EXECUTIVE NOTE

THE PRISONS AND YOUNG OFFENDERS INSTITUTIONS (SCOTLAND) AMENDMENT RULES 2007 SSI/2007/190

This Order is made in exercise of the powers conferred by section 39 of the Prisons (Scotland) Act 1989. The instrument is subject to negative resolution procedure.

It makes 3 amendments to the Prisons and Young Offenders Institutions (Scotland) Rules 2006 as described below.

Policy Objectives

The Prisons and Young Offenders Institutions (Scotland) Rules 2006 ("the 2006 Rules") recently consolidated the rules relating to the management and regulation of prisons and young offenders institutions. Amendments to the Rules are required from time to time because of changing practices or legal requirements. As a full consolidation exercise was carried out on the Rules in 2006 and there are likely to be a number of other changes to the rules which we will be considering over the next year, it would be our intention to consolidate the rules at that time rather than at this stage.

The Amendments

The Open Estate

For some time the two open prisons at Castle Huntly and Noranside have been managed as a single unit with one Governor in Charge responsible for both sites. The two open prisons will be renamed HMP Open Estate with effect from 1 April 2007; no change to the Rules is required to achieve this. However this designation has a consequential effect on Schedule 2 to the Prison Rules relating to the Prison Visiting Committees (VCs). The amendment regulation changes the reference in Schedule 2 from Castle Huntly and Noranside to the Open Estate.

Discontinuance of HMP Low Moss

HMP Low Moss will be closed with effect from 28 May 2008. This is to allow for the clearance of the site and the building of a new prison. The closure of HMP Low Moss means that there will be no need to have a Low Moss Visiting Committee (VC) with effect from 28 May 2007 and we will shortly make an order in respect of its discontinuance. The amendment regulation amends Schedule 2 to the Prison Rules by deleting Low Moss from the Schedule with effect from 28 May 2007.

Visits to prisoners by police constables

The Police, Public Order and Criminal Justice (Scotland) Act 2006 placed the Scottish Drug Enforcement Agency (SDEA) on a new statutory footing and re-named it the Scottish Crime and Drug Enforcement Agency (SCDEA) under the control and direction of a Director General. The Act provides that for the first time the SCDEA will be able to benefit from directly recruited police members. The amendments proposed to the Rules extend the references in rule 68 to 'constable' and 'Chief Constable' to police members of the SCDEA and to the Director General of the SCDEA. This will ensure that police members of the SCDEA are subject to the same provisions in relation to visits to prisons and young offender institutions for the purposes of interviewing, identifying or charging a prisoner as police constables.

Miscellaneous

The amendment rules also contain a number of minor, tidying up amendments to the 2006 Rules, for example, in relation to definitions and to correct errors in cross-referencing in relation to provisions within the rules.

Consultation

Some consultation with the Justice Department took place in relation to the amendment to Rule 68. There was also consultation with the Clerks to Castle Huntly and Noranside Visiting Committees regarding transitional arrangements to ensure continuity of business.

Financial Effect

The Instrument has no financial effects on the Scottish Executive, local government or on business.

Scottish Prison Service
March 2007