where they are made known to the Governor, the views of
 - (i) any victims of that offence or offences; and
 - (ii) any persons residing in the community in which the prisoner will spend the special escorted leave.

(4) The Governor must record the decision taken in relation to an application for special escorted leave, together with the reasons for that decision, in writing.

Criteria applicable to special escorted leave

5. The criteria about which the Governor must be satisfied before granting special escorted leave are—

- (a) the reports obtained by the Governor under paragraph 4(2)(b) and (c) do not show any matter which makes it inappropriate to grant special escorted leave;
- (b) the prisoner’s conduct in custody has been of a consistently high standard over an appropriate period;
- (c) the purpose of the special escorted leave is to—
 - (i) allow the prisoner to develop further, or to re-establish, links with the prisoner’s family or community in preparation for a transfer to an open prison, home leave or eventual release; or

(ii) assist the prisoner in developing educational or employment opportunities.

Timing and duration of special escorted leave

6. The Governor may, in assessing whether it is appropriate to grant special escorted leave in accordance with rule 100(2), consider whether the proposed dates and times for special escorted leave are, in the Governor's opinion, convenient having regard to the routine of the prison.

Revocation of previous directions

7. The Scottish Prison Rules (Special Escorted Leave) Direction (2) 2019 made on 21 February 2019 is 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 on 29 November 2019 by Gary Law before this witness, Campbell Rutherford Calton House, Redheughs Rigg, Edinburgh.

For the Scottish Prison Service:



Witness:


