

2021 No. 1279

PRISONS, ENGLAND AND WALES

YOUNG OFFENDER INSTITUTIONS, ENGLAND AND WALES

**The Prison and Young Offender Institution (Amendment) Rules
2021**

Made - - - - *15th November 2021*

Laid before Parliament *17th November 2021*

Coming into force in accordance with rule 1(3)

The Secretary of State makes the following Rules in exercise of the powers conferred by section 47(1) of the Prison Act 1952(a).

Citation, commencement and extent

1.—(1) These Rules may be cited as the Prison and Young Offender Institution (Amendment) Rules 2021.

(2) These Rules extend to England and Wales.

(3) These Rules come into force immediately after the Prisons (Substance Testing) Act 2021(b) comes into force.

Amendment of the Prison Rules 1999

2.—(1) The Prison Rules 1999(c) are amended as follows.

(2) In rule 2(1) (interpretation)—

(a) after the definition of “officer” insert—

““pharmacy medicine” has the meaning given in regulation 8 of the Human Medicines Regulations 2012(d);

“prescription only medicine” has the meaning as given in regulation 8 of the Human Medicines Regulations 2012;”;

(b) after the definition of “prison minister” insert—

(a) 1952 c. 52; section 47(1) was amended by section 6(2) of the Criminal Justice and Public Order Act 1994 (c. 33) and paragraph 3(2) of Schedule 9 to the Criminal Justice and Courts Act 2015 (c. 2).

(b) 2021 c. 18.

(c) S.I. 1999/728, amended by S.I. 2018/960 and section 2(3) of the Prisons (Substance Testing) Act 2021 (c. 18); there are other amending instruments but none is relevant.

(d) S.I. 2012/1916, to which there are amendments not relevant to these Rules.

““psychoactive substance” has the same meaning as in the Psychoactive Substances Act 2016(a);”.

- (3) In rule 50 (compulsory testing for controlled drugs)—
 - (a) in the title, after “controlled drugs” insert “, pharmacy medicines and other substances etc.”;
 - (b) in paragraph 1, after “controlled drug” insert “pharmacy medicine, prescription only medicine, psychoactive substance or specified substance”.
- (4) In rule 51(9) (offences against discipline), after “controlled drug” insert “, pharmacy medicine, prescription only medicine, psychoactive substance or specified substance”.
- (5) In rule 51(24), after “controlled drug” insert “, pharmacy medicine, prescription only medicine, psychoactive substance or specified substance”.
- (6) In rule 52 (defences to rule 51(9))—
 - (a) in the words before paragraph (a), after “to show that” insert “the controlled drug, pharmacy medicine, prescription only medicine, psychoactive substance or specified substance”;
 - (b) in paragraph (a)—
 - (i) omit “the controlled drug”;
 - (ii) after “supply of the drug” insert “, medicine or substance”;
 - (c) in paragraph (b)—
 - (i) omit “the controlled drug”;
 - (ii) after “such a drug” insert “, medicine or substance”;
 - (d) in paragraph (c) omit “the controlled drug”.

Amendment of the Young Offender Institution Rules 2000

3.—(1) The Young Offender Institution Rules 2000(b) are amended as follows.

- (2) In rule 2 (interpretation), after the definition of “officer” insert—

““pharmacy medicine” has the meaning given in regulation 8 of the Human Medicines Regulations 2012;

“prescription only medicine” has the meaning given in regulation 8 the Human Medicines Regulations 2012;

“psychoactive substance” has the same meaning as in the Psychoactive Substances Act 2016;”.
- (3) In rule 53 (compulsory testing for controlled drugs)—
 - (a) in the title, after “controlled drugs” insert “, pharmacy medicines and other substances etc.”;
 - (b) in paragraph 1, after “controlled drug” insert “, pharmacy medicine, prescription only medicine, psychoactive substance or specified substance”.
- (4) In rule 55 (offences against discipline)—
 - (a) in paragraph 10, after “controlled drug” insert “, pharmacy medicine, prescription only medicine, psychoactive substance or specified substance”;
 - (b) in paragraph 27, after “controlled drug” insert “, pharmacy medicine, prescription only medicine, psychoactive substance or specified substance”.
- (5) In rule 56 (defences to rule 55(10))—

(a) 2016 c. 2.

(b) S.I. 2000/3371, amended by S.I. 2005/897, S.I. 2018/960, S.I. 2020/400 and section 2(4) of the Prisons (Substance Testing) Act 2021. There are other amending instruments but none is relevant.

- (a) in the words before paragraph (a), after “to show that” insert “the controlled drug, pharmacy medicine, prescription only medicine, psychoactive substance or specified substance”;
- (b) in paragraph (a)—
 - (i) omit “the controlled drug”;
 - (ii) after “supply of the drug” insert “, medicine or substance”;
- (c) in paragraph (b)—
 - (i) omit “the controlled drug”;
 - (ii) after “such a drug” insert “, medicine or substance”;
- (d) in paragraph (c) omit “the controlled drug”.

15th November 2021

Victoria Atkins
Minister of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make amendments to the Prison Rules 1999 (S.I. 1999/728) (“the Prison Rules”) and the Young Offender Institution Rules 2000 (S.I. 2000/3371) (“the YOI Rules”). The amendments reflect the changes made by the Prisons (Substance Testing) Act 2021 (c. 18). That Act, which entered into force on 9 December 2021, introduced changes to improve the capability of prisons in England and Wales to test for the use of illicit substances by prisoners. Prior to the changes made by that Act prisons could require prisoners to provide a sample for any “controlled drug” or “drugs specified” in the Prison and YOI Rules. New drugs could be added to the list of those that could be tested for but only by making amendments to the rules by secondary legislation. Due to the chemical composition of psychoactive substances, in particular, being subject to rapid change this meant repeated amendments were needed in response to small changes in substance composition. The changes being made by these Rules mean that tests can be carried out for the broader generic definition of psychoactive substances and “prescription only medicines” and “pharmacy medicines” introduced by the 2021 Act. The changes made by these Rules will help staff in Her Majesty’s Prison and Probation Service (HMPPS) and other agencies to understand the full extent and nature of substance misuse in prisons, and to take appropriate action to prevent it.

Rule 2 makes amendments to the Prison Rules to reflect the wider definitions for “pharmacy medicine”, “prescription only medicine” and “psychoactive substances” given in the Act.

Rule 2(3) makes changes to rule 50 of the Prison Rules (compulsory testing for controlled drugs), to reflect the new wider range of substances which prisoners can be tested for.

Rule 2(4) amends rule 51(9) of the Prison Rules (offences against discipline) so that it is an offence against discipline to administer any of the new wider range of substances.

Rule 2(5) amends Rule 52 of the Prison Rules (defences to rule 51(9)) to ensure that the defences within the rule are also defences to administering any of the wider defined substances.

Rule 3 of these Rules makes amendments to the equivalent parts of the YOI Rules as to those made to the Prison Rules described above.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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