



## The Prison (Guernsey) Regulations, 2013

*Made* , 2013  
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*Laid before the States* , 2013

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GUERNSEY STATUTORY INSTRUMENT  
2013 No. 58

**The Prison (Guernsey) Regulations, 2013**

**THE HOME DEPARTMENT**, in exercise of the powers conferred on it by sections 5, 13, 15, 18, 23(1), 26, 27(1) and (4), 30(3), 43(2), 44, 45, 49, 51 and 55(1) of, and paragraphs 1(g) and 2(3)(b) of Schedule 5 to, the Prison (Guernsey) Ordinance, 2013<sup>a</sup> and all other powers enabling it in that behalf, hereby makes the following Regulations:-

PART I  
PRELIMINARY

**Prohibited things.**

1. Each thing listed in Schedule 1 is a prohibited thing.

**Matters to be disclosed to prisoners.**

2. Each matter listed in Schedule 2 is prescribed under section 27(1)(c) of the Ordinance for the purposes of disclosure to prisoners in accordance with section 27 of the Ordinance.

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<sup>a</sup>

Ordinance approved by the States of Deliberation on 30<sup>th</sup> October, 2013.

PART II  
ADMISSION INTO CUSTODY

**Authority required for admission.**

3. (1) A person must not be admitted into custody at the prison unless
  - (a) a warrant, order or other authorisation complying with paragraphs (2) to (4) is produced, or
  - (b) a provision in an enactment requires or authorises that person to be detained or kept in custody.
  
- (2) A warrant, order or other authorisation must state –
  - (a) the date on which it is issued or made,
  - (b) the full name of the person to be detained,
  - (c) the date of birth of the person to be detained, and
  - (d) the name, and office or position, of the person who issued or made the warrant, order or other authorisation.
  
- (3) A warrant, order or other authorisation, if issued by or on behalf of a court in relation to the remand of a person in custody, must state –
  - (a) the offence with which that person has been charged, and
  - (b) the date and time on and at which that person is to be next produced before the court.

(4) A warrant, order or other authorisation, if issued by or on behalf of a court in relation to the sentencing of a person to imprisonment or youth detention, must state –

- (a) the offence of which that person has been convicted,
- (b) the term of imprisonment or youth detention and the date on which it begins.

**Search, etc. on admission.**

4. (1) Upon admission of a prisoner into custody in the prison, an authorised officer must –

- (a) search the prisoner,
- (b) take from the prisoner all things except those which that prisoner is lawfully required or authorised to have in that prisoner's possession.

(2) Any thing taken from the prisoner under paragraph (1)(b) must be dealt with in accordance with regulations 83 and 84.

**Interview, etc. on admission.**

5. As soon as practicable after a prisoner is admitted into custody in the prison and in any event within 5 working days of the admission, an authorised officer must –

- (a) interview the prisoner,
- (b) enquire into any circumstances of the prisoner that may

be relevant to the welfare and management of the prisoner within the prison, including for the purposes of Parts VI and VII,

- (c) report any such circumstances to the Governor, and
- (d) provide the prisoner with information in accordance with section 27 of the Ordinance.

**Records to be made on admission.**

6. As soon as practicable after a prisoner is admitted into custody in the prison and in any event within 24 hours of the admission, an authorised officer must make a record of the prisoner's –

- (a) full name,
- (b) date and place of birth,
- (c) faith,
- (d) occupation or profession,
- (e) height and weight, and
- (f) distinctive marks and other identifying characteristics.

PART III  
ENTITLEMENTS

*Duties of Governor*

**Duty of Governor to provide entitlements, facilities and opportunities.**

7. The Governor must provide prisoners with –

- (a) their entitlements, and
- (b) reasonable facilities and opportunities to exercise their entitlements.

*Admission and classification*

**Entitlement to notify persons of admission.**

8. (1) A person admitted into custody in the prison is entitled to notify a legal adviser and one other person of that person's detention in custody.

(2) Where a person without right of abode in the Bailiwick is admitted into custody in the prison, the person is also entitled to notify –

- (a) a diplomatic representative of that person's choice, whom that person considers might look after the prisoner's interests, or
- (b) in the case of a refugee or stateless person, a representative of any body or authority, whether national or international, whose principal purpose is to serve the interests or protect the civil rights of refugees or stateless persons.

