POLICY NOTE

THE PRISONS AND YOUNG OFFENDERS INSTITUTIONS (SCOTLAND) AMENDMENT RULES 2025

SSI 2025/277

1. The Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2025 ("the Amendment Rules") are made in the exercise of the powers conferred by section 39 of the Prisons (Scotland) Act 1989 ("the 1989 Act"). These Rules amend the Prisons and Young Offenders Institutions (Scotland) Rules 2011 ("the Prison Rules") and are subject to negative procedure.

The purpose of this instrument is to support SPS' implementation of early release processes as provided for in regulations made under section 3C of the Prisoners and Criminal Proceedings (Scotland) Act 1993.

Policy Objectives

2. The Prison Rules set out provisions relating to the regulation and management of Prisons and Young Offenders Institutions and various matters concerning those who are required to be detained in these institutions (such as their classification, treatment, discipline, employment and control). Section 33A of the 1989 Act provides that rules made under the powers conferred by section 39 may permit the Governor of a prison to authorise an officer of the prison to exercise such of the Governor's functions as the rules may specify.

3. The Amendment Rules will make changes to The Prisons and Young Offenders Institutions (Scotland) Rules 2011 to support the delivery of early release processes, as provided for in regulations made under section 3C of the Prisoners and Criminal Proceedings (Scotland) Act 1993 ("the 1993 Act"). They will also support SPS' response to the exceptional population pressures facing Scottish prisons, the role of Governors in Charge (GICs)and support resilience in the application of the Governor Veto (as described below) under early release processes.

4. The amendments provide for a new rule, rule 5A (Delegation of Governor functions), which will permit GICs to authorise Deputy Governors to exercise, on their behalf, their function in section 3C(5)(b) of the 1993 Act – referred to as the Governor's Veto. The current performance of this function is limited to the GICs only.

5. The Amendment Rules will also make changes to the definition of Governor at rule 2(1) to ensure it is appropriately applied to new rule 5A. Governor, for the purposes of new rule 5A, will mean the Governor in Charge. This means that it is only the Governor in Charge who can delegate the exercise of their function under section 3C(5)(b) of the 1993 Act to the Deputy Governor. The Deputy Governor will not be authorised to further delegate the function.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

6. The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, The Prisons and Young Offenders Institutions (Scotland) Amendment Rules is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

7. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

8. In normal circumstances SPS would have consulted with operational managers and policy colleagues within the Scottish Prison Service, Trade Union partners and other stakeholders such as Police Scotland, NHS colleagues and Third Sector parties, when making changes to the Prison Rules. On this occasion this has not been possible. There has however been a limited consultation with senior SPS operational and policy managers.

Impact Assessment

9. An Equality and Human Rights Impact Assessment has been completed for the Early Release of Prisoners (Scotland) Regulations 2025 ("the 2025 Regulations") which these Rule amendments will support given those Regulations are made under section 3C of the 1993 Act. SPS does not consider that there would be any negative impacts on individuals' rights under equalities and human rights legislation as a result of these Rules amendments.

10. A Child Rights and Wellbeing Impact Assessment (CRWIA) has been completed. SPS does not consider that there would be any impact on children's rights as a result of these Rule amendments.

Financial Effect

11. The Cabinet Secretary for Justice and Home Affairs confirms that no Business and Regulatory Impact Assessment is necessary, as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Prison Service
October 2025