



Jersey

# **PRISON (JERSEY) RULES 2007**

## **Official Consolidated Version**

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## PRISON (JERSEY) RULES 2007

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Jersey

## PRISON (JERSEY) RULES 2007

**THE MINISTER FOR HOME AFFAIRS**, in pursuance of Article 29 of the [Prison \(Jersey\) Law 1957](#), has made the following Rules –

Commencement [[see endnotes](#)]

### *Opening provisions*

#### **1 Interpretation**

- (1) In these Rules, unless the context otherwise requires –

“authorized employee” means an employee authorized by the Governor for the purposes of Article 13C(1) and (2) of the Law;

“cell” includes room;

“chaplain” means the person appointed as such under Article 7 of the Law;

“civil prisoner” means a person detained in the prison who is not –

- (a) serving a sentence;
- (b) awaiting sentence;
- (c) an appellant against a conviction or sentence; or
- (d) imprisoned in default of payment of a fine or any other financial penalty awarded by a court in criminal proceedings,

and includes a person committed to prison for contempt of court;

“contracted out services” means services to a prison or to its staff or prisoners provided other than by officers or employees;

“controlled drug” has the meaning given in Article 3 of the [Misuse of Drugs \(Jersey\) Law 1978](#);

“employee” means a person, other than a prison officer, who is employed within the prison, under the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#);

“Law” means the [Prison \(Jersey\) Law 1957](#);

“legal adviser” means an advocate or solicitor or a person employed as a clerk by an advocate or solicitor and acting on that person’s behalf;

“letter” includes a packet;

“Medical Officer” means the person appointed as such under Article 7 of the Law;

“Minister” means the Minister for Home Affairs;

“Monitoring Board” means the Independent Prison Monitoring Board;

“officer”, without more, means a prison officer;

“officer of the Impôts” shall be construed in accordance with Article 4 of the [Customs and Excise \(Jersey\) Law 1999](#);

“police” means the States of Jersey Police and “police officer” shall be construed accordingly;

“postal service” means the conveyance of postal packets, the incidental services of receiving, collecting, sorting and delivering postal packets, and any other service that relates to any of those services and is provided in conjunction with any of them;

“prohibited article” has the meaning given in Rule 2;

“public holiday” means a day to be observed as a public holiday or bank holiday under the [Public Holidays and Bank Holidays \(Jersey\) Law 1951](#);

“unauthorized article” has the meaning given in Rule 2;

“unit manager” means an officer appointed to a post of that description;

“untried prisoner” means –

- (a) a person remanded in custody in the prison pending or in the course of the hearing of a charge for an offence;
- (b) a person detained under the Immigration Act 1971 of the United Kingdom as extended to Jersey by the Immigration (Jersey) Order 1993;
- (c) a person detained pending his or her removal from Jersey for the purposes of the investigation of or proceedings in respect of a suspected service disciplinary offence under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957, as those Acts of the United Kingdom are extended to Jersey by Orders in Council;

“young prisoner” means a person remanded in custody in or serving a sentence of youth detention in the young offender institution.<sup>1</sup>

- (2) A reference in these Rules to a prisoner’s classification shall be construed in accordance with Rule 8.
- (3) A reference in these Rules to the person inquiring into a charge shall be construed in accordance with Rule 86.

## **2 Prohibited articles and unauthorized articles<sup>2</sup>**

- (1) In these Rules, “prohibited article” means –



- (a) a Grade 1 item, within the meaning of Article 24 of the Law;
  - (b) a Grade 2 item, within the meaning of Article 25 of the Law.
- (2) In these Rules “unauthorized article” means –
- (a) any of the following Grade 3 items, within the meaning of Article 25A of the Law –
    - (i) any article that is pornographic in nature,
    - (ii) any article that may incite hatred against a group of persons, defined by reference to colour, race, nationality (including citizenship), ethnic or national origins, religious beliefs (or non-belief), gender or sexual orientation,
    - (iii) any amphibian, bird, fish, mammal or reptile;
  - (b) any other item in respect of which the Governor has not given a written order approving or authorizing the item to be inside the prison, including (but not confined to) –
    - (i) any conveyance, whether or not mechanically propelled,
    - (ii) any food or drink not falling within Rule 16(1)(a) to (c),
    - (iii) any tool or article made or adapted for use in the construction, deconstruction, maintenance or repair of another article,
    - (iv) tobacco,
    - (v) money,
    - (vi) clothing,
    - (vii) any paper, letter or book.

#### *Reception and records*

### **3 Authority for reception**

- (1) A person shall not be received into the prison unless there is produced an authorisation or order or other lawful authority –
  - (a) authorizing the person’s detention in custody; and
  - (b) containing the information required by this Rule.<sup>3</sup>
- (2) Every authorisation, order or other lawful authority shall state the day on which it is made or given, the name of the prisoner and the prisoner’s date and place of birth.<sup>4</sup>
- (3) An authorisation issued under Article 28A of the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#) shall state the offence with which the prisoner is charged and the day and time the prisoner is to be produced before the Magistrate.<sup>5</sup>
- (4) An order of a court for the remand of the prisoner in custody shall state the offence with which the prisoner has been charged or of which the prisoner has been convicted and –

- (a) if the court has stated the day and time the prisoner is to be next produced before the court, the order shall state that time and date; and
  - (b) if the court has not stated the day and time the prisoner is to be next produced before the court, the order shall state that the prisoner is to be next produced before the court at such date and time that the court notifies to the Governor.<sup>6</sup>
- (5) An order of a court sentencing the prisoner to a term of imprisonment shall state the offence of which the prisoner has been convicted and the term so imposed.
- (6) The effect of the authorisation, order or other lawful authority shall be explained to the prisoner –
  - (a) upon the prisoner's reception into the prison;
  - (b) in a language and in terms that the prisoner understands.<sup>7</sup>

#### **4 Search etc. on reception**

- (1) A prisoner shall be searched, in accordance with Rule 77, when received into the prison.
- (2) An officer shall confiscate any prohibited article found in the possession of the prisoner and give it to the person who delivered the prisoner into reception.
- (3) An officer shall confiscate any medicinal product found in the possession of the prisoner which appears to be of a kind specified under Article 57 of the [Medicines \(Jersey\) Law 1995](#) and give it to the Medical Officer, unless the Medical Officer directs otherwise.
- (4) An officer shall confiscate any other article or matter found in the possession of the prisoner which, under these Rules, the prisoner is not permitted to have in his or her possession and arrange for the article or matter to be stored in accordance with these Rules.
- (5) A prisoner shall, when received into the prison, take a hot bath or hot shower, unless exempted by the Governor or Medical Officer.

#### **5 Interview on reception**

- (1) A prisoner shall, on reception into the prison, be interviewed by an officer who shall –
  - (a) inform the prisoner of the rights in Rule 6;
  - (b) provide the prisoner with –
    - (i) written information regarding where the prisoner may have access to a copy of the Law, these Rules and any directions issued by the Minister under these Rules, and
    - (ii) written information regarding the prison regime including, in particular the procedures for making requests and complaints

and the arrangements for prisoners' correspondence, telephone calls and visits;

- (c) enquire into any circumstances of the prisoner that may be relevant to the prisoner's management within the prison;
  - (d) in the case of a convicted prisoner, inform the prisoner of the rights of appeal against conviction or sentence available under the [Court of Appeal \(Jersey\) Law 1961](#);
  - (e) in the case of a prisoner imprisoned in default of payment of a fine or any other financial penalty awarded by a court in criminal proceedings, inform the prisoner of the procedures for securing payment of the fine or penalty;
  - (f) in the case of a prisoner imprisoned in default of payment of a civil debt, inform the prisoner of the procedures for securing payment of the debt.<sup>8</sup>
- (2) Any information to be provided under this Rule shall be given to the prisoner in a language and in terms that the prisoner understands, unless it is not reasonably practicable to do so.
- (3) A copy of the Law, these Rules and any directions issued by the Minister under these Rules must be placed in the prison library and in every accommodation wing of the prison and, if requested by a prisoner, the prisoner must be given his or her own copy of the Law, these Rules or directions.<sup>9</sup>
- (4) A prisoner shall be interviewed for the purpose of assessing the prisoner's physical and mental condition and enquiring into any immediate medical concerns of the prisoner –
- (a) by the Medical Officer or a member of the prison nursing staff within 3 hours of the prisoner's reception into the prison; and
  - (b) by the Medical Officer within 72 hours of the prisoner's reception into the prison, if the Medical Officer did not interview the prisoner within 3 hours of the prisoner's reception into the prison.<sup>10</sup>
- (5) A prisoner shall be interviewed by the Medical Officer within 24 hours (disregarding any Sunday or public holiday) of –
- (a) the prisoner requesting a consultation with him or her; or
  - (b) being requested to do so by the Governor or any member of the prison nursing staff,
- unless it is impracticable to do so, by reason of any emergency.<sup>11</sup>

## **6 Prisoner's rights on reception**

- (1) A prisoner received into the prison shall be entitled to inform, or have informed, up to 2 persons and a legal adviser of his or her detention in custody.
- (2) A prisoner who does not have the right of abode in Jersey shall also be entitled to inform, or have informed, a diplomatic representative of his or her choice, of his or her detention in custody.

- (3) The Governor shall ensure that reasonable facilities are made available to a prisoner for the purposes of paragraphs (1) and (2).
- (4) A convicted prisoner shall be informed of his or her date of release as soon as this may be calculated and, in any event, within 48 hours of his or her reception into the prison.
- (5) Paragraph (4) shall not apply in the case of a prisoner sentenced to imprisonment or custody for life or detained during Her Majesty's pleasure.

## **7 Record of prisoner<sup>12</sup>**

- (1) The Governor shall ensure that, as soon as is practicable after a prisoner is received into the prison, a record (the 'prisoner's record') shall be made of so many of the following particulars as the Governor considers to be relevant to the identification and management of the prisoner –
  - (a) the prisoner's full name and date of birth;
  - (b) the prisoner's religious denomination, if any;
  - (c) the prisoner's occupation and profession, if any;
  - (d) any distinctive marks on the prisoner's body or other identifying characteristics of the prisoner;
  - (e) the prisoner's physical measurements; and
  - (f) any other personal particulars.
- (2) The Governor shall ensure that a prisoner's record is maintained and updated as necessary whilst the prisoner is detained in the prison.
- (3) The Governor may, at any time whilst a prisoner is detained in the prison, cause the prisoner to be photographed and his or her fingerprints taken.
- (4) A photograph and its negative (if any) or an imprint of the prisoner's fingerprints shall be kept with the prisoner's record.

## **7A Keeping and destruction of prisoners' records<sup>13</sup>**

- (1) Except as required under or by Rule 7B, Governor shall ensure that a prisoner's record and any matter kept with it –
  - (a) are used only for the purposes of identification and management of the prisoner whilst in custody; and
  - (b) are kept confidential.
- (2) The Governor shall cause a record for an untried prisoner to be destroyed, without delay, following –
  - (a) in the case of a person remanded in custody in the prison pending or in the course of the hearing of a charge for an offence, the person's release from custody in the prison upon the withdrawal of all charges in respect of which the prisoner was remanded in custody, the withdrawal or dismissal of proceedings for all such charges or the prisoner's acquittal of all such charges;

- (b) in the case of a person detained under the Immigration Act 1971 of the United Kingdom as extended to Jersey by the Immigration (Jersey) Order 1993, the person's release from custody in the prison upon the prisoner's successful defence of proceedings brought under that Act;
  - (c) in the case of a person detained pending his or her removal from Jersey for the purposes of the investigation of or proceedings in respect of a suspected service disciplinary offence, the person's release from custody in the prison upon the conclusion, without charge, of any investigation of all suspected service disciplinary offences in respect of which the prisoner was detained in the prison, the withdrawal or dismissal of proceedings for all such offences or the prisoner's acquittal of all such offences.
- (3) The Governor shall cause a record for a civil prisoner to be destroyed, without delay, following the prisoner's release from custody in the prison.
- (4) Where a photograph or an imprint of the fingerprints of a prisoner kept with the prisoner's record is stored in any electronic form, the Governor shall cause the image to be deleted or otherwise made inaccessible at the same time as the photograph or imprint is destroyed, or as soon as is practicable after that.

## **7B Attorney General's powers in relation to records<sup>14</sup>**

- (1) The Attorney General may require the Governor to release any information in or matter kept with a prisoner's record for the purposes of a criminal investigation or criminal proceedings.
- (2) The Governor shall not destroy a prisoner's record or any matter kept with it if the Attorney General requests its retention in connection with any other criminal investigation or criminal proceedings.

## **8 Classification of prisoner**

- (1) The Governor may classify a prisoner according to –
  - (a) age;
  - (b) sex;
  - (c) the period for which the prisoner is committed to prison;
  - (d) the offence or matter in respect of which the prisoner is committed to prison;
  - (e) previous record; and
  - (f) the prisoner's conduct within the prison.
- (2) Where a prisoner is classified according to the matter described in paragraph (1)(c), (d), (e) or (f), the Governor shall inform the prisoner, in writing, of the reasons for the classification.

*Accommodation***9 Accommodation of prisoner in part of prison**

- (1) Subject to the requirements of Article 11 of the Law and of any sentence, order or direction under the [Criminal Justice \(Young Offenders\) \(Jersey\) Law 2014](#) the Governor may direct that a prisoner be accommodated in a specified part of the prison, according to the prisoner's classification.<sup>15</sup>
- (2) Paragraph (1) shall not prejudice the Governor's power to instruct the transfer, under Article 10 of the [Criminal Justice \(Young Offenders\) \(Jersey\) Law 2014](#), of a person under the age of 21.<sup>16</sup>

**10 Number of prisoners in a cell**

- (1) When certifying a cell for use under Article 10 of the Law, the Medical Officer shall also certify the maximum number of prisoners that may occupy it.
- (2) Subject to paragraph (3), a prisoner shall be allocated –
  - (a) a cell for his or her sole occupancy; or
  - (b) a cell certified for occupancy by more than one person, provided that the number of prisoners allocated to that cell does not exceed the number for which it was certified.
- (3) The Minister may authorize the use of a cell for occupation by more prisoners than the maximum number for which the cell is certified where there are exceptional circumstances pertaining in the prison that make such occupation necessary.
- (4) Where the Minister gives an authorization under paragraph (3) –
  - (a) the Governor or, on medical grounds, the Medical Officer shall determine which prisoners are suitable to associate with each other in that cell; and
  - (b) the accommodation shall be so shared only for so long as is strictly necessary.

**11 Standard and maintenance of cell**

- (1) The Governor shall ensure that a cell –
  - (a) has in it a means of communicating with officers; and
  - (b) is sufficient in size, lighting, ventilation, heating and furnishings for the health and safety of the prisoner or prisoners allocated to it.
- (2) A prisoner shall, unless excused by the Governor or, on medical grounds, the Medical Officer, keep the cell to which he or she is allocated clean and tidy.
- (3) This Rule is in addition to the requirements of Article 10 of the Law.

