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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 446**

**PRISONS**

**The Prisons and Young Offenders Institutions  
(Scotland) Amendment Rules 2021**

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|---------------------------------|---------|-----------------------------|
|                                 |         | <i>at 10.40 a.m. on</i>     |
| <i>Made</i>                     | - - - - | <i>30th November 2021</i>   |
| <i>Laid before the Scottish</i> |         | <i>at 2.30 p.m. on 30th</i> |
| <i>Parliament</i>               | - - - - | <i>November 2021</i>        |
| <i>Coming into force</i>        | - -     | <i>13th December 2021</i>   |

The Scottish Ministers make the following Rules in exercise of the powers conferred on them by section 39 of the Prisons (Scotland) Act 1989(1), and all other powers enabling them to do so.

**Citation and commencement**

1. These Rules may be cited as the Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2021 and come into force on 13 December 2021.

**Amendment of the Prisons and Young Offenders Institutions (Scotland) Rules 2011**

2.—(1) The Prisons and Young Offenders Institutions (Scotland) Rules 2011(2) are amended in accordance with paragraphs (2) and (3).

(2) In rule 2(1) (interpretation), in the definition of “prohibited article”—

(a) in paragraph (f), omit “or”,

(b) after paragraph (g) insert—

“or,

(h) any substance which is a psychoactive substance within the meaning given by section 2 of the Psychoactive Substances Act 2016(3).”

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(1) 1989 c. 45; section 39 was amended by the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9), sections 24 and 25, schedule 5, paragraph 6(6) and schedule 7, paragraph 1; the Criminal Justice and Public Order Act 1994 (c. 33), section 116(4); the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40), schedule 4, paragraph 75(4); the Crime and Disorder Act 1998 (c. 37), schedule 8, paragraph 71 and schedule 10, paragraph 1; and the Management of Offenders (Scotland) Act 2019 (asp 14), section 55(2). 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.

(2) 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, S.S.I. 2017/393, S.S.I. 2018/293, S.S.I. 2020/122, S.S.I. 2020/175, S.S.I. 2020/264, S.S.I. 2021/80, and S.S.I. 2021/289.

(3) 2016 c. 2.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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- (3) In rule 55 (restrictions on general correspondence to and from the prisoner)—
- (a) in paragraph (2) after “remove” insert “, copy and, for the purposes of investigating whether it contains a prohibited article or unauthorised property, test”,
  - (b) after paragraph (3) insert—
    - “(3A) Where an officer or employee copies the contents of a letter or package to which this rule applies, the officer or employee must provide the copy to the prisoner.
    - (3B) Where an officer or employee copies the contents of a letter or package to which this rule applies, the officer or employee may retain the letter or package for return to the prisoner upon his or her release.”.

St Andrew’s House,  
Edinburgh  
At 10.40 a.m. on 30th November 2021

*KEITH BROWN*  
A member of the Scottish Government

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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules amend the Prisons and Young Offenders Institutions (Scotland) Rules 2011 (“the principal Rules”).

Rule 2(2) amends the definition of “prohibited articles” within rule 2(1) of the principal Rules to include psychoactive substances (within the meaning given by section 2 of the Psychoactive Substances Act 2016).

Rule 2(3)(a) amends rule 55(2) of the principal Rules to allow prison officers or employees to copy and, for the purposes of investigating whether general correspondence received into a prison contains a prohibited article or unauthorised property, to test that correspondence. Rule 2(3)(b) inserts new paragraphs (3A) and (3B) into rule 55 of the principal Rules. New paragraph (3A) requires prison officers or employees who have copied the contents of a letter or package to provide a copy to the prisoner that letter or package was addressed to. New paragraph (3B) allows the prison officer or employee to retain the original copy of a letter or package which has been copied under rule 55(2) and return it on the prisoner’s release from prison.

No business and regulatory impact assessment has been prepared for these Rules as no impact upon business, charities or voluntary bodies is foreseen.