**Entitlement to be informed of reasons for classification.**

9. A prisoner is entitled to be promptly informed of the reasons for placing the prisoner into a particular category of classification.

**Entitlement of prisoners under 21 years of age to risk assessment.**

10. Any prisoner under 21 years of age is entitled to have an appropriate risk assessment performed before being allocated accommodation at the prison.

*Accommodation and bedding*

**Entitlement to adequate cell.**

11. A prisoner is entitled to be accommodated in a cell that is –

- (a) certified as adequate in accordance with regulation 12(1),
- (b) meets the requirements of regulation 13, and
- (c) allocated to the prisoner for that prisoner's sole occupancy, subject to regulation 14.

**Certification of cells.**

12. (1) The Department may certify a cell as adequate only if satisfied that its size, lighting, ventilation, heating and furnishings are adequate for the health, safety and security of any prisoner allocated to the cell.

(2) In certifying a cell as adequate under paragraph (1), the Department may, if appropriate, also certify the cell as –

- (a) suitable for occupation by a specified number of prisoners exceeding one, or
- (b) suitable for temporary confinement or cellular confinement of prisoners.

**Minimum requirements.**

13. A cell used for the accommodation of a prisoner must be equipped with –

- (a) a means of summoning assistance from authorised persons at any time, and
- (b) either –
  - (i) windows large enough to enable the prisoner to read by natural light, or
  - (ii) artificial light sufficient for the prisoner to read without injury to eyesight.

**Multiple occupancy where necessary.**

14. The Governor may assign two or more prisoners to be accommodated in a cell certified for multiple occupancy under regulation 12(2)(a), if –

- (a) the number of prisoners so assigned is no more than the number for which the cell is certified,
- (b) an appropriate risk assessment (including, if necessary, a risk assessment on medical grounds by a member of the healthcare team) is conducted to determine which prisoners are suitable to associate with each other in that cell, and
- (c) that cell is shared only for so long as is strictly necessary under the circumstances.

**Maintenance of cells.**

15. A prisoner must keep the prisoner's cell clean and tidy at all times unless excused by –

- (a) the Governor, or
- (b) a member of the healthcare team, on medical grounds.

**Entitlement to sufficient bedding.**

16. (1) A prisoner is entitled to be allocated a bed and sufficient bedding to provide warmth and sustain health.

(2) The bedding must be clean when issued, and laundered as often as necessary to maintain cleanliness.

*Clothing*

**Entitlement to wear own clothes.**

17. Subject to regulation 18(1), a prisoner is entitled to wear the prisoner's own clothes within the prison and when lawfully outside the prison.

**Entitlement to supply of clothes.**

18. (1) Regulation 17 does not apply where –

- (a) in the Governor's opinion, a prisoner's own clothes are in poor condition, unsuited to the prison environment or prejudicial to good order and discipline within the prison,
- (b) a prisoner delivers up clothing as required under

regulation 20 and has no other clean clothes to wear,

- (c) the prisoner (not being a female or an unconvicted prisoner) is classified into a category of prisoners which the Governor has determined must wear prison clothing,
- (d) a prisoner is classified as a security risk and required by the Governor to wear prison clothing which is marked or which otherwise indicates the prisoner's classification, or
- (e) the prisoner is required by an authorised person to wear appropriate protective clothes whilst engaged in work or any other activity.

(2) Where a prisoner is not entitled to wear the prisoner's own clothes, or does not wish to wear or does not have the prisoner's own clothes, that prisoner is entitled to be supplied –

- (a) where paragraph (1)(e) applies, with appropriate protective clothes, or
- (b) in any other case, with prison clothing in accordance with paragraph (3).

(3) Prison clothing –

- (a) so far as is reasonably practicable, must be supplied for sole use by the prisoner,
- (b) must be of acceptable appearance and fit,

- (c) must be maintained in good repair,
- (d) must be sufficient in number and kind so as to enable the prisoner to –
  - (i) change underwear and socks regularly, and
  - (ii) launder the clothes as often as necessary to maintain cleanliness and good hygiene, and
- (e) if supplied to be worn whilst a prisoner is lawfully outside the prison, must not be marked and must not indicate by any other means that the person wearing them is a prisoner, except in a case where paragraph (1)(d) applies.

(4) Except where paragraph (1)(d) applies, a prisoner supplied with prison clothing is entitled to wear the prisoner's own clothing or to be supplied other clothing considered appropriate by the Governor when the prisoner is taken in custody to any place outside the prison.