**12 Bedding**

- (1) The Governor shall ensure –
  - (a) that a prisoner is allocated his or her own bed and sufficient bedding to provide warmth and sustain health; and
  - (b) that bedding is laundered so often as may be necessary to maintain cleanliness.
- (2) A prisoner may provide his or her own bedding only if it is of a type approved by the Governor, having regard to its suitability and safety standards.

*Clothing***13 Prisoner may wear own clothes**

- (1) Subject to this Rule and Rule 15, a prisoner may wear his or her own clothes within the prison and when lawfully outside the prison.
- (2) Any officer may require a prisoner to wear appropriate protective clothes whilst the prisoner is engaged in work or any other activity.
- (3) The Governor may require a prisoner to wear prison clothes –
  - (a) if, in the opinion of the Governor, the prisoner's own clothes are –
    - (i) in poor condition,
    - (ii) unsuited to the prison environment, or
    - (iii) prejudicial to good order and discipline within the prison; or
  - (b) at any time when the prisoner is classified as a security risk.

**14 Clothes supplied to prisoner**

- (1) The Governor shall make available sufficient appropriate protective clothes for use by prisoners engaged in work or any other activity.
- (2) The Governor shall supply prison clothes to a prisoner required to wear them or who does not wish to wear, or does not have, his or her own clothes.
- (3) Prison clothes –
  - (a) shall, so far as reasonably practicable, be supplied for the sole use of a prisoner;
  - (b) shall be of acceptable appearance and fit;
  - (c) shall be maintained in good repair; and
  - (d) shall be sufficient in number and kind to enable the prisoner to –
    - (i) change underwear and socks daily, and
    - (ii) launder the clothes as often as may be necessary to maintain cleanliness and good hygiene.

- (4) Subject to paragraph (5), prison clothes worn by a prisoner whilst lawfully outside the prison shall not be marked or indicate by any other means that the person wearing them is a prisoner.
- (5) The Governor may require a prisoner classified as a security risk to wear, within and outside the prison, prison clothes which are marked or indicate by any other means the prisoner's classification.

## **15 Clothes: hygiene**

- (1) The Governor shall ensure that a prisoner has access to facilities to launder the clothes that he or she wears so often as may be necessary to maintain cleanliness and good hygiene.
- (2) If the Medical Officer is of the opinion that a prisoner's own clothes are, by reason of their soiled condition, prejudicial to the prisoner's health, that officer may require the prisoner to deliver up the clothes –
  - (a) for disinfection; or
  - (b) if the condition of the clothes is such that disinfection is likely to be ineffective, destruction.
- (3) A prisoner who delivers up clothes for disinfection or destruction and has no other, clean, clothes to wear shall wear prison clothes.

### *Food*

## **16 Prisoners' food**

- (1) A prisoner may only receive or possess food or drink –
  - (a) provided in accordance with this Rule;
  - (b) purchased in accordance with these Rules; or
  - (c) with the consent of the Governor or Medical Officer.
- (2) The Governor shall ensure that a prisoner is provided, daily, with food and drink that is –
  - (a) wholesome, nutritious, well prepared, well presented and reasonably varied; and
  - (b) having regard to the prisoner's age and health and, so far as is practicable, the prisoner's religious or cultural dietary requirements –
    - (i) sufficient in quantity, and
    - (ii) appropriate in kind.
- (3) The Governor –
  - (a) must maintain procedures for the daily sampling, tasting and checking of the food and drink prepared for prisoners to ensure the quality and condition of prisoners' food and drink; and



- (b) must maintain procedures for inspecting on a regular basis the facilities and conditions under which such food and drink are stored, prepared and served to ensure their cleanliness, hygiene and safety, and if any deficiency is found as a result of that tasting, checking or inspection, the Governor must remedy that deficiency as soon as reasonably practicable.<sup>17</sup>

## **17 Prisoner's complaint about food**

- (1) A prisoner who is of the opinion that he or she has been provided with food or drink which is of unacceptable quality or insufficient quantity or is inappropriate in kind –
  - (a) may complain to the officer responsible for catering; and
  - (b) in the event that the prisoner is further of the opinion that that officer has not satisfactorily dealt with the complaint, may request that –
    - (i) the complaint be referred to the unit manager, and
    - (ii) the food or drink be sealed and placed before the unit manager.
- (2) The unit manager shall investigate any complaint referred under paragraph (1)(b).

### *Hygiene*

## **18 Prisoner's hygiene**

- (1) A prisoner shall keep himself or herself clean.
- (2) A prisoner shall not be required to shave, or have his or her hair cut, unless the Medical Officer is of the opinion that it is necessary to do so on medical grounds.

## **19 Facilities for maintenance of hygiene**

- (1) The Governor shall ensure that a prisoner has access to facilities –
  - (a) to wash, at all proper times; and
  - (b) to have, at least 3 times a week, a hot bath or hot shower.
- (2) The Governor shall ensure that a prisoner is provided with such toiletries as are necessary for the prisoner's cleanliness.
- (3) The toiletries provided shall include shaving materials, if requested by the prisoner and, in the case of female prisoners, sanitary protection.

*Medical treatment***20 Medical Officer to be notified when prisoner ill**

An officer shall –

- (a) record, in writing, a request by a prisoner to see the Medical Officer and notify the Medical Officer of the request without delay; and
- (b) notify the Medical Officer and Governor, without delay, of any prisoner whose physical or mental condition appears to require the Medical Officer's attention.

**21 Medical attendance and consultations**

- (1) The Medical Officer shall attend a prisoner notified under Rule 20 at such time as that officer considers necessary to sufficiently address the prisoner's request or condition.
- (2) The Medical Officer shall attend a prisoner who is ill or injured at such times and with such frequency as that officer considers necessary to sufficiently address the prisoner's condition.
- (3) The Medical Officer shall visit a prisoner confined to a cell within 24 hours of the start of the confinement and, after that, daily.
- (4) If the Medical Officer is of the opinion that a prisoner requires a consultation with or treatment by another doctor, that officer shall inform the Governor and make arrangements for the consultation or treatment.
- (5) If the Medical Officer is of the opinion that a prisoner requires admission to a hospital –
  - (a) the Medical Officer shall inform the Governor; and
  - (b) the Governor shall make arrangements for the prisoner, under the control of an officer, to be transferred and admitted to the hospital.

**22 Medical records**

The Medical Officer shall –

- (a) maintain a record of a prisoner's medical history and treatment whilst in custody in the prison; and
- (b) when a prisoner is transferred to another prison establishment, ensure that a copy of the record is sent with the prisoner.

**23 Medical Officer to notify certain matters**

- (1) The Medical Officer shall notify the Governor and the Minister if that officer is of the opinion that, on medical grounds –
  - (a) a prisoner is wholly unfit for detention in the prison;
  - (b) the life of a prisoner is threatened by continued detention; or

- (c) the health of a prisoner is such that he or she is unlikely to survive his or her sentence or period of committal to the prison.
- (2) If, in a case described in paragraph (1), the Medical Officer is further of the opinion that Article 18(1) of the Law may apply in the prisoner's case, that officer shall also notify the Bailiff.
- (3) The Medical Officer shall notify the Governor, without delay, of any matter regarding a prisoner, the treatment of prisoners, conditions within the prison or the management of the prison which appears to that officer to require attention on medical grounds.
- (4) The Medical Officer shall notify the Governor, without delay, if that officer is of the opinion that a prisoner, by reason of his or her medical condition –
  - (a) should be isolated in specified conditions;
  - (b) should not participate in, or should have only restricted participation in, specified activities;
  - (c) should not be confined to a cell; or
  - (d) should not be placed under any physical or mechanical restraint.
- (5) The Governor shall, without delay take such steps as may be necessary to give effect to any matter notified under paragraph (3) or (4).
- (6) The Medical Officer shall notify the Minister if, in that officer's opinion, any matter notified under paragraph (3) or (4) has not been sufficiently addressed.

## **24 Persons to be notified when prisoner seriously ill**

- (1) The Governor shall ensure that a prisoner who becomes seriously ill, sustains serious injury or is admitted to hospital is, if possible, informed of the prisoner's right to have one or 2 persons informed of his or her condition.
- (2) The Governor shall ensure that any request made under paragraph (1) is carried out as soon as is practicable.
- (3) If a prisoner not of full age is seriously ill or seriously injured or admitted to hospital, the Governor may notify the parent or guardian of the prisoner, whether or not a request is made under paragraph (1).

## **25 First aid**

The Governor shall ensure that suitable provision is made in the prison for giving first aid treatment to prisoners.

## **26 Untried and civil prisoners**

- (1) An untried prisoner or civil prisoner may request a consultation with a doctor or dentist, at his or her own expense.
- (2) The Governor shall allow such a request if he or she is satisfied that there are reasonable grounds for it.

- (3) The consultation shall take place out of the sight and hearing of any officer unless –
  - (a) the doctor or dentist requests otherwise; or
  - (b) the Governor is of the opinion that it would be prejudicial to the security or safety of the doctor or dentist for an officer not to be present.
- (4) Where the doctor or dentist so requests or the Governor is of such opinion, the visit shall take place within the sight, but not the hearing, of an officer.

### *Welfare*

## **27 Welfare of prisoner**

The Governor shall ensure that a prisoner is provided with such assistance and facilities as are practicable to enable the prisoner to –

- (a) maintain contact and develop relationships with family and friends; and
- (b) maintain contact with other persons and agencies able to provide support to the prisoner whilst in custody or support and assistance to the prisoner concerning the prisoner's rehabilitation following discharge from custody.

### *Religion*

## **28 Prisoner's religion**

- (1) Subject to these Rules, a prisoner may –
  - (a) observe the requirements and, so far as may be practicable, engage in the practices of his or her religious denomination or moral beliefs;
  - (b) attend any service of his or her religious denomination held in the prison;
  - (c) be visited by the chaplain or, if the prisoner is not of the Church of England faith, by a minister of the prisoner's religious denomination; and
  - (d) possess books and items required for the purposes of sub-paragraphs (a) and (b).
- (2) If the Governor considers that there are exceptional circumstances making it necessary to do so in the interests of good order and discipline, the Governor may prohibit a prisoner from –
  - (a) attending any service; or
  - (b) possessing any book or item for the purposes of paragraph (1)(a) and (b).

**29 Facilities for religious observance**

- (1) The Governor shall ensure –
  - (a) that facilities are provided and arrangements made for the purposes of Rule 28; and
  - (b) that a prisoner is informed of such facilities and arrangements.
- (2) The Governor shall make available for use by prisoners such books and other items as are, in the Governor's opinion, appropriate for their religious and moral welfare.

**30 Chaplain's duty**

- (1) The chaplain shall –
  - (a) visit a prisoner as soon as practicable after the prisoner's reception into the prison;
  - (b) visit a prisoner –
    - (i) at such intervals as may be agreed with the prisoner,
    - (ii) when practicable, following notification by an officer of a request by the prisoner for a visit;
  - (c) conduct religious services and meetings at such times and in such places as the Governor may authorize; and
  - (d) when notified by the Governor of a request by a prisoner for a visit by a minister of another religious denomination, arrange such a visit.
- (2) The chaplain may, subject to the approval of and any conditions imposed by the Governor, arrange for another minister to deputize during the chaplain's absence.

**31 Visit by chaplain or other minister**

- (1) A prisoner who wishes to be visited by the chaplain or a minister of another religious denomination may make a request for a visit to the Governor.
- (2) The Governor shall, as soon as practicable, inform the chaplain of a request by a prisoner for a visit by the chaplain or by a minister of another religious denomination.
- (3) A visit to a prisoner by the chaplain or another minister shall take place out of the sight and hearing of any officer unless –
  - (a) the chaplain or minister requests otherwise; or
  - (b) the Governor is of the opinion that it would be prejudicial to the security or safety of the chaplain or minister for an officer not to be present.
- (4) Where the chaplain or minister so requests or the Governor is of such opinion, the visit shall take place within the sight, but not the hearing, of an officer.

*Privileges and property***32 Privileges**

- (1) The Governor shall establish a scheme of privileges for prisoners.
- (2) The scheme may include privileges which apply to prisoners of different classification.
- (3) The scheme shall make provision for –
  - (a) the items of property which, in addition to the items of property approved under Article 36(1), a prisoner may have –
    - (i) in his or her cell, or
    - (ii) in his or her possession;
  - (b) the arrangements by which a prisoner may purchase items within or from outside of the prison;
  - (c) the use of recreational facilities; and
  - (d) the circumstances in which privileges may be withdrawn.
- (4) The scheme and the circumstances in which privileges may be withdrawn shall not remove, limit or prejudice in any way any right conferred on a prisoner by these Rules.
- (5) The Governor shall ensure that every prisoner is provided with information, in a manner which enables the prisoner to understand it, regarding –
  - (a) the application of the scheme to the prisoner; and
  - (b) the circumstances in which privileges may be withdrawn.
- (6) When the Governor –
  - (a) withdraws a privilege enjoyed by a prisoner; or
  - (b) refuses to grant a prisoner a privilege enjoyed by other prisoners of the same classification,the Governor shall give reasons for the decision.

**33 Possession of tobacco and smoking<sup>18</sup>**

- (1) A prisoner under the age of 16 shall not have in his or her possession inside the prison any cigarettes or other tobacco.
- (2) A prisoner aged 16 or over may have in his or her possession not more than 50 grams of hand-rolling tobacco and 200 cigarettes.
- (3) A prisoner shall not smoke in any area of the prison that has been designated a non-smoking area in a direction by the Minister.

**34 Reception of personal property**

- (1) This Rule applies to all items of property belonging to a prisoner which are received into the prison.
- (2) The Governor may –
  - (a) refuse to receive any item of property sent to the prison for a prisoner; and
  - (b) return any refused item to the sender.
- (3) An item of property belonging to a prisoner which is received into the prison shall be recorded by an officer in the prisoner's record unless the item –
  - (a) is edible or perishable; or
  - (b) was purchased by the prisoner from a facility provided for the purpose within the prison.
- (4) When an item of property is recorded, the prisoner –
  - (a) shall be given the opportunity to check the accuracy of the record; and
  - (b) shall then sign the record.

