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D I R E C T I O N S

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## Scottish Prison Rules (Special Escorted Leave) Direction 2022

*Made* - - - -

*29 July 2022*

The Scottish Ministers make the following Direction in exercise of the powers conferred by section 39 of the Prisons (Scotland) Act 1989(a), 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) Direction 2022 and comes into force on 29 July 2022.

(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),

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

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

“public place” means any place to which the public can have access, whether or not payment is required for access,

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

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(a) 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)(b) and schedule 7, Part 1, 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)(a); the Crime and Disorder Act 1998 (c. 37), schedule 8, paragraph 71 and schedule 10, paragraph 1; the Management of Offenders (Scotland) Act 2019 (asp 14), section 55(2) and the Counter-Terrorism and Sentencing Act 2021 (c. 11), schedule 13(7), paragraph 51(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.

(b) S.S.I. 2011/331, relevant amending instruments are S.S.I. 2012/26 and S.S.I. 2022/194.

“Unit Manager” has the same meaning as in rule 2(1).

#### **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 at 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,
- (g) Level 3 East of Iona Hall in HMYOI Polmont,
- (h) Cell 50 in Abercrombie Level 3 at HMP Glenochil, and
- (i) HMP and YOI Bella Centre.

#### **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 escape or pose a danger to the public, and
- (e) consider whether the criteria applicable to the granting of special escorted leave, as set out in paragraph 5, 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 or offences 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, and
- (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.

**Circumstances in which rule 99(1)(b) may be dis-applied**

7.—(1) Rule 99(1)(b)(a) of the Prison Rules does not apply in circumstances where a prisoner is granted special escorted leave from a prison or part of a prison listed in sub-paragraph (2) for the purpose of being escorted to an approved place other than the prisoner's home, where that approved place is a public place.

(2) The prisons or parts of a prison referred to in sub-paragraph (1) are—


- (a) Letham Hall in HMP Barlinnie,
- (b) Peebles House 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,
- (g) Level 3 East of Iona Hall in HMYOI Polmont,
- (h) Cell 50 in Abercrombie Level 3 at HMP Glenochil, and
- (i) HMP and YOI Bella Centre.

**Revocation of previous directions**

8. The Scottish Prison Rules (Special Escorted Leave) (No. 3) Direction 2021 made on 13 December 2021 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 July 2022 by Teresa Medhurst, Chief Executive before this witness Alistair Gardiner, Legal Services Team Manager, Calton House, Redheughs Rigg, Edinburgh.

For the Scottish Prison Service: 

Witness:  \_\_\_\_\_

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(a) Rule 2(4) of SSI 2022/194