**Entitlement to laundry facilities.**

19. A prisoner is entitled to have access to facilities to launder the clothes that the prisoner wears as often as necessary to maintain cleanliness and good hygiene.

**Requirement to deliver up own clothes.**

20. (1) If a member of the healthcare team forms the opinion that a prisoner's own clothing is, by reason of its soiled condition, prejudicial to the health of the prisoner or any other person, the member may require the prisoner to deliver up

the clothing –

- (a) for disinfection, or
- (b) if the condition of the clothing is such that disinfection is likely to be ineffective, for destruction.

(2) Clothing required to be delivered up under paragraph (1) may be disinfected or destroyed at the discretion of an authorised person.

*Food and drink*

**Entitlement to food and drink.**

21. (1) A prisoner is entitled to be provided, daily at the usual hours, food and drink that is –

- (a) wholesome, nutritious, well-prepared, well-presented and reasonably varied, and
- (b) sufficient in quantity and appropriate in kind, having regard to the prisoner's –
  - (i) age and health and,
  - (ii) so far as is reasonably practicable, the prisoner's faith or cultural requirements.

(2) A prisoner is entitled to be provided with drinking water whenever the prisoner requires it.

(3) The Governor must inspect the levels of cleanliness, hygiene

and safety daily in each area of the prison where food or drink provided to prisoners is stored, prepared or served.

**Unauthorised food or drink.**

22. Except with the consent of the Governor or a member of the healthcare team, a prisoner must not receive or have in the prisoner's possession any food or drink other than food or drink –

- (a) provided under regulation 21 , or
- (b) purchased by the prisoner from a prison purchasing facility.

*Hygiene*

**Entitlement to hygiene facilities and arrangements.**

23. (1) A prisoner is entitled to be provided with access to –

- (a) facilities to wash, at all appropriate times,
- (b) facilities for a hot shower, at least 3 times a week, and
- (c) clean and adequate sanitary installations whenever required.

(2) A prisoner is entitled to be provided with –

- (a) the toiletries necessary for the prisoner's health and cleanliness (including shaving materials, if requested, and in the case of female prisoners, sanitary protection), and

(b) one haircut, two months after being admitted, and then one haircut every two months.

(3) The Governor must ensure that all parts of the prison regularly used by prisoners are kept clean at all times.

**Personal hygiene.**

24. (1) A prisoner must keep clean.

(2) A prisoner is entitled not to shave, unless a member of the healthcare team directs the prisoner to shave on medical grounds.

*Religion and faith*

**Entitlement to follow own faith.**

25. (1) A prisoner is entitled to be treated as a member of the faith recorded upon the prisoner's admission into custody in the prison, subject to paragraph (2).

(2) The Governor may at any time alter the faith recorded to a prisoner if the prisoner satisfies the Governor that the prisoner has good grounds for requiring the record to be altered.

(3) So far as is reasonably practicable and subject to paragraph (6), the Governor must allow a prisoner to satisfy the needs of the prisoner's faith –

(a) by observing the requirements and engaging in the

practices of that faith, and

- (b) by receiving visits from the coordinating chaplain or a faith leader of that faith,
- (c) by attending services conducted by the coordinating chaplain or a faith leader of that faith at the prison (whether delivered personally or by any other means, for example, video-link), and
- (d) by keeping in the prisoner's possession the books and other items of observance and instruction of that faith.

(4) A prisoner is entitled not to be required –

- (a) to undergo visits from the coordinating chaplain or any other faith leader, or
- (b) to attend any faith services.

(5) The Governor must ensure that –

- (a) facilities are provided and arrangements are made for the purposes of paragraph (3), and
- (b) each prisoner is informed of such facilities and arrangements.

(6) The Governor may by written direction prohibit a prisoner from satisfying the needs of the prisoner's faith in any manner specified in paragraph (3) if, in the Governor's opinion, it –

- (a) is necessary on a permissible ground, and
- (b) is proportionate to what is sought to be achieved.