**35 Storage or disposal of prisoners property**

- (1) The Governor shall ensure that items of property belonging to a prisoner which are received into the prison and which the prisoner is not allowed to keep in his or her cell are stored so as to be safe, secure and identifiable as the property of the prisoner.
- (2) If the Governor is of the opinion that an item of property belonging or sent to a prisoner and received into the prison is prejudicial to health, safety, security or good order and discipline, the Governor –
  - (a) shall notify the prisoner; and
  - (b) if it is not reasonably practicable for the prisoner to arrange for the disposal of the item, may arrange for its disposal or, if the item is perishable, its destruction.
- (3) The Governor may impose a limit on the space to be made available for each prisoner for the purpose of storing the property of a prisoner under this Rule.<sup>19</sup>
- (4) The Governor shall not impose a limit of less than one clothes hanger on a rail, and a box with a capacity of less than 0.74 cubic metres, for each prisoner for the purpose of storing the property of a prisoner under this Rule.<sup>20</sup>
- (5) If the property of a prisoner that is to be stored under this Rule exceeds the capacity limit imposed by the Governor, the Governor –
  - (a) shall notify the prisoner; and
  - (b) if it is not reasonably practicable for the prisoner to arrange for the disposal of any of his or her property so as to bring his or her

property to within the permitted limit, may arrange for disposal of some of it so as to bring the amount of property to within the permitted limit.<sup>21</sup>

- (6) Before disposal of any property under paragraph (5), the Governor shall permit the prisoner to make representations as to which of his or her property may be disposed of.<sup>22</sup>

### **36 Prisoners entitlement to property**

- (1) A prisoner shall be entitled –
- (a) to keep in his or her cell items of property approved for the purpose; and
  - (b) to have in his or her possession items of property approved for the purpose.
- (2) The Governor may approve items of property for the purposes of paragraph (1)(a) or (b), either in relation to all prisoners or for prisoners of different classification or description, and shall publish, within the prison, any list of items so approved.
- (3) Notwithstanding paragraph (1) –
- (a) a prisoner shall not be entitled to keep in his or her cell any item of property which, in the opinion of the Governor, is incompatible with the size of the prisoner's accommodation; and
  - (b) a prisoner shall not be entitled to keep in his or her cell or have in his or her possession any item which, in the opinion of the Governor, is incompatible with –
    - (i) health, safety, security or good order and discipline, or
    - (ii) any other matter which the Governor considers relevant.
- (4) Where, under paragraph (3), a prisoner is not entitled to keep an approved item of property in his or her cell or have an approved item in his or her possession, the Governor shall inform the prisoner, in writing, of the reasons for the decision.

### **37 Prisoner's money**

- (1) The Governor may authorize a prisoner to have in his or her possession cash not exceeding an amount specified by the Governor.
- (2) The Governor shall hold on account –
- (a) all money earned by a prisoner whilst in custody; and
  - (b) all money received into the prison for a prisoner.
- (3) The Governor may specify the maximum amount of money that may be received into the prison for a prisoner.
- (4) Subject to paragraph (5), a prisoner may authorize the Governor to withdraw from the money held on behalf of the prisoner under paragraph (2) –



- (a) cash which the Governor authorizes the prisoner to have in his or her possession; and
  - (b) any amount required for the purchase of an item from a facility provided within the prison for the purpose or, with the consent of the Governor, from a person outside the prison.
- (5) The Governor may specify, either for a prisoner or for a description of prisoners –
  - (a) the maximum number of withdrawals that may be made in a specified period; and
  - (b) the maximum amount that may be withdrawn on any occasion.
- (6) The Governor shall keep a record of all deposits into and withdrawals from the money held on behalf of the prisoner under paragraph (2).
- (7) Nothing in this Rule shall prevent a prisoner from opening or maintaining an account with a bank or building society, but the use of the account shall be subject to paragraphs (4) and (5).

### **38 Supply of books, newspapers, etc. to prisoner**

Subject to these Rules, a prisoner may arrange, at his or her own expense, for the delivery to the prison of books, newspapers, magazines and other periodicals and of writing materials.

#### *Communications*

### **39 Current affairs**

- (1) A prisoner may keep himself or herself informed of current affairs by means of –
  - (a) a radio;
  - (b) books, newspapers and periodicals; and
  - (c) any other medium permitted by the Governor.
- (2) The Governor may restrict, or impose conditions upon, the exercise by a prisoner of the right described in paragraph (1) if the Governor is of the opinion that it is necessary to do so –
  - (a) to protect the prisoner from self-harm; or
  - (b) to prevent the prisoner harming other persons.

### **40 Prisoner's correspondence**

- (1) A prisoner may send and receive letters by means of the postal service.
- (2) The Minister may issue directions limiting the number of letters, other than letters addressed to a court or legal adviser or letters sent under Rule 97 or 100, which a prisoner may send or receive.<sup>23</sup>
- (3) <sup>24</sup>

- (4) The Minister shall pay the postage on one letter sent by a prisoner each week, in an amount not exceeding the cost of postage within Jersey or to another place in the United Kingdom or, if different, to the prisoner's place of origin.
- (5) The Governor shall provide a prisoner with a ballpoint pen and, each week, a sheet of writing paper and an envelope.
- (6) <sup>25</sup>
- (7) In this Rule, "letter" does not include a packet.

#### **41 Opening prisoner's correspondence with court or legal adviser**

- (1) This Rule applies to a letter which is –
  - (a) marked on its exterior with the words "legal correspondence" and the name of the prisoner to or by whom it is sent; and
  - (b) either –
    - (i) addressed to a court or legal adviser and given by a prisoner to an officer for the purpose of posting to the court or legal adviser, or
    - (ii) sent by a court or legal adviser to a prisoner.
- (2) An officer shall not open the letter unless –
  - (a) the officer –
    - (i) has reasonable cause to suspect that it contains a prohibited article,
    - (ii) has explained to the prisoner to or by whom the letter is addressed the reasons for his or her suspicion, and
    - (iii) has recorded, in writing, the reasons for his or her suspicion; and
  - (b) the prisoner is present.
- (3) Paragraph (2) shall not authorize an officer who opens a letter to read it.
- (4) The Governor shall confiscate any prohibited article found in the opened letter.
- (5) If at any time before, during or after the opening of a letter under this Rule, the officer becomes aware that, although the letter is marked on its exterior with the words "legal correspondence" and the name of the prisoner, it is not correspondence between a prisoner and a court or legal adviser, the letter may be dealt with instead under Rule 43.
- (6) In this Rule, "court" includes the European Commission of Human Rights, the European Court of Human Rights and the European Court of Justice.

#### **42 Reading prisoner's correspondence with court or legal adviser**

- (1) This Rule applies to a letter to which Rule 41 applies.

- (2) An officer, apart from the Governor, shall not open the letter for the purpose of reading it.
- (3) The Governor shall not open the letter and read it unless –
  - (a) the Governor has reasonable cause to believe that the letter –
    - (i) endangers the security of the prison or the safety of any person, or
    - (ii) consists of the commission of a criminal offence or an attempt to commit, or incitement or conspiracy to commit, a criminal offence;
  - (b) the Governor has explained to the prisoner to or by whom the letter is addressed the reasons for his or her suspicion;
  - (c) the Governor has recorded, in writing, the reasons for his or her suspicion; and
  - (d) the prisoner is present.
- (4) The Governor shall confiscate any prohibited article found in the opened letter.
- (5) The Governor shall withhold any opened letter which, in the Governor's opinion, is of the kind described in paragraph (3)(a).
- (6) If at any time before, during or after the reading of a letter under this Rule, the Governor becomes aware that, although the letter is marked on its exterior with the words "legal correspondence" and the name of the prisoner, it is not correspondence between a prisoner and a court or legal adviser, the letter may be dealt with instead under Rule 43.

#### **43 Opening and reading prisoner's general correspondence**

- (1) This Rule applies to a letter sent to or received by a prisoner to which Rules 41 and 42 do not apply or which is to be dealt with under this Rule by virtue of Rule 41(5) or 42(6).
- (2) An employee authorized to do so by the Governor or any officer may open the letter.
- (3) An employee authorized to open a letter shall not read it.
- (4) An officer shall not read the letter unless the officer has reasonable cause to suspect that the letter contravenes Rule 44.
- (5) The Governor shall confiscate any prohibited article found in the opened letter.
- (6) If an officer finds that an opened letter contravenes Rule 44, the officer may –
  - (a) prevent the letter being posted on behalf of or received by the prisoner; and
  - (b) withhold the letter and place any item contained in it that is not confiscated under paragraph (5) with the stored property of the prisoner.

- (7) If at any time before, during or after the opening or reading of a letter under this Rule, the officer or employee authorized to open the letter becomes aware that, although the letter is not marked on its exterior with the words “legal correspondence” and the name of the prisoner, it is correspondence between a prisoner and a court or legal adviser, the letter shall be dealt with under Rules 41 and 42.

#### **44 Restrictions on prisoner’s general correspondence**

- (1) This Rule applies to a letter described in Rule 43(1).
- (2) A letter that does not comply with directions under paragraph (3) or contravenes a prohibition under paragraph (4) contravenes this Rule.
- (3) The Minister may issue directions –
- (a) specifying, in relation to the reading of a letter pursuant to Rule 43(4) –
    - (i) the circumstances in which a letter may be read, and
    - (ii) the officers who may be authorized to read a letter;
  - (b) specifying the times at which, and the frequency with which, a prisoner may send or receive money and the amounts of money that may be sent or received;
  - (c) specifying persons or descriptions of persons with whom prisoners may not correspond;
  - (d) specifying conditions applicable to letters addressed to or received from specified persons; and
  - (e) specifying the nature and description of letters, written material and items of property in general that a prisoner may not send or receive.
- (4) The Governor may prohibit a prisoner corresponding with a specified person if the Governor has reasonable cause to believe that the correspondence would endanger the security of the prison or the safety of any person.
- (5) Where, by virtue of any matter specified in directions under paragraph (3), an officer decides that a prisoner may not send or receive any letter, material or property, the officer shall inform the prisoner of his or her decision and the reasons for it.

#### **45 Prisoner’s use of telephone**

- (1) Subject to directions issued under paragraph (7), a prisoner shall have access to a telephone.
- (2) A prisoner shall pay for any call that he or she makes.
- (3) A telephone call made or received by a prisoner, other than a call to or from the prisoner’s legal adviser, shall be recorded.
- (4) Subject to directions issued under paragraph (7), an officer may listen to a telephone call or recording of a telephone call made or received by a prisoner.

- (5) An officer may terminate a malicious telephone call made or received by a prisoner.
- (6) The Governor shall ensure that, save as permitted by directions issued under paragraph (7), a recording of a telephone call –
  - (a) shall not be released to any person; and
  - (b) shall be destroyed 3 months after it is made.
- (7) The Minister may issue directions –
  - (a) imposing conditions on the use of a telephone by a prisoner;
  - (b) specifying the circumstances in which an officer may or may not listen to a telephone call or recording of a telephone call made or received by a prisoner;
  - (c) authorizing, for any specified purpose, the release or keeping for more than 3 months of a recording of a telephone call; and
  - (d) specifying the circumstances, in addition to those described in paragraph (5), in which an officer may terminate a telephone call made or received by a prisoner.
- (8) Where, by virtue of any matter specified in directions under paragraph (7), an officer decides that a prisoner may not use a telephone, the officer shall inform the prisoner of his or her decision and the reasons for it.
- (9) An officer who terminates a telephone call shall inform the prisoner of the reasons for the termination.

#### **46 Prisoner's right to be visited**

- (1) A civil prisoner or an untried prisoner shall be entitled to receive, in every week, one visit of 30 minutes' duration on each of 3 days, other than on Sunday, Christmas Day, New Year's Day or Good Friday.<sup>26</sup>
- (2) Any other prisoner shall be entitled to receive one visit of at least 30 minutes duration every week, on a day other than Sunday, Christmas Day, New Year's Day or Good Friday.<sup>27</sup>
- (3) The right in paragraph (1) or (2) is in addition to any other right to be visited by any person conferred by these Rules.
- (4) The Governor shall determine the time of a visit under this Rule and the number of persons permitted, on any occasion, to visit the prisoner.<sup>28</sup>
- (5) A visit under this Rule shall take place within the sight and hearing of an officer unless the Minister otherwise directs.<sup>29</sup>
- (6) A prisoner may receive a visit under this Rule from a prisoner held in another part of the prison or held in another prison only with the consent of the Governor and, if different, the governor of the prison in which the other prisoner is held.
- (7) A prisoner shall not be entitled to accumulate visits except as otherwise permitted by directions issued by the Minister.<sup>30</sup>
- (7A) The Minister may issue directions permitting a prisoner to accumulate up to 26 visits for a purpose specified in the directions.<sup>31</sup>

- (7B) Directions under paragraph (7A) may, in particular but not exclusively, permit a visit of longer duration than is permitted under paragraph (1) or (2) in any case where –
- (a) a convicted prisoner has accumulated visits;
  - (b) the remainder of the sentence that the prisoner must serve is more than 9 months after the date of the proposed visit; and
  - (c) either –
    - (i) the convicted prisoner is transferred to a prison or other place in the United Kingdom in order to receive a visit from a person in the United Kingdom, or
    - (ii) a person who resides outside Jersey is to visit the prisoner in prison in Jersey.<sup>32</sup>
- (8) The Minister may issue directions permitting civil prisoners and untried prisoners to receive visits in addition to those to which such prisoners are entitled under these Rules.

#### **47 Visit by legal adviser**

- (1) A prisoner shall be entitled to receive a visit, at a reasonable time, by a legal adviser for the purpose of consulting upon any legal matter in which the prisoner has an interest.
- (2) A legal adviser shall inform the Governor, in advance, of the day on which and time at which he or she proposes to visit a prisoner.
- (3) The visit shall take place within the sight, but out of the hearing, of an officer.

#### **48 Visit by police officer or officer of the Impôts**

- (1) A police officer or officer of the Impôts may, on producing the written authority of the Attorney General, visit a prisoner for the purpose of any of the following –
  - (a) interviewing the prisoner;
  - (b) establishing the identity of the prisoner;
  - (c) charging the prisoner with an offence;
  - (d) visiting the prisoner at the prisoner's request.<sup>33</sup>
- (2) A visit for the purpose of interviewing the prisoner shall take place only with the consent of the prisoner.
- (3) The visit shall take place within the sight of an officer and, unless the Governor directs otherwise, within the hearing of an officer.
- (4) In this Rule, "police officer" includes a member of the Honorary Police.

**49 Visit by diplomatic representative**

- (1) A prisoner who does not have the right of abode in Jersey shall be entitled to receive a visit, at any reasonable time, by a diplomatic representative of his or her choice.
- (2) A prisoner who is a refugee or stateless person shall be entitled to receive a visit, at any reasonable time, from a diplomatic representative of a state which the prisoner considers may look after his or her interests.
- (3) A prisoner who is a refugee or stateless person may, subject to such reasonable restrictions as the Governor may impose, contact representatives from authorities or organizations, whether national or international, whose principal purpose is to serve the interests of refugees or stateless persons or to protect the civil rights of such persons.

**50 Visit by person in connection with criminal or civil proceedings**

- (1) An untried prisoner shall be entitled to receive a visit, at any reasonable time, by any person for the purpose of –
  - (a) the proceedings for the offence with which the prisoner is charged; or
  - (b) providing a security or proposing a surety as a condition of the prisoner's bail in accordance with Article 12 of the [Criminal Procedure \(Bail\) \(Jersey\) Law 2017](#).<sup>34</sup>
- (2) A civil prisoner shall be entitled to receive a visit, at any reasonable time, by any person for the purpose of the proceedings in respect of which the prisoner is committed to prison.
- (3) A prisoner who has been convicted but not sentenced shall be entitled to receive a visit, at any reasonable time, by any person for the purpose of the preparation of reports for and representations to the court by which the prisoner will be sentenced.
- (4) A prisoner who has appealed against a conviction or sentence shall be entitled to receive a visit, at any reasonable time, by any person for the purpose of the appeal.
- (5) A convicted prisoner who has been charged with a further offence shall be entitled to receive a visit, at any reasonable time, by any person for the purpose of the proceedings in respect of the further charge.
- (6) A person proposing to visit a prisoner pursuant to this Rule shall inform the Governor, in advance, of the day on which and time at which he or she proposes to make the visit.
- (7) The Governor shall determine the number of persons permitted, on any occasion, to visit the prisoner under this Rule.
- (8) A visit under this Rule by a doctor shall take place out of the sight and hearing of any officer unless –
  - (a) the doctor requests otherwise; or
  - (b) the Governor is of the opinion that it would be prejudicial to the security or safety of the doctor for an officer not to be present.

- (9) Where the doctor so requests or the Governor is of such opinion, the visit shall take place within the sight, but out of the hearing, of an officer.
- (10) A visit under this Rule by a person other than a doctor shall take place within the sight but, subject to paragraph (11), out of the hearing, of an officer.
- (11) The Governor may direct that a visit under this Rule by a person other than a doctor shall take place within the hearing of an officer.

## **51 Visit by person in connection with disciplinary proceedings**

- (1) Where –
  - (a) a prisoner is charged with a breach of discipline under these Rules;
  - (b) the prisoner wishes to call, or is considering calling, a person as a witness at the inquiry into the charge; and
  - (c) the person inquiring into the charge agrees that the prisoner should have the opportunity to discuss with that person whether the person could give evidence which would be relevant to the prisoner's defence,the prisoner shall be entitled to receive a visit, at any reasonable time, by that person for the purpose of discussing whether that person could give evidence which would be relevant to the prisoner's defence.
- (2) The Governor shall determine the number of persons permitted, on any occasion, to visit the prisoner under this Rule.
- (3) The visit shall take place within the sight but, subject to paragraph (4), out of the hearing, of an officer.
- (4) The Governor may, in exceptional circumstances, direct that the visit shall take place within the hearing of an officer.

## **52 Restrictions on visits**

- (1) Notwithstanding the rights conferred by Rules 46 to 51, the Governor may prohibit a prisoner from receiving a visit from any person where, in the opinion of the Governor, it is necessary to do so in the interests of security or discipline or to prevent disorder or crime.
- (2) The Governor shall inform the prisoner, in writing, of the reasons for a prohibition under paragraph (1).
- (3) The Minister may issue directions –
  - (a) regulating the issue of visiting orders;
  - (b) requiring written undertakings from prisoners and visitors regarding visits and specifying the terms of such undertakings;
  - (c) permitting and regulating the use of surveillance and video cameras to monitor any visiting area during visits to prisoners;



- (d) prohibiting or restricting the use and restricting the possession of photographic equipment, sound recording equipment and writing materials by prisoners and visitors during visits;
  - (e) prohibiting or restricting the possession and consumption of food and drink by prisoners and visitors during visits.
- (4) The Governor may terminate any visit where, in the opinion of the Governor, the prisoner or any of the prisoner's visitors has –
  - (a) failed to comply with any directions issued under paragraph (3); or
  - (b) failed, by his or her conduct during the visit, to comply with any provision of these Rules.
- (5) Where a visit is terminated under paragraph (4), the Governor shall inform the prisoner, in writing, of the reasons for the termination.

*Work, education, counselling and recreation*

### **53 Assessment of prisoner for work, education and counselling**

The Governor shall, as soon as practicable after a prisoner is received into the prison –

- (a) obtain reports regarding the prisoner's wishes and needs in respect of work, education and counselling; and
- (b) after consideration of the reports, determine a programme of work, education and counselling for the prisoner with the object of improving –
  - (i) the prospects for the prisoner's successful rehabilitation, and
  - (ii) the prisoner's morale, attitude and self-respect.

### **54 Prisoner required to work**

- (1) A prisoner shall work within the prison, unless the prisoner is –
  - (a) of compulsory school age, within the meaning of Article 2 of the [Education \(Jersey\) Law 1999](#);
  - (b) authorized by the Governor to work outside the prison;
  - (c) removed from work under Rule 55(5)(b); or
  - (d) excused or exempted under this Rule or Rule 61(4).
- (2) A prisoner may be excused work, or work of a particular kind, by the Governor or, on medical grounds, the Medical Officer.
- (3) A prisoner shall be excused work at any time when –
  - (a) the prisoner is receiving education or counselling provided under these Rules; or
  - (b) there is no suitable work available for the prisoner.
- (4) An untried prisoner or civil prisoner shall not be required to work but may apply to the Governor to work.

- (5) If suitable work is available within the prison, the Governor may authorize an untried prisoner or civil prisoner to work subject to the same conditions as apply to a prisoner required to work.

## **55 Conditions of work**

- (1) A prisoner shall not be required to work for more than 40 hours a week, disregarding any meal breaks.
- (2) A prisoner shall have at least one day of rest each week on which he or she is not required to work and does not receive education in lieu of work.
- (3) A prisoner who has declared that he or she belongs to a particular religious denomination –
  - (a) shall be entitled to take his or her weekly rest day on that denomination's recognized day of weekly religious observance; and
  - (b) shall not be required to work or receive education in lieu of work on such other days in the year as are recognized days of religious observance for that denomination.
- (4) Paragraph (3) shall not apply to the extent that the requirements of the prison regime mean that it is not reasonably practicable to accommodate the arrangements described in it.
- (5) A prisoner shall be entitled to work within the prison in association with other prisoners unless the Governor has ordered –
  - (a) that the prisoner be removed from association with other prisoners, either generally or whilst working;
  - (b) on grounds of good order and discipline, that the prisoner be removed from work; or
  - (c) that the prisoner be confined to a cell.
- (6) A prisoner shall not, without the Governor's permission, work in the service of an officer or employee or another prisoner.
- (7) A prisoner shall be paid for work within the prison at a rate approved by the Minister.

## **56 Work opportunities**

- (1) The Governor shall provide a range of opportunities for prisoners to work, having regard to –
  - (a) the interests and rehabilitation of prisoners; and
  - (b) the requirements of the prison regime.
- (2) The opportunities for work may include vocational training and work placements outside the prison.
- (3) The Minister may issue directions specifying –
  - (a) the classification or descriptions of prisoners who may be permitted to undertake a work placement;

- (b) the circumstances in which and the conditions subject to which a work placement may be arranged; and
  - (c) the conditions applicable to a prisoner undertaking a work placement.
- (4) Except as permitted under these Rules, a prisoner is not permitted to –
  - (a) carry on any trade, profession or vocation from the prison; or
  - (b) retain any monies generated from the sale of any items produced by the prisoner either in the course of the prisoner's work in the prison or in the prisoner's spare time.<sup>35</sup>
- (5) Despite paragraph (4), a prisoner is permitted to take such steps as the Governor considers are necessary and compatible with these Rules to protect the value of any interest the prisoner has in any property or business.<sup>36</sup>

## **57 Education**

- (1) The Governor shall arrange a programme of education that, so far as is reasonably practicable, provides prisoners with opportunities to pursue their interests and further their rehabilitation.
- (2) In particular, the Governor shall ensure that the programme of education for young prisoners meets their learning needs and assists them in developing their potential.
- (3) A prisoner who attends an educational class in lieu of work shall receive any pay that the prisoner would have received if he or she had worked.

## **58 Counselling**

- (1) The Governor shall, so far as is reasonably practicable, provide prisoners with the opportunity to receive counselling, either individually or in groups, for the purpose of furthering their rehabilitation.
- (2) A prisoner who attends for counselling in lieu of work shall receive any pay that the prisoner would have received if he or she had worked.

## **59 Time in the open air and exercise**

- (1) If weather permits, and subject to the need to maintain good order and discipline, a prisoner shall be given the opportunity to spend time in the open air at least once every day, for such period as may be reasonable in the circumstances.
- (2) A prisoner shall be given the opportunity, unless passed as unfit by the Medical Officer, to take part, on a regular basis, in physical recreation, activities and pursuits which are consistent with the maintenance of good health and wellbeing.
- (3) A prisoner shall be allowed to spend time in the open air and to take part in physical recreation, activities and pursuits, in association with other prisoners, unless –

- (a) the Governor has ordered that the prisoner be removed from association, either generally, for specified activities or for spending time in the open air or pending an inquiry into a suspected breach of discipline;
  - (b) the Governor has ordered that the prisoner be confined to a cell; or
  - (c) the prisoner is serving a punishment of cellular confinement.
- (4) The Governor may order, in writing, that prisoners shall not be given the opportunities described in paragraph (2) if it appears to the Governor that exceptional circumstances prevailing in the prison make it impracticable for prisoners to take part in physical recreation, activities or pursuits.
- (5) An order under paragraph (4) may be revoked by the Governor at any time but, in any event, shall expire 48 hours after it takes effect unless continued in force by direction of the Minister.
- (6) An order continued in force by direction of the Minister may be revoked by the Governor or by further direction of the Minister.

## **60 Recreation**

The Governor shall –

- (a) provide a lending library for prisoners to use;
- (b) so far as is reasonably practicable, provide facilities for prisoners to take part in recreational activities outside normal working hours; and
- (c) determine when and how often a prisoner may use the recreational facilities, having regard to the prisoner's classification and to considerations of practicability and safety.

### *Female prisoners*

## **61 Pregnancy and confinement**

- (1) The Medical Officer shall inform the Governor if he or she is of the opinion that a prisoner who is not of full age is pregnant.
- (2) The Medical Officer shall inform the Governor if he or she is of the opinion that a prisoner who is of full age is pregnant if –
  - (a) the prisoner consents; or
  - (b) the prisoner, by reason of illness, is incapable of giving consent and the Medical Officer has no reason to think that she would withhold consent.
- (3) The Governor shall not, without the consent of the prisoner, notify any relative or friend of the prisoner of her pregnancy unless –
  - (a) the prisoner is not of full age and the Governor considers it appropriate to do so; or
  - (b) the prisoner is incapable, by reason of illness, of giving consent and the Governor has no reason to think that she would withhold consent.

- (4) Where the Governor is informed, or is otherwise aware, of a prisoner's pregnancy, the Governor shall ensure that the prisoner –
  - (a) is not required to undertake any work which is of a strenuous nature in the later stages of her pregnancy;
  - (b) is provided with food and drink which takes into account her dietary requirements during pregnancy; and
  - (c) where, by reason of her condition, the prisoner is removed from association with other prisoners, is –
    - (i) kept under supervision to such an extent as is reasonably practicable, or
    - (ii) required to share accommodation in a cell with another suitable prisoner where the Governor, on the advice of the Medical Officer, considers it appropriate.
- (5) The Medical Officer shall arrange for the transfer to hospital of a prisoner for the purpose of giving birth.

## **62 Accommodation of female prisoner's baby**

- (1) The Governor may permit a female prisoner whose child is under the age of 9 months to have the child with her in prison.
- (2) The Governor may, subject to directions issued by the Minister, impose such conditions on a female prisoner who has her child with her as the Governor thinks fit.
- (3) The Governor, when imposing conditions, shall –
  - (a) consider the facts of the prisoner's case on their individual merit;
  - (b) take account of the rights of the child and mother to respect for their family life; and
  - (c) treat the best interests of the child as the paramount consideration.
- (4) The Governor may, for the purposes of paragraph (3), commission such medical, social services and other reports as the Governor considers necessary.
- (5) The Governor shall provide a female prisoner who has her child with her with everything necessary for the child's maintenance and care, including a suitable cot.
- (6) A prisoner who has her child with her may, with the consent of the Governor, arrange at her own or another's expense for the provision of additional articles and food for the child's maintenance and care.

### *Remission and temporary release*

## **63 Remission of sentence**

- (1) This Rule applies to a prisoner sentenced to imprisonment or youth detention, whether by one sentence or by consecutive sentences and to a

prisoner committed to prison in default of payment of a sum adjudged to be paid on a conviction for a term, in either case, of more than 5 days.<sup>37</sup>

- (2) The Minister may, on the ground of the prisoner's industry and good conduct, grant a prisoner remission of a portion of the prisoner's term of imprisonment or youth detention not exceeding one third of the whole.<sup>38</sup>
- (3) The Minister shall not grant remission of a portion of a term of imprisonment or youth detention so as to reduce the term to less than 5 days.<sup>39</sup>

## **64 Temporary release**

- (1) The Minister may temporarily release a prisoner serving a sentence of imprisonment or youth detention, for such time or times and subject to such conditions as the Minister may determine, either –
  - (a) for the purpose of the prisoner engaging in employment or receiving instruction or training; or
  - (b) in such other circumstances as may be approved by the Minister.<sup>40</sup>
- (2) The Minister may order the recall of a prisoner who has been temporarily released, whether or not the prisoner has failed to comply with any condition imposed on his or her release.

### **64A Recall of certain prisoners temporarily released<sup>41</sup>**

- (1) Without prejudice to the generality of Rule 64(2), the Minister may in writing order the recall of a person to whom this Rule applies (as specified in paragraph (7)), if the Minister is satisfied that it is reasonable in all the circumstances to do so, having regard in particular to –
  - (a) the circumstances in which the person's temporary release was approved;
  - (b) the conditions on which the person was released, and the person's compliance, or lack of compliance, with those conditions;
  - (c) any evidence that the person has, during the period of his or her release, committed an offence or is likely to do so;
  - (d) any other factors appearing to the Minister to be relevant.
- (2) A person returning to custody or taken into custody under this Rule –
  - (a) must be advised of his or her right under paragraph (3) to request a review of the Minister's order; and
  - (b) is entitled to such assistance in making the request, from an officer appointed by the Governor for the purpose, as is reasonable in all the circumstances.
- (3) A person in relation to whom an order is made under paragraph (1) may, no later than the end of the period of 5 days beginning with the date of the person's return into custody, request a review of the order, by making a written application to the Governor.

- (4) A review of an application under paragraph (3) must be carried out by a panel of no fewer than 2 members of the Monitoring Board, as soon as reasonably practicable, and a report of the panel's review, including any recommendations, must be communicated in writing to the applicant, the Governor, and the Minister.
- (5) The Minister must, no later than 14 days after having received the panel's report, and having regard to any recommendations, reconsider the order in relation to the applicant.
- (6) The Minister must inform the applicant and the Governor, in writing, of –
  - (a) the result of the reconsideration under paragraph (5);
  - (b) what action, if any, the Minister has decided to take following the reconsideration; and
  - (c) the reasons for that decision.
- (7) This Rule applies to a person temporarily released at any time before 30th September 2020, including a person so released, but not recalled, before the commencement of this Rule.