**Duties of coordinating chaplain.**

26. (1) The coordinating chaplain must, in consultation with the Governor –

- (a) visit each prisoner as soon as practicable after the prisoner's admission into the prison, unless the prisoner declines the visit,
  - (b) so far as is reasonably practicable, visit each prisoner, or arrange a visit by a faith leader of the prisoner's faith –
    - (i) at intervals agreed with the prisoner, and
    - (ii) when notified of a prisoner's request for a visit,
  - (c) ensure that regular services are delivered at the prison by a faith leader to meet the faith needs of as many of the prisoners as possible, and
  - (d) if requested by a prisoner, coordinate the delivery of regular services at the prison by a faith leader of the prisoner's faith (whether delivered personally or by any other means, for example, video-link), so far as is reasonably practicable.
- (2) Subject to the Governor's approval, the coordinating chaplain

may arrange for another faith leader to deputise for the coordinating chaplain during an absence.

*Information and media*

**Entitlement to access to the Law.**

27. (1) Subject to paragraph (3), the Governor must at all times keep in the prison library a current copy of the enactments comprising the Law.

(2) A prisoner is entitled at all reasonable times to view and read in the prison library the copy required to be kept under paragraph (1).

(3) Paragraph (1) does not apply to any Prison Order certified to be "Restricted" under section 50(2) of the Ordinance.

**Entitlement to access to books, newspapers and other media.**

28. (1) A prisoner is entitled, at the prisoner's own expense, to arrange for books, newspapers, periodicals and writing materials to be delivered to the prison for the prisoner by an approved operator.

(2) A prisoner is entitled to keep informed of current affairs at the prisoner's own expense by means of –

- (a) a radio,
- (b) books, newspapers and periodicals, and
- (c) any other medium authorised by the Governor for this purpose.

(3) The Governor may by written direction restrict, or impose a

condition on, the exercise by a prisoner of an entitlement under this regulation if the Governor considers that the restriction or condition –

- (a) is necessary on a permissible ground, and
- (b) is proportionate to what is sought to be achieved.

PART IV  
COMMUNICATIONS AND VISITS

*Preliminary*

**Interpretation.**

29. In this Part, unless the context requires otherwise –

**"communication" –**

- (a) means any form of communication, for example correspondence, telephone calls and visits, and
- (b) includes any vocal, written or drawn communication between a prisoner and any other person,

and cognate expressions are to be construed accordingly,

**"Convention right"** has the meaning given by section 1 of the Human

Rights (Bailiwick of Guernsey) Law, 2000,<sup>b</sup>

**"correspondence"** includes –

- (a) any letter, packet, package or parcel, and
- (b) any correspondence to or from a legal adviser or a court,

**"for legal advice or representation"**, in relation to a prisoner, includes for the purpose of –

- (a) preparing for any criminal or civil proceedings involving the prisoner,
- (b) preparing for any proceedings relating to a charge of a disciplinary offence against the prisoner, where the prisoner is permitted such legal advice or representation by or under these Regulations,
- (c) legal representation of the prisoner at any proceedings referred to in paragraph (a) or (b), or
- (d) commencing legal proceedings of any kind,

**"intercept"** –

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<sup>b</sup> Ordres en Conseil Vol. XL, p. 396 as amended by Order in Council No. I of 2005; Recueil d'Ordonnances Tome XXVIII, p. 493; Recueil d'Ordonnances Tome XXIX, p. 406; G.S.I. No. 27 of 2006.

- (a) in relation to a telephone call, includes take any action in relation to the call so as to make some or all of the contents of the call available to a person other than the sender or intended recipient of the telephone call while the call is being transmitted; and the contents of a telephone call are to be taken to be made available to a person while being transmitted where the contents of the call, while being transmitted, are diverted or recorded so as to be available to a person subsequently, and
- (b) in relation to any written or drawn communication (for example, correspondence), includes open, read, examine, record, copy or disclose the communication,

**"restriction or condition" includes –**

- (a) any restriction or condition in relation to the length, duration, frequency or nature of communications,
- (b) any restriction or condition concerning physical contact,
- (c) any restriction or condition which involves monitoring, screening, intercepting, terminating or any other form of interference with communications, or
- (d) any prohibition under regulation 54, and

**"telephone call" means a telephone call using a fixed-line telephone.**

**General restriction on communications.**

30. (1) A prisoner must not communicate with any person outside the

prison, and conversely, a person outside the prison must not communicate with a prisoner, except –

- (a) in the exercise of an entitlement or a privilege,
  - (b) where specifically authorised by or under the Ordinance or these Regulations, or
  - (c) where permitted by or under Prison Orders.
- (2) An entitlement of a prisoner in this Part –
- (a) is subject to any restriction or condition imposed by or under any regulation or Prison Order, and
  - (b) where an expense is incurred, must be exercised at the prisoner's own expense except as otherwise provided by any regulation or Prison Order.