*Security and control*

**65 Duty of Governor to supervise and control**

- (1) Subject to these Rules, the Governor shall be responsible for –
  - (a) the supervision of the prison; and
  - (b) the control of the prisoners detained in it.
- (2) The Governor shall maintain a system for the daily inspection of the parts of the prison used to employ or accommodate prisoners and for the regular inspection of all other parts of the prison.<sup>42</sup>

**66 Duty of officer in control**

- (1) In the control of prisoners, an officer shall seek to influence, by example and leadership, and enlist the willing co-operation of prisoners.
- (2) An officer shall not use force unnecessarily when dealing with prisoners and, when force is necessary, shall not use more force than is necessary.
- (3) An officer shall not act in a manner deliberately calculated to provoke a prisoner.

**67 Removal from association**

- (1) The Governor may order, in writing, that a prisoner be removed from associating with other prisoners, either generally or during any period that the prisoner is engaged or taking part in prescribed activities or any specified prescribed activity.
- (2) In this Rule, "prescribed activity" means –
  - (a) work a prisoner is required to undertake under Rule 54;

- (b) education provided under Rule 57;
  - (c) counselling provided under Rule 58;
  - (d) time in the open air and physical recreation, activities and pursuits undertaken under Rule 59; and
  - (e) attendance at a religious service under Rule 28(1)(b).
- (3) The Governor shall, when making an order under paragraph (1) –
- (a) specify whether the removal from association is in general or in relation to a specified prescribed activity or activities;
  - (b) specify the Governor's reasons for making the order;
  - (c) record the day and time the order is made;
  - (d) explain the reasons for making the order to the prisoner; and
  - (e) give the prisoner a copy of the order.
- (4) An order made under paragraph (1) shall not have effect to remove a prisoner from association for more than 72 hours unless authorized under paragraph (5).
- (5) The Minister may, in writing, give authority for an order made under paragraph (1) to have effect for a maximum of one month.
- (6) The Minister may, on the application of the Governor, renew an authority given under paragraph (5).
- (7) The Governor –
- (a) may cancel an order made under paragraph (1) at any time that the Governor considers it appropriate to do so;
  - (b) may vary an order made under paragraph (1) so as to reduce the number of prescribed activities in respect of which the prisoner is removed from association; and
  - (c) shall cancel an order made under paragraph (1) if the Medical Officer advises, on medical grounds, that the Governor should do so.
- (8) The Medical Officer shall visit a prisoner removed from association generally as soon as practicable after the order is made under paragraph (1) and, after that, as often as is necessary and at least once in every 7 days.

## **68 Possession of prohibited articles<sup>43</sup>**

- (1) A prisoner shall not have in his or her possession, or keep, conceal or deposit anywhere in the prison, any prohibited article.
- (2) Despite paragraph (1), the Medical Officer may issue a written order authorizing a named prisoner to receive a specified quantity and description of alcoholic liquor or controlled drugs.
- (3) Despite paragraph (1) the Governor may issue a written order authorizing a named prisoner to be in possession of a personal communication device or a recording device, subject to any condition that may be specified in the authorization.



- (4) The Governor may seize and detain any prohibited article which, in contravention of this Rule, is –
  - (a) found in the possession of a prisoner or visitor; or
  - (b) conveyed or thrown into, or concealed or deposited in, the prison.

## **69 Possession of unauthorized articles<sup>44</sup>**

- (1) A prisoner shall not have in his or her possession, or keep, conceal or deposit anywhere in the prison, any unauthorized article.
- (2) A prisoner shall not have in his or her possession in a part of the prison any authorized property which the prisoner is authorized to have in his or her possession only in another part of the prison.
- (3) The Governor may seize and detain any unauthorized article which, is –
  - (a) found in the possession of a prisoner or visitor; or
  - (b) conveyed or thrown into or concealed or deposited in, the prison.
- (4) The Governor may seize and detain any authorized article which, in contravention paragraph (2) is found in the possession of a prisoner or visitor in a part of the prison in which the prisoner is not authorized to have it.

## **70 Use of restraints**

- (1) The Governor may order that a prisoner be placed under a restraint where it appears to the Governor that it is necessary to do so in order to restrain a prisoner –
  - (a) who threatens to injure, or is injuring, himself or herself, or others;
  - (b) who threatens to damage, or is damaging, property; or
  - (c) who threatens to create, or is creating, a disturbance.
- (2) The Governor shall, as soon as practicable, notify the Medical Officer of an order made under paragraph (1).
- (3) The Medical Officer, on being notified of an order, shall inform the Governor whether or not he or she agrees with the order.
- (4) The Governor, on being informed that the Medical Officer does not agree with the order, shall order the restraint to be removed immediately.
- (5) The Medical Officer may order that a prisoner be placed under a restraint where it appears to that officer necessary to do so to prevent self-injury.
- (6) The Medical Officer shall, as soon as is practicable, notify the Governor of an order made under paragraph (5).
- (7) A prisoner shall not be placed under a restraint as a punishment.

**71 Conditions of use of restraints**

- (1) The Minister shall specify in directions the means of restraint that may be used.
- (2) The Minister may specify in directions –
  - (a) the manner in which a restraint is to be applied; and
  - (b) the circumstances in which a restraint is to be removed temporarily.
- (3) A prisoner shall not be placed under restraint –
  - (a) for any longer than is necessary; and
  - (b) in any event, for more than 24 hours, unless authorized, in writing, by the Minister.
- (4) The Minister, when authorizing the continued use of a restraint, shall –
  - (a) state the maximum period for which the restraint may be used;
  - (b) state the grounds for authorizing its continued use; and
  - (c) require the Medical Officer to visit the prisoner at regular intervals.
- (5) An officer shall visit a prisoner placed under a restraint at least once in every 15 minutes throughout the period the prisoner is under restraint.
- (6) The Medical Officer shall examine a prisoner placed under a restraint immediately following –
  - (a) the application of the restraint; and
  - (b) the removal of the restraint (other than for a temporary purpose).
- (7) The Governor shall –
  - (a) record the particulars of each case of a prisoner placed under a restraint; and
  - (b) notify the Minister of the particulars of each case.

**72 Temporary confinement in a special cell**

- (1) The Governor may order the temporary confinement of a prisoner in a special cell when the prisoner becomes refractory or violent.
- (2) A prisoner shall not be confined to a special cell –
  - (a) as a punishment; or
  - (b) for any longer than is necessary and, in any event, for any longer than 24 hours.
- (3) The Governor shall –
  - (a) notify the Medical Officer, as soon as possible, of an order made under paragraph (1); and
  - (b) record the particulars of the case.
- (4) An officer shall visit a prisoner who is confined under an order made under paragraph (1) at least once in every 15 minutes throughout the period the prisoner is confined.

- (5) The Medical Officer shall visit a prisoner who is confined for a period of more than 15 hours pursuant to an order made under paragraph (1).

### **73 Admission and search of visitors**

- (1) In this Rule “visitor” includes any person (other than an officer or employee) visiting the prison or any part of it.
- (1A) A request under this Rule may be made by an officer or by an employee authorized by the Governor for the purposes of this Rule.<sup>45</sup>
- (2) A person seeking to enter the prison as a visitor may be requested –
- (a) to state his or her name and address and the purpose of the visit; and
  - (b) to surrender, for the duration of the visit, any article in his or her possession which the officer considers may be prejudicial to safety, security or good order and discipline.<sup>46</sup>
- (3) A visitor may be requested to consent to a search or searches, in accordance with this Rule, of –
- (a) the visitor’s person and any of the visitor’s personal possessions;
  - (b) the visitor’s open mouth, by visual examination and without the use of force or any instruments; and
  - (c) any vehicle or equipment which is in the visitor’s charge and which the visitor intends to take into the prison.<sup>47</sup>
- (4) Where a visitor consents to a search or searches under paragraph (3), the search and further searches may take place –
- (a) before the visitor is admitted to the prison;
  - (b) at any time whilst the visitor is in the prison; and
  - (c) before the visitor leaves the prison.
- (5) A search under paragraph (3) shall be carried out as expeditiously and decently as possible.
- (6) A visual examination of a visitor’s open mouth may be carried out by an officer, or an employee authorized by the Governor for the purposes of this Rule, of either sex.<sup>48</sup>
- (7) Any other search under paragraph (3) shall be carried out –
- (a) where the visitor is under the age of 11, by a female officer or female employee authorized by the Governor for the purposes of this Rule;
  - (b) in any other case, by an officer, or an employee authorized by the Governor for the purposes of this Rule, of the same sex as the visitor.<sup>49</sup>
- (8) A search of a visitor who is under the age of 14 shall be carried out in the presence of an accompanying adult.
- (9) A visitor who consents to a search under paragraph (3) shall not be asked to remove, and the search shall not involve the removal of, any clothing other than the visitor’s outer coat, jacket, headgear, gloves and footwear.

- (10) A search of a visitor's personal possessions, including any item of clothing the visitor is asked to remove, or of any vehicle may, in addition to being carried out by hand, be carried out –
  - (a) by equipment involving –
    - (i) the application of a swab or suction device in order to collect particles from the surface of the possessions or vehicle or anything in the vehicle, and
    - (ii) the analysis of such particles in order to ascertain the presence of explosives, controlled drugs or other prohibited substances;
  - (b) by the use of equipment designed to detect metal objects; and
  - (c) in accordance with procedures and by any other measures specified in directions by the Minister.
- (11) An officer or employee authorized by the Governor for the purposes of this Rule may seize and detain any prohibited article found in the course of a search under paragraph (3).<sup>50</sup>
- (12) The Governor shall ensure that a notice explaining the effect of this Rule and Rule 74 is displayed prominently for the benefit of visitors to the prison.

#### **74 Refusal of admission and removal of visitors**

- (1) Without prejudice to Rule 52, an officer may refuse to admit a visitor or may terminate a visit and remove the visitor where –
  - (a) the visitor refuses to comply with a request under Rule 73(2);
  - (b) the visitor fails to verify any information requested under Rule 73(2)(a) to the satisfaction of the officer;
  - (c) the visitor refuses consent to a search under Rule 73 or, having consented, is obstructive in the course of that search;
  - (d) the officer has reasonable grounds to suspect that the visitor has in his or her possession or is bringing in or taking out, or attempting to bring in or take out, any article which is not authorized under Rule 69(4) or which may prejudice safety, security or good order and discipline; or
  - (e) the officer considers that the conduct of the visitor is prejudicial to safety, security or good order and discipline or that it is necessary to terminate the visit in the interests of good order and discipline or to prevent disorder or crime.
- (2) An officer who terminates a visit under paragraph (1) shall record the particulars, including the reasons for the termination.

#### **75 Searches of persons providing contracted out services**

- (1) The Governor may order a search of –
  - (a) a person providing contracted out services to the prison, upon the person entering or whilst in the prison;

- (b) any property in the possession of such a person whilst in the prison or kept by such a person in any place in the prison; and
  - (c) any vehicle of which such a person is in charge or property in the possession of such a person which that person intends taking into the prison.
- (2) A search under paragraph (1) of any property, including any item of clothing or vehicle, may, in addition to being carried out by hand, be carried out –
  - (a) by equipment involving –
    - (i) the application of a swab or suction device in order to collect particles from the surface of the possessions or vehicle or anything in the vehicle, and
    - (ii) the analysis of such particles in order to ascertain the presence of explosives, controlled drugs or other prohibited substances;
  - (b) by the use of equipment designed to detect metal objects; and
  - (c) in accordance with procedures and by any other measures specified in directions by the Minister.
- (3) A search ordered under paragraph (1) shall not authorize any officer or employee to require a person to remove any clothing other than the person's outer coat, jacket, headgear, gloves and footwear.<sup>51</sup>
- (4) An officer or employee conducting a search ordered under paragraph (1) may use reasonable force if necessary.<sup>52</sup>
- (5) A search ordered under paragraph (1) shall be carried out, within the prison –
  - (a) by 2 persons who are officers or employees of the same sex as the person being searched;
  - (b) out of sight of any other person; and
  - (c) as expeditiously and decently as possible.<sup>53</sup>

## **76 Viewing of prison**

No person shall be permitted to view the prison unless authorized –

- (a) by or under Article 3, 5 or 6 of the Law; or
- (b) by the Governor or the Minister.

## **77 Searches of prisoners**

- (1) Every prisoner may be searched by an officer in accordance with this Rule.
- (1A) Every prisoner may be searched by an authorized employee, in accordance with this Rule, for the purpose of ascertaining whether the prisoner has any unauthorized property on his or her person.<sup>54</sup>
- (2) A search of a prisoner by an officer or authorized employee may take the form of –

- (a) the examination of the prisoner's person and clothing, but without the removal of the clothing;
  - (b) the removal and examination of the prisoner's outer coat, jacket, headgear, gloves and footwear and the visual examination of the external parts of the prisoner's body following the removal of those items;
  - (c) the visual examination of the prisoner's open mouth, without the use of force or any instrument.<sup>55</sup>
- (2A) A search of a prisoner by an officer may further take the form of the removal and examination of the prisoner's clothing and the visual examination of the external parts of the prisoner's body following removal of the prisoner's clothing.<sup>56</sup>
- (3) A search of a prisoner shall be carried out as expeditiously and decently as possible.
- (4) The removal of a prisoner's clothing or examination of the prisoner following such removal shall be carried out –
- (a) by 2 officers of the same sex as the prisoner;
  - (b) out of the sight of any other prisoner.
- (5) A visual examination of a prisoner's open mouth, without the use of force or any instrument, may be carried out by an officer or authorized employee of either sex.<sup>57</sup>
- (6) Any other search described in paragraph (2) or (2A) shall be carried out, as the case requires, by an officer or authorized employee of the same sex as the prisoner, except that a female officer or female authorized employee may, unless the prisoner objects, carry out a search of a male prisoner.<sup>58</sup>
- (7) A prisoner may be searched at such times and in such circumstances as the Governor considers necessary.
- (8) Except as provided by paragraph (2)(c), the power to search conferred by this Rule shall not authorize the physical examination of a prisoner's body orifices.<sup>59</sup>

## **78 Search of prisoner's property and cell**

- (1) An officer may, at any time, search any item of property belonging to a prisoner.
- (2) An officer may, at such times as the Governor considers necessary, search a prisoner's cell and any item of property kept in it.
- (3) Paragraphs (1) and (2), so far as they relate to the opening and reading of letters, are subject to Rules 41 to 43.

## **78A Compulsory testing for controlled drugs<sup>60</sup>**

- (1) The Governor may, for the purpose of ascertaining whether the prisoner has any controlled drug in his or her body, authorize officers to require any prisoner at the prison to provide –

- (a) a sample of urine;
  - (b) subject to paragraph (2), any other description of sample specified in the authorization.
- (2) The Governor may not, under this Rule, authorize the taking of an intimate sample, within the meaning of the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#).
- (3) Where an authorization is in force, an officer may require a prisoner to provide a sample of urine and any other description of sample specified in the authorization.
- (4) When requiring a prisoner to provide a sample an officer shall, so far as is reasonably practicable, inform the prisoner –
  - (a) that the prisoner is being required to provide a sample in accordance with an authorization under this Rule; and
  - (b) that a refusal to provide a sample may lead to disciplinary proceedings being brought against the prisoner.
- (5) An officer shall require a prisoner to provide a fresh sample, free from any adulteration.
- (6) An officer requiring a prisoner to provide 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.
- (7) 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.
- (8) A prisoner who is unable to provide a sample of urine when required to do so may be kept apart from other prisoners until the prisoner has provided the required sample.
- (9) A prisoner shall not, in any event, be kept apart under paragraph (8) for more than 5 hours.
- (10) A prisoner required to provide a sample of urine –
  - (a) shall not be required to do so in the sight of a person of the opposite sex; and
  - (b) shall otherwise 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.

#### **78B Compulsory testing for alcoholic liquor<sup>61</sup>**

- (1) The Governor may, for the purpose of ascertaining whether the prisoner has any alcohol in his or her body, authorize officers to require any prisoner at the prison to provide –
  - (a) a sample of breath;
  - (b) subject to paragraph (2), any other description of sample specified in the authorization.

- (2) The Governor may not, under this Rule, authorize the taking of an intimate sample within the meaning of the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#).
- (3) Where an authorization is in force, an officer may require a prisoner to provide a sample of breath and any other description of sample specified in the authorization.
- (4) Paragraphs (4) to (7) of Rule 78A shall apply for the purposes of this Rule with the necessary modifications.
- (5) Where an authorization under this Rule empowers an officer to require a prisoner to provide a sample of urine, paragraphs (8) to (10) of Rule 78A shall also apply for the purposes of this Rule.

### **78C Use and destruction of samples<sup>62</sup>**

- (1) A sample taken under Rule 78A or 78B shall be used only for purposes related to the prevention, detection or investigation of a breach of discipline or the conduct of a disciplinary charge.
- (2) A sample taken under Rule 78A or 78B shall be destroyed as soon as it has fulfilled the purposes for which it may be used.
- (3) Information derived from a sample taken from a prisoner under Rule 78A or 78B –
  - (a) may be retained in the medical record kept for the prisoner under Rule 22, for the purpose of the better medical treatment of the prisoner whilst in custody in the prison; and
  - (b) shall be retained with the prisoner's record maintained under Rule 7, but shall not be liable to release or retention under Rule 7B.

### **79 Custody outside prison**

- (1) A prisoner required to be taken in legal custody anywhere outside the prison shall be kept in the custody or under the control of an officer or a police officer.
- (2) A prisoner in legal custody outside the prison shall, as far as possible, be protected from public view, insult and curiosity.

#### *Discipline*

### **80 Conduct constituting a breach of discipline**

The Schedule shall have effect to specify conduct that constitutes a breach of discipline.

### **81 Report of suspected breach of discipline**

Every suspected breach of discipline shall be reported without delay, in writing, to the Governor by the officer or employee to whose notice it has come.



**82 Removal from association pending charge**

- (1) An officer who has sufficient grounds for suspecting that a prisoner has committed a breach of discipline and thinks it appropriate to do so may remove the prisoner from associating with other prisoners pending the preparation of a report under Rule 81.
- (2) A prisoner may not be removed from association under paragraph (1) for a period of more than 72 hours without the authority of the Minister under paragraph (3).
- (3) The Minister may, in exceptional circumstances, give written authority for a removal from association under paragraph (1) to have effect for a period not exceeding one month.
- (4) The Minister's authority may be renewed from month to month, on an application by the Governor but shall, in any case, cease to have effect when the Attorney General has indicated, under Rule 83, that no further action is to be taken in respect of the officer's report, or when the charge for the suspected breach of discipline has been adjudicated.
- (5) The Medical Officer shall visit a prisoner removed from association under paragraph (1) as soon as practicable and, after that, as often as is necessary and at least once in every 7 days.

**83 Referral of suspected criminal offence**

- (1) Where, upon receiving a report of a suspected breach of discipline or at any time after that, it appears to the Governor or person inquiring into the charge that a suspected breach of discipline would also constitute a criminal offence, the Governor or person inquiring into the charge shall refer the matter to the police.<sup>63</sup>
- (2) If a matter is referred to the police under paragraph (1) –
  - (a) the Governor must not take action, nor appoint a person to take action, against the prisoner under these Rules if the prisoner is charged with an offence in relation to the matter referred;
  - (b) the Governor may only take action against the prisoner, or appoint a person to take action against the prisoner, under these Rules if the prisoner has been informed by the Governor that he or she will not be charged with any offence in respect of the matter referred.<sup>64</sup>

**84 Breach of discipline by prisoner transferred from or to the prison**

- (1) Where –
  - (a) a prisoner reported for a suspected breach of discipline is to be transferred to a prison outside Jersey before an inquiry can be conducted into any charge for the suspected breach; or
  - (b) a prisoner is reported for a suspected breach of discipline whilst the prisoner is being transferred to a prison outside Jersey,no further action in respect of the suspected breach need be taken under these Rules and the Governor may, in place of such action, remit a report

of the matter to the governor of the prison to which the prisoner is transferred.

- (2) Where a prisoner is transferred to the prison from a prison outside Jersey and the Governor receives from the governor of the transferring prison a report of a suspected breach of discipline by the prisoner –

- (a) which has not been inquired into at the transferring prison, by reason of the prisoner's transfer; or
- (b) which occurred whilst the prisoner was being transferred,

the Governor may deal with the report as if it had been made under Rule 81.

- (3) If a prisoner transferred from a prison outside Jersey is charged under these Rules with a breach of discipline contrary to paragraph (25) of the Schedule in respect of a controlled drug in circumstances where –

- (a) the controlled drug specified in the charge may have been administered to the prisoner before the prisoner's reception into the prison in Jersey; but
- (b) the prisoner was detained in another prison throughout the period during which the drug might have been administered,

the matter may be dealt with under these Rules as if the controlled drug alleged to have been administered had been administered whilst the prisoner was in prison in Jersey.

- (4) Where –

- (a) a prisoner who provided a sample for analysis was, at that time, an untried prisoner;
- (b) the prisoner was detained in a prison outside Jersey throughout the period during which the drug might have been administered;
- (c) following an analysis of the sample there are grounds for believing that the prisoner was guilty of a breach of discipline in respect of a controlled drug contrary to paragraph (25) of the Schedule;
- (d) following provision of the sample the prisoner is convicted and sentenced to imprisonment; and
- (e) the prisoner is transferred to the prison in Jersey,

the matter may be dealt with under these Rules as if the controlled drug alleged to have been administered, had been administered whilst the prisoner was in prison in Jersey.

## **85 Disciplinary charge**

- (1) Subject to Rule 83, on receiving a report under Rule 81, the Governor shall determine whether or not the prisoner is to be charged with a breach of discipline.
- (2) Where a prisoner is to be charged, the Governor shall bring the charge as soon as practicable and, in any event, within 48 hours of receiving the report under Rule 81.

- (3) The Governor shall bring a charge by giving written notice of it to the prisoner at least 2 hours before the start of the inquiry into the charge.
- (4) Where an officer reports to the Governor a suspected breach of discipline by an untried prisoner whose trial is due to start the following day or has already started, the Governor may defer bringing a charge until the trial is concluded.
- (5) Where a prisoner described in paragraph (4) is sentenced to imprisonment and is to be charged with a breach of discipline, the Governor shall bring the charge within the 48 hours following the time when sentence is passed.

## **86 Person to inquire into charge**

- (1) Subject to this Rule, the Governor or a person appointed by the Governor who is of the seniority of unit manager or higher shall inquire into a charge.<sup>65</sup>
- (2) The Governor shall not inquire into the charge if he or she, otherwise than in his or her capacity as Governor, is an interested party to the charge.<sup>66</sup>
- (2A) The Governor shall not appoint a person to inquire into the charge if that person is an interested party to the charge.<sup>67</sup>
- (3) The Governor shall inform the prisoner, in writing, of a referral to another officer.

## **87 Inquiry into charge**

- (1) Save in exceptional circumstances, a charge shall be inquired into no later than 48 hours after the charge is brought (disregarding any day that is a Sunday or public holiday).<sup>68</sup>
- (2) The person inquiring into a charge shall be satisfied, before commencing the inquiry, that the prisoner has had sufficient time to prepare his or her case.
- (3) The person inquiring into a charge may adjourn the inquiry –
  - (a) to allow the prisoner further time to prepare his or her case; or
  - (b) whenever the person considers that there are other, reasonable grounds for adjournment.
- (4) A prisoner charged with a breach of discipline shall be given the opportunity –
  - (a) to hear the allegations against the prisoner;
  - (b) to present the prisoner's own case and, subject to paragraph (7), call witnesses; and
  - (c) to cross-examine any other witnesses.
- (5) The person inquiring into a charge may, in the interests of justice, allow the prisoner to be represented by an advocate or a solicitor, having regard to –
  - (a) the gravity of the charge and the likely punishment;

- (b) the number of charges;
  - (c) the factual complexity of the charges;
  - (d) the likelihood of a point of law arising;
  - (e) the need for cross-examination of witnesses; and
  - (f) the ability of the prisoner to present his or her own case effectively.<sup>69</sup>
- (6) Where a prisoner is represented by an advocate or a solicitor, the case against the prisoner may be presented by an advocate or a solicitor.
- (7) The person inquiring into a charge may refuse to allow the prisoner to call a witness if, having discussed the matter with the prisoner, the person inquiring into the charge reasonably concludes that the evidence likely to be given by the witness would be of no relevance or value in determining whether or not the charge is proved.
- (8) Where, following an adjournment, the person inquiring into the charge is unable to proceed at the appointed time –
- (a) the Governor may appoint another officer under Rule 86; and
  - (b) the person so appointed may, subject to paragraph (9), continue the inquiry into the charge.
- (9) Where, at the time of the adjournment, evidence has been adduced, the officer appointed shall inquire into the charge afresh.
- (10) The prisoner may, according to the prisoner's own preference, stand or be seated during the inquiry.

## **88 Adjudication of charge**

- (1) Subject to this Rule, the person inquiring into a charge may take into account any evidence in any form.
- (2) The person inquiring into a charge may only take into account the evidence of a person who has not given oral evidence if the prisoner so agrees.
- (2A) In an inquiry into a charge for a breach of discipline under paragraph (25) of Part 1 of the Schedule, the person inquiring into the charge may take into account the written evidence of a person who is not an officer or employee regarding an analysis of a sample obtained in accordance with these Rules and carried out by that person, without requiring the attendance of that person if, despite an objection from the prisoner –
- (a) the person inquiring into the charge has given the prisoner the opportunity to make representations about why the person giving evidence should be present; and
  - (b) having heard the prisoner, the person inquiring into the charge is satisfied that there is not sufficient reason for the evidence to be given orally and that it is appropriate to admit the evidence in writing.<sup>70</sup>
- (3) The person inquiring into a charge shall, at the conclusion –
- (a) consider whether the charge has been proved beyond reasonable doubt; and

- (b) inform the prisoner, orally, of his or her decision.
- (4) Where the person inquiring into a charge finds the prisoner guilty of a breach of discipline, that person shall, before considering whether to impose a punishment, give the prisoner an opportunity to make a plea in mitigation.
- (5) The person inquiring into the charge shall give the prisoner written confirmation of his or her decision and of the punishment imposed (if any) as soon as possible after the decision is made.

**89 Defence to charge under paragraph (25) of Part 1 of the Schedule: controlled drugs<sup>71</sup>**

- (1) It shall be a defence for a prisoner charged with a breach of discipline under paragraph (25) of Part 1 of the Schedule in respect of a controlled drug to show that –
  - (a) the controlled drug was –
    - (i) prior to its administration, lawfully in the prisoner's possession for the prisoner's use, or
    - (ii) administered to the prisoner in the course of a lawful supply of the drug to the prisoner by another person;
  - (b) the controlled drug was administered by or to the prisoner in circumstances in which the prisoner did not know and had no reason to suspect that such a drug was being administered; or
  - (c) the controlled drug was administered –
    - (i) by or to the prisoner under duress, or
    - (ii) to the prisoner without the prisoner's consent,in circumstances where it was not reasonable for the prisoner to have resisted.
- (2) Where, for the purposes of paragraph (1), a prisoner adduces evidence which is sufficient to raise an issue with respect to any of the matters in sub-paragraphs (a) to (c) of that paragraph, the person inquiring into the charge shall assume that the defence is satisfied unless the person presenting the charge proves beyond reasonable doubt that it is not.

**89A Defence to a charge under paragraph (25) of Part 1 of the Schedule: alcohol<sup>72</sup>**

- (1) It shall be a defence for a prisoner charged with a breach of discipline under paragraph (25) of Part 1 of the Schedule in respect of any alcoholic liquor to show that –
  - (a) the alcoholic liquor was consumed by the prisoner in circumstances in which the prisoner did not know and had no reason to suspect that he or she was consuming alcoholic liquor; or

- (b) the alcoholic liquor was consumed by the prisoner without his or her consent in circumstances where it was not reasonable for the prisoner to have resisted.
- (2) Where, for the purposes of paragraph (1), a prisoner adduces evidence which is sufficient to raise an issue with respect to either of the matters in sub-paragraph (a) or (b) of that paragraph, the person inquiring into the charge shall assume that the defence is satisfied unless the person presenting the charge proves beyond reasonable doubt that it is not.

## **90 Punishments**

- (1) Where the person inquiring into a charge finds a prisoner guilty of a breach of discipline, he or she may impose one or more of the following punishments –
  - (a) a caution;
  - (b) forfeiture of any privileges granted under the system of privileges applicable to the prisoner for a period not exceeding 21 days;
  - (c) in the case of a prisoner otherwise entitled to them, forfeiture for any period of the right, under Rule 36(1), to have the articles there mentioned;
  - (d) exclusion from associated work for a period not exceeding 21 days;
  - (e) stoppage of or a deduction from earnings for a period not exceeding 56 days and of an amount not exceeding one half of the prisoner's earnings in any week (or part thereof) falling within the period specified;
  - (f) in the case of a prisoner who is over the age of 18 years, cellular confinement for a period not exceeding 7 days.<sup>73</sup>
- (2) <sup>74</sup>

## **91 Punishments: general provisions**

- (1) A caution shall not be combined with any other punishment for the same charge.
- (2) Subject to paragraph (3), where a prisoner is found guilty of more than one breach of discipline arising out of an incident, the punishments imposed under Rule 90 (apart from cellular confinement) may be ordered to run consecutively.
- (3) <sup>75</sup>
- (4) Where a punishment of cellular confinement is imposed –
  - (a) the person imposing the punishment shall inform the Medical Officer as soon as possible; and
  - (b) any entitlement of the prisoner under these Rules shall not, by reason only of such confinement, be affected, except insofar as expressly provided in a direction issued by the Minister.

- (5) A person imposing a punishment shall have regard to any guidelines issued or adopted by the Minister as to the level of punishment that should normally be imposed for a particular breach of discipline.

## **92 Suspended punishments**

- (1) The powers to impose punishments under these Rules (apart from a caution) include a power to direct that the punishment shall not take effect unless, during such period of the prisoner's sentence as shall be specified in the direction –
  - (a) the prisoner commits another breach of discipline; and
  - (b) a further direction is given under paragraph (3).
- (2) The period specified under paragraph (1) shall not exceed 3 months in the case of an untried prisoner or 6 months in any other case.
- (3) Where a prisoner is found guilty of a breach of discipline committed during a period specified in a direction under paragraph (1), the person inquiring into the later breach may –
  - (a) direct that the suspended punishment take effect;
  - (b) reduce the period or amount of the suspended punishment and direct that it take effect as so reduced;
  - (c) vary the direction under paragraph (1) by substituting for the period of suspension specified a period, commencing with the date of variation and not exceeding the period applicable under paragraph (2); or
  - (d) give no direction with respect to the suspended punishment.

## **93 <sup>76</sup>**

## **94 Appeal against inquiry into charge<sup>77</sup>**

- (1) A prisoner found guilty of a breach of discipline may appeal against the decision in accordance with this Rule not later than 14 days after the date of the decision.
- (2) An appeal under this Rule is to be known as a disciplinary appeal and the appeal may be against –
  - (a) both the finding of guilt under Rule 88 and any punishment imposed under Rule 90; or
  - (b) only the punishment imposed under Rule 90.
- (3) The appeal shall be made –
  - (a) to the Minister, where the prisoner is appealing against a decision of the Governor; or
  - (b) to a disciplinary appeals panel, where the prisoner is appealing against a decision of an officer appointed by the Governor to inquire into the charge.

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- (4) Subject to this Rule, the Minister may provide in a direction the form and manner in which –
- (a) a disciplinary appeal may be made; and
  - (b) any decision in relation to a disciplinary appeal may be given.
- (5) The Governor must appoint any 3 of the following members of the prison staff to the disciplinary appeals panel –
- (a) a unit manager;
  - (b) the prison chaplain;
  - (c) the court liaison officer;
  - (d) the health and safety manager;
  - (e) the principal psychologist;
  - (f) the head of learning and skills;
  - (g) the head of health care;
  - (h) the education manager;
  - (i) the vocational training manager.
- (6) One member of the disciplinary appeals panel must be appointed as the chairman and none of the members must have any interest in the decision being appealed against.
- (7) The Governor must ensure that the following are provided for prisoners –
- (a) supplies of any form specified in a direction made under paragraph (4);
  - (b) assistance in the completion of any such form; and
  - (c) assistance in writing a disciplinary appeal.
- (8) The disciplinary appeals panel shall hear the appeal within 14 days of the chairman of the disciplinary appeals panel receiving it.
- (9) The person chairing the hearing by the disciplinary appeals panel may, in the interests of justice, allow the prisoner to be represented by an advocate or solicitor, having regard to –
- (a) the gravity of the breach of discipline of which the prisoner has been found guilty;
  - (b) the number of breaches of discipline of which the prisoner has been found guilty;
  - (c) the complexity of the facts on which the finding of guilt has been made or on which the appeal is made;
  - (d) any point of law that arose on the finding of guilt or the likelihood of a point of law arising on the appeal;
  - (e) the need for cross-examination of witnesses during the appeal;
  - (f) the ability of the prisoner to present his or her appeal effectively.
- (10) At the conclusion of the hearing, the disciplinary appeals panel shall consider the appeal and may recommend to the Governor that he or she –



- (a) quash any finding of a breach of discipline; or
  - (b) remit or mitigate any punishment (unless the period for which the punishment was imposed has expired before the conclusion of the hearing).
- (11) The disciplinary appeals panel shall make its decision on the appeal and notify the prisoner of that decision, within 72 hours of the conclusion of hearing the appeal.
- (12) The Governor, if recommended to do so under paragraph (10), must –
  - (a) quash any finding of guilt; or
  - (b) remit or mitigate any punishment (other than a punishment imposed under Rule 90 where the period for which the punishment was imposed has expired by the date of the decision of the appeal).
- (13) If the prisoner is aggrieved by the decision of the disciplinary appeals panel, he or she may request the Governor to review that decision and the Governor must undertake that review within 7 days of the prisoner's request.
- (14) Upon reviewing the matter, the Governor may –
  - (a) quash the decision of the disciplinary appeals panel; or
  - (b) remit or mitigate any punishment (other than a punishment imposed under Rule 90 where the period for which the punishment was imposed has expired by the date of the decision of the appeal),or if the Governor considers that the decision of the disciplinary appeals panel and punishment was correct, the Governor, if requested to do so by the prisoner, must refer the appeal to the Minister.
- (15) Where an appeal is made under paragraph (3)(a), or referred to the Minister under paragraph (14), the Minister must –
  - (a) investigate any relevant matters raised in the appeal; and
  - (b) provide a written decision to the prisoner within 20 days of the appeal (or referral, as the case may be) being made.
- (16) The Minister may, either in the course of a disciplinary appeal brought under paragraph (3)(a), after a referral under paragraph (14) or of his or her own volition, in relation to a prisoner who has been found guilty of any breach of discipline –
  - (a) quash any finding of guilt;
  - (b) remit or mitigate any punishment (other than a punishment imposed under Rule 90 where the period for which the punishment was imposed has expired by the date of the decision of the appeal);
  - (c) substitute another punishment which is, in the Minister's opinion, less severe; or
  - (d) in the case of a disciplinary appeal, refuse the appeal.
- (17) If the Governor quashes any finding of guilt under paragraph (12)(a), or the Minister quashes any finding of guilt under paragraph (16)(a), the Governor must destroy any record in the prisoner's file which relates to the

alleged breach of discipline except where the record, or a part of it, relates to any other finding of breach of discipline which continues to form part of the prisoner's record.

- (18) Following the conclusion of the appeals procedure in relation to any appeal brought under this Rule, a prisoner is not entitled to make any further appeal or complaint under these Rules in relation to the same matter to which the breach of discipline in question related.

## **95 Records destroyed where finding quashed**

Where a finding of a breach of discipline is quashed, the Governor shall destroy any record in the prisoner's record which relates to the alleged breach of discipline unless the record or part of it relates to any other finding of a breach of discipline which continues to form part of the prisoner's record.

**96** <sup>78</sup>

### *Requests and complaints*

## **97 Prisoner's right to contact Minister and Monitoring Board<sup>79</sup>**

- (1) A prisoner may make a request to –
- (a) see a member of the Monitoring Board; or
  - (b) write to a member of the Monitoring Board or to the Minister.<sup>80</sup>
- (2) The officer to whom a request is made under paragraph (1)(a) shall –
- (a) without delay, record the request in writing; and
  - (b) arrange for the request to be brought to the attention of, as required, a member of the Monitoring Board.<sup>81</sup>
- (3) The officer to whom a request is made under paragraph (1)(b) shall –
- (a) without delay, record the request in writing; and
  - (b) ensure –
    - (i) that the prisoner is supplied with a pen and paper for the purpose, and
    - (ii) that the letter is posted or otherwise conveyed without delay to the person to whom it is addressed.

## **98 Prisoner's right to complain**

- (1) Subject to paragraph (2), prisoner may make a complaint –
- (a) to the Medical Officer, in accordance with Rule 99, where the complaint concerns any aspect of the care provided by the Medical Officer at the prison;

- (b) to the Minister, in accordance with Rule 100, where the complaint concerns –
    - (i) the transfer of the prisoner or a refusal to transfer the prisoner from the prison to a prison outside Jersey,
    - (ii) an allegation against the Governor personally, or
    - (iii) the prisoner's release on licence;
  - (c) in the case of any other complaint, to the Governor, in accordance with Rule 101.
- (2) The complaint must be made within 28 days of the event or circumstances to which the complaint relates or, if later, within 28 days of the prisoner becoming aware of such event or circumstances.
  - (3) The prisoner shall be entitled to such assistance in writing the complaint or referral from an officer appointed by the Governor for the purpose as is reasonably practicable in the circumstances.

## **99 Complaint to Medical Officer**

- (1) A prisoner wishing to make a complaint to the Medical Officer concerning any aspect of the care provided by the Medical Officer at the prison shall do so in writing and give the complaint, in a sealed envelope, to an officer.
- (2) The officer to whom the envelope is given shall convey it to the Medical Officer without delay.
- (3) The Medical Officer shall –
  - (a) as soon as is reasonably practicable after receiving the complaint, inform the Governor that the complaint has been made;
  - (b) consider the complaint and, unless it is not reasonably practicable to do so, inform the prisoner of his or her decision within 7 days of receiving the complaint; and
  - (c) inform the Governor that the prisoner has been notified of the decision.
- (4) A prisoner who is dissatisfied with a decision of the Medical Officer may, within 7 days of being informed of the decision, refer the complaint, in writing, to the Minister.
- (5) The Minister shall –
  - (a) consider the complaint within 28 days of the date the Minister receives the complaint, unless it is not reasonably practicable to do so; and
  - (b) inform the prisoner, the Medical Officer and the Governor, in writing, of his or her decision.
- (6) The Medical Officer and Governor shall each take any action required to give effect to the decision of the Minister.

**100 Complaint to Minister**

- (1) A prisoner wishing to make a complaint to the Minister concerning any matter described in Rule 98(1)(b) shall do so in writing and give the complaint, in a sealed envelope, to an officer.<sup>82</sup>
- (2) The officer to whom the envelope is given shall ensure that it is posted or otherwise conveyed to the Minister without delay.
- (3) The Minister shall –
  - (a) consider the complaint within 28 days of the date the Minister receives the complaint, unless it is not reasonably practicable to do so; and
  - (b) inform the prisoner and the Governor, in writing, of his or her decision.
- (4) The Governor shall take any action required to give effect to the decision of the Minister.

**101 Complaint to Governor**

- (1) A prisoner wishing to make a complaint to the Governor shall do so in writing and give the complaint, in a sealed envelope, to an officer.
- (2) The officer to whom the envelope is given shall convey it to the Governor without delay.
- (3) The Governor shall consider the complaint and inform the prisoner of his or her decision within 14 days of receiving the complaint.<sup>83</sup>
- (4) A prisoner who is dissatisfied with a decision of the Governor may, within 7 days of being informed of the decision, refer the complaint, in writing, to the Minister.
- (5) The Minister shall –
  - (a) consider the complaint within 28 days of the date the Minister receives the complaint, unless it is not reasonably practicable to do so; and
  - (b) inform the prisoner and the Governor, in writing, of his or her decision.
- (6) The Governor shall take any action required to give effect to the decision of the Minister.

*Discharge or transfer of prisoners***102 Preparation for discharge**

- (1) At least one week before a prisoner is discharged, the prisoner shall be seen by an officer approved by the Governor for the purpose, to discuss any needs that the prisoner may have on release.
- (2) A prisoner may request a visit from any person, during the week before the prisoner is discharged, for the purpose of assisting the prisoner with his or her preparation for discharge.

**103 Medical assessment prior to discharge or transfer**

At least one week before a prisoner is transferred to another prison, the Medical Officer shall conduct a full examination of the prisoner to determine the prisoner's wellbeing and fitness for such transfer.<sup>84</sup>

**104 Provision of clothing and return of property**

- (1) A prisoner's clothing and any property stored under Rule 35 shall be returned to the prisoner at the time of his or her discharge or transfer to another prison.
- (2) The Governor shall ensure that a prisoner who, at the time of his or her discharge or transfer to another prison, does not have sufficient clothing is provided with clothing suitable for that purpose.

**105 Payment of fines, etc.**

A prisoner imprisoned in default of payment of a fine or any other financial penalty awarded by a court in criminal proceedings or default of payment of a civil debt may make payment to the Governor, in cash, of any amount outstanding in order to secure the prisoner's release from prison.

*Officers and employees***106 Power of Governor to delegate**

- (1) The Governor may appoint another officer to discharge the Governor's functions at any time when the Governor is absent.
- (2) An officer appointed under paragraph (1) shall, in the Governor's absence, discharge all the functions of the Governor.
- (3) The Governor may delegate any specified function under these Rules to any officer but the delegation shall not prevent the discharge of the functions by the Governor.
- (4) Any reference to the Governor in these Rules includes an officer discharging the Governor's functions and, as the context may require, an officer to whom a specified function of the Governor has been delegated under paragraph (3).

**107 Duty of officers and employees**

Every officer and every employee shall –

- (a) conform to these Rules;
- (b) obey the lawful instructions of the Governor and of the Minister; and
- (c) inform the Governor, without delay, of any suspected breach of these Rules, or any other abuse or impropriety, which comes to his or her knowledge.

**108 Fees and gratuities**

No officer or employee shall, without the authority of the Governor –

- (a) receive any fee, gratuity or other consideration in connection with the office or employment;
- (b) directly or indirectly have any interest in any contract in connection with the prison or any other prison; or
- (c) receive any fee, gratuity or other consideration from or on behalf of any contractor at, or any person tendering for a contract in connection with, the prisoner or any other prison.

**109 Transactions with prisoners or connected with prison**

- (1) No officer or employee shall, without the authority of the Minister, take part in any business or pecuniary transaction with or on behalf of a prisoner.
- (2) No officer or employee shall, without the authority of the Governor –
  - (a) 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 any prisoner, any article whatsoever; or
  - (b) deposit in any place, with intent that it shall come into the possession of any prisoner, any article whatsoever.

**110 Searches of officers and employees**

- (1) The Governor may order a search of –
  - (a) an officer or employee;
  - (b) any property in the possession of such a person whilst in the prison or kept by such a person in any place in the prison; and
  - (c) any vehicle of which such a person is in charge or property in the possession of such a person which that person intends taking into the prison.
- (2) A search under paragraph (1) of any property, including any item of clothing or a vehicle, may, in addition to being carried out by hand, be carried out –
  - (a) by equipment involving –
    - (i) the application of a swab or suction device in order to collect particles from the surface of the property or vehicle or anything in the vehicle, and
    - (ii) the analysis of such particles in order to ascertain the presence of explosives, controlled drugs or other prohibited substances;
  - (b) by the use of equipment designed to detect metal objects; and
  - (c) in accordance with procedures and by any other measures specified in directions by the Minister.

- (3) A search ordered under paragraph (1) shall not authorize any officer to require the person being searched to remove any clothing other than outer coat, jacket, headgear, gloves and footwear.
- (4) An officer conducting a search ordered under paragraph (1) may use reasonable force if necessary.
- (5) A search ordered under paragraph (1) shall be carried out, within the prison –
  - (a) by 2 officers of the same sex as the person being searched;
  - (b) out of sight of any other person; and
  - (c) as expeditiously and decently as possible.

### **111 Communications to the press and others**

- (1) No officer or employee shall, without the authority of the Governor, communicate directly or indirectly with a representative of the press or any other person concerning matters which have become known to the officer or employee in the course of his or her duties.
- (2) No officer or employee shall, without the authority of the Governor or in such circumstances as may be authorized by directions issued by the Minister, publish any matter or make any public pronouncement relating to the administration of the prison or to any person lawfully detained there.

### **112 Code of conduct**

- (1) The Minister may approve a code regulating the conduct and discipline of officers and employees.
- (2) The code may include different provision for different descriptions of officers and employees.
- (3) The code may include provisions regulating –
  - (a) the procedures applicable where it is suspected that an act by an officer or employee may constitute misconduct;
  - (b) the disciplinary action which may be taken against an officer or employee whose act is found to have constituted misconduct; and
  - (c) the rights of appeal of any officer or employee against such a finding.

*Closing provision*

### **113 Citation**

These Rules may be cited as the Prison (Jersey) Rules 2007.

## **SCHEDULE**

(Rule 80)

### **BREACHES OF DISCIPLINE**

#### **PART 1**

#### **CONDUCT WHICH IS A BREACH OF DISCIPLINE**

A prisoner shall be guilty of a breach of discipline if the prisoner –

- (1) commits any assault;
- (2) commits any racially aggravated assault;
- (3) detains any person against that person's will;
- (4) denies access to any part of the prison to any officer or any person, other than a prisoner, who is at the prison for the purpose of working there;
- (5) fights with any person;
- (6) intentionally endangers the health or safety of others or, by the prisoner's conduct, recklessly endangers such health or safety;
- (7) intentionally obstructs an officer in the execution of the officer's duty or any person, other than a prisoner, who is at the prison for the purpose of working there, in the performance of that person's work;
- (8) escapes or absconds from the prison or legal custody;
- (9) fails –
  - (a) to return to prison when the prisoner should return after being temporarily released; or
  - (b) to comply with any condition upon which the prisoner is so temporarily released;
- (10) has –
  - (a) in the prisoner's possession, or concealed about the prisoner's body or in any body orifice, any article or substance which the prisoner is not authorized to have; or
  - (b) in the prisoner's possession, whilst in a particular part of the prison, any article or substance which the prisoner is not authorized to have in that part of the prison;
- (11) sells or delivers to any person any article which the prisoner is not authorized to have;
- (12) sells or, without permission, delivers to any person any article which the prisoner is allowed to have only for the prisoner's own use;



- (13) takes improperly any article belonging to another person or to the prison;
- (14) intentionally or recklessly sets fire to any part of the prison or any other property, whether or not that property belongs to the prisoner;
- (15) destroys or damages any part of the prison or any other property other than the prisoner's own;
- (16) causes racially aggravated damage to, or destruction of, any part of the prison or any other property, other than the prisoner's own;
- (17) displays, attaches or draws on any part of the prison, or any other property, threatening, abusive or insulting racist words, drawings, symbols or other material;
- (18) absents himself or herself from any place where the prisoner is required to be or is present at any place where the prisoner is not authorized to be;
- (19) is disrespectful to any officer or any person, other than a prisoner, who is at the prison for the purpose of working there or who is visiting the prison;
- (20) uses threatening, abusive or insulting words or behaviour;
- (21) intentionally fails to work properly or, being required to work, refuses to do so;
- (22) disobeys any lawful order;
- (23) disobeys or fails to comply with any Rule or direction applying to a prisoner;
- (24) receives –
  - (a) any controlled drug during the course of a visit; or
  - (b) without the consent of an officer, any other article during the course of a visit (not being a visit by a legal adviser);
- (25) consumes, takes, injects, ingests or otherwise administers to himself or herself any substance which is a prohibited article or fails to prevent the administration, in any manner, of such a substance to him or her by another person;
- (26) inhales any substance, or the fumes of any substance, which is –
  - (i) a prohibited article,
  - (ii) an article which the prisoner is not authorized by these Rules or an officer to possess or keep, or
  - (iii) an article which the prisoner is so authorized to keep or possess, but not for the purpose of inhaling, or inhaling the fumes of, the article;
- (27) conceals inside a body orifice any substance which is a prohibited article;
- (28) commits any indecent or obscene act;
- (29) fails, without reasonable excuse, to open his or her mouth for the purpose of enabling a visual examination; or
- (30) attempts to commit, incites another prisoner to commit, or assists another prisoner to commit or to attempt to commit, any of the foregoing breaches.

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**PART 2****INTERPRETATION**

- (1) For the purposes of this Schedule, words, behaviour or material are racist if they demonstrate, or are wholly or partly motivated by, hostility to members of a racial group (whether identifiable or not) based on their actual or presumed membership of a racial group.
- (2) For the purposes of this Schedule, an act is racially aggravated if –
  - (a) at the time, or immediately before or after, committing it, the prisoner demonstrates towards the victim of the act hostility based upon the prisoner's actual or presumed membership of or association with a racial group; or
  - (b) the act is motivated wholly or partly by hostility –
    - (i) towards members of a racial group based on their membership of that group, or
    - (ii) towards persons who associate with a racial group.
- (3) In this Schedule –

“presumed” means presumed by the prisoner committing the breach of discipline;

“racial group” means a group of persons that may be defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Prison (Jersey) Rules 2007	<a href="#">R&amp;O.3/2007</a>	31 January 2007
Prison (Amendment) (Jersey) Rules 2008	<a href="#">R&amp;O.138/2008</a>	29 October 2008
Criminal Justice (Young Offenders) (Consequential Provisions) (Jersey) Regulations 2016	<a href="#">R&amp;O.115/2016</a>	23 November 2016
Prison (Amendment No. 2) (Jersey) Rules 2017	<a href="#">R&amp;O.91/2017</a>	7 September 2017
Prison (Amendment No. 3) (Jersey) Rules 2017	<a href="#">R&amp;O.101/2017</a>	28 September 2017
Criminal Procedure (Bail) (Jersey) Law 2017	<a href="#">L.20/2017</a>	24 July 2019 ( <a href="#">R&amp;O.62/2019</a> )
Prison (Temporary Amendment – Covid-19) (Jersey) Rules 2020	<a href="#">R&amp;O.44/2020</a>	22 April 2020
Prison (Amendment No. 4) (Jersey) Rules 2020	<a href="#">R&amp;O.175/2020</a>	20 December 2020
Prison (Amendment No. 5) (Jersey) Rules 2021	<a href="#">R&amp;O.25/2021</a>	2 March 2021
Criminal Procedure (Consequential and Supplementary Amendments) (Jersey) Regulations 2021	<a href="#">R&amp;O.94/2021</a>	1 October 2021

### Table of Renumbered Provisions

Original	Current
113	Spent, omitted
114	113

### Table of Endnote References

<sup>1</sup> Rule 1(1)	amended by R&O.138/2008, R&O.91/2017
<sup>2</sup> Rule 2	substituted by R&O.91/2017
<sup>3</sup> Rule 3(1)	amended by R&O.94/2021
<sup>4</sup> Rule 3(2)	amended by R&O.94/2021
<sup>5</sup> Rule 3(3)	amended by R&O.94/2021
<sup>6</sup> Rule 3(4)	substituted by R&O.91/2017
<sup>7</sup> Rule 3(6)	amended by R&O.94/2021
<sup>8</sup> Rule 5(1)	amended by R&O.91/2017
<sup>9</sup> Rule 5(3)	substituted by R&O.91/2017
<sup>10</sup> Rule 5(4)	substituted by R&O.91/2017
<sup>11</sup> Rule 5(5)	inserted by R&O.91/2017

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<sup>12</sup> Rule 7	<i>substituted by R&amp;O.138/2008</i>
<sup>13</sup> Rule 7A	<i>inserted by R&amp;O.138/2008</i>
<sup>14</sup> Rule 7B	<i>inserted by R&amp;O.138/2008</i>
<sup>15</sup> Rule 9(1)	<i>amended by R&amp;O.115/2016</i>
<sup>16</sup> Rule 9(2)	<i>amended by R&amp;O.115/2016</i>
<sup>17</sup> Rule 16(3)	<i>substituted by R&amp;O.91/2017</i>
<sup>18</sup> Rule 33	<i>substituted by R&amp;O.91/2017</i>
<sup>19</sup> Rule 35(3)	<i>inserted by R&amp;O.91/2017</i>
<sup>20</sup> Rule 35(4)	<i>inserted by R&amp;O.91/2017</i>
<sup>21</sup> Rule 35(5)	<i>inserted by R&amp;O.91/2017</i>
<sup>22</sup> Rule 35(6)	<i>inserted by R&amp;O.91/2017</i>
<sup>23</sup> Rule 40(2)	<i>amended by R&amp;O.91/2017</i>
<sup>24</sup> Rule 40(3)	<i>deleted by R&amp;O.91/2017</i>
<sup>25</sup> Rule 40(6)	<i>deleted by R&amp;O.91/2017</i>
<sup>26</sup> Rule 46(1)	<i>substituted by R&amp;O.138/2008</i>
<sup>27</sup> Rule 46(2)	<i>amended by R&amp;O.138/2008</i>
<sup>28</sup> Rule 46(4)	<i>amended by R&amp;O.138/2008</i>
<sup>29</sup> Rule 46(5)	<i>substituted by R&amp;O.91/2017</i>
<sup>30</sup> Rule 46(7)	<i>substituted by R&amp;O.91/2017</i>
<sup>31</sup> Rule 46(7A)	<i>inserted by R&amp;O.91/2017</i>
<sup>32</sup> Rule 46(7B)	<i>inserted by R&amp;O.91/2017</i>
<sup>33</sup> Rule 48(1)	<i>amended by R&amp;O.91/2017</i>
<sup>34</sup> Rule 50(1)	<i>amended by R&amp;O.91/2017, L.20/2017</i>
<sup>35</sup> Rule 56(4)	<i>inserted by R&amp;O.91/2017</i>
<sup>36</sup> Rule 56(5)	<i>inserted by R&amp;O.91/2017</i>
<sup>37</sup> Rule 63(1)	<i>amended by R&amp;O.175/2020</i>
<sup>38</sup> Rule 63(2)	<i>amended by R&amp;O.175/2020</i>
<sup>39</sup> Rule 63(3)	<i>amended by R&amp;O.175/2020</i>
<sup>40</sup> Rule 64(1)	<i>amended by R&amp;O.175/2020</i>
<sup>41</sup> Rule 64A	<i>inserted by R&amp;O.44/2020</i>
<sup>42</sup> Rule 65(2)	<i>substituted by R&amp;O.91/2017</i>
<sup>43</sup> Rule 68	<i>substituted by R&amp;O.91/2017</i>
<sup>44</sup> Rule 69	<i>substituted by R&amp;O.91/2017</i>
<sup>45</sup> Rule 73(1A)	<i>inserted by R&amp;O.138/2008</i>
<sup>46</sup> Rule 73(2)	<i>amended by R&amp;O.138/2008</i>
<sup>47</sup> Rule 73(3)	<i>amended by R&amp;O.138/2008</i>
<sup>48</sup> Rule 73(6)	<i>amended by R&amp;O.138/2008</i>
<sup>49</sup> Rule 73(7)	<i>amended by R&amp;O.138/2008</i>
<sup>50</sup> Rule 73(11)	<i>amended by R&amp;O.138/2008</i>
<sup>51</sup> Rule 75(3)	<i>amended by R&amp;O.138/2008</i>
<sup>52</sup> Rule 75(4)	<i>amended by R&amp;O.138/2008</i>
<sup>53</sup> Rule 75(5)	<i>amended by R&amp;O.138/2008</i>
<sup>54</sup> Rule 77(1A)	<i>inserted by R&amp;O.138/2008</i>
<sup>55</sup> Rule 77(2)	<i>substituted by R&amp;O.138/2008</i>
<sup>56</sup> Rule 77(2A)	<i>inserted by R&amp;O.138/2008</i>
<sup>57</sup> Rule 77(5)	<i>amended by R&amp;O.138/2008</i>
<sup>58</sup> Rule 77(6)	<i>substituted by R&amp;O.138/2008</i>
<sup>59</sup> Rule 77(8)	<i>amended by R&amp;O.138/2008</i>
<sup>60</sup> Rule 78A	<i>inserted by R&amp;O.138/2008</i>
<sup>61</sup> Rule 78B	<i>inserted by R&amp;O.138/2008</i>
<sup>62</sup> Rule 78C	<i>inserted by R&amp;O.138/2008</i>
<sup>63</sup> Rule 83(1)	<i>amended by R&amp;O.91/2017</i>

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- <sup>64</sup> Rule 83(2) *substituted by R&O.101/2017*
- <sup>65</sup> Rule 86(1) *substituted by R&O.91/2017, amended by R&O.25/2021*
- <sup>66</sup> Rule 86(2) *substituted by R&O.91/2017*
- <sup>67</sup> Rule 86(2A) *inserted by R&O.91/2017*
- <sup>68</sup> Rule 87(1) *amended by R&O.91/2017*
- <sup>69</sup> Rule 87(5) *substituted by R&O.91/2017*
- <sup>70</sup> Rule 88(2A) *inserted by R&O.138/2008*
- <sup>71</sup> Rule 89 *heading amended by R&O.138/2008*
- <sup>72</sup> Rule 89A *inserted by R&O.138/2008*
- <sup>73</sup> Rule 90(1) *amended by R&O.91/2017*
- <sup>74</sup> Rule 90(2) *deleted by R&O.101/2017*
- <sup>75</sup> Rule 91(3) *deleted by R&O.91/2017*
- <sup>76</sup> Rule 93 *revoked by R&O.91/2017*
- <sup>77</sup> Rule 94 *substituted by R&O.91/2017*
- <sup>78</sup> Rule 96 *revoked by R&O.91/2017*
- <sup>79</sup> Rule 97 *heading amended by R&O.91/2017*
- <sup>80</sup> Rule 97(1) *amended by R&O.91/2017*
- <sup>81</sup> Rule 97(2) *amended by R&O.91/2017*
- <sup>82</sup> Rule 100(1) *amended by R&O.91/2017*
- <sup>83</sup> Rule 101(3) *amended by R&O.91/2017*
- <sup>84</sup> Rule 103 *amended by R&O.91/2017*