**Contact with family and friends to be encouraged.**

31. (1) Subject to regulation 30, the Governor must so far as is reasonably practicable provide each prisoner with assistance, encouragement and facilities to enable the prisoner to –

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

- (2) In carrying out the duty under paragraph (1)(a), the Governor—
- (a) must pay special attention to the maintenance of relations between a prisoner and the prisoner's family that are desirable in the best interests of both,
  - (b) must notify the prisoner's nearest known relative, and any other person whom the prisoner has requested to be notified, of the occurrence or impending occurrence of any notifiable event in relation to the prisoner, and
  - (c) may at any time communicate to the family or friends of a prisoner any other matter of importance to the prisoner, including disclosing any personal data relating to the prisoner, if the Governor considers such disclosure necessary to discharge that duty.

- (3) In this regulation —

**"nearest known relative"**, in relation to a prisoner, means —

- (a) if the prisoner is married and the address of the prisoner's spouse is known to the Governor, that spouse, or
- (b) in any other case, the nearest relative of the prisoner whose address is known to the Governor, and

**"notifiable event"**, in relation to a prisoner, means —

- (a) serious illness of, injury to, or (in the case of a female prisoner) pregnancy of, the prisoner, where –
  - (i) the prisoner has consented to notification of the event,
  - (ii) the prisoner is under the age of 16 years, or
  - (iii) the Governor is of the opinion that the prisoner, for any reason, is incapable of giving consent to such notification and the Governor has no reason to believe that the prisoner would withhold consent,
- (b) the prisoner being liable to be detained under an order made under the Mental Health (Bailiwick of Guernsey) Law, 2010<sup>c</sup>, or
- (c) an overseas transfer order being made under the Mental Health (Bailiwick of Guernsey) Law, 2010 authorising the removal of the prisoner to a country or territory outside the Bailiwick of Guernsey.

*Correspondence*

**Entitlement to correspondence.**

32. (1) A prisoner is entitled to send and receive as much correspondence as the prisoner wishes.

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<sup>c</sup> Order in Council No. XV of 2011.

(2) A prisoner is entitled to have the Governor pay for the postage of up to two items of correspondence sent by the prisoner each week, but the postage paid for each item must not exceed the cost of posting a standard letter from the Island to the country or territory of the prisoner's origin or residence.

(3) The Governor must provide each prisoner with sufficient writing materials to enable the prisoner to exercise that prisoner's entitlement under paragraph (1).

**Governor may pay for additional correspondence.**

33. In addition to any entitlement or privilege, in circumstances where the Governor is of the opinion that it is likely to be in the best interests of the prisoner or the prisoner's family (either during the term of the prisoner's custody in the prison or after discharge from the prison), the Governor may pay the postage of any additional correspondence sent by the prisoner.

**Approved operators may uplift or deliver correspondence.**

34. An approved operator may –

- (a) uplift correspondence from the prison for delivery to any addressee, or
- (b) deliver to the prison any correspondence addressed to a prisoner.

**Prison Orders on correspondence.**

35. The Governor may issue Prison Orders prescribing in relation to correspondence –

- (a) the times at which, and the frequency with which, a

prisoner may send or receive money,

- (b) the amount of money that may be sent or received by a prisoner,
- (c) restrictions and conditions applicable to correspondence addressed to or sent by specified persons outside the prison,
- (d) the nature and description of correspondence or other things which the prisoner is prohibited from sending or receiving,
- (e) the circumstances in which an authorised officer may intercept or terminate any correspondence by or to a prisoner,
- (f) the procedures to be followed by an authorised officer intercepting or terminating correspondence by or to a prisoner, and
- (g) any other restriction or condition.

**Disposal of intercepted or terminated correspondence.**

36. (1) An authorised officer who intercepts or terminates any correspondence under these Regulations or the Prison Orders must –

- (a) seize any thing found within the correspondence and dispose of that thing in accordance with Schedule 3, and
- (b) notify the prisoner in writing of the seizure and disposal,

including the reasons for it.

(2) An authorised officer may act in contravention of paragraph (1) if the action –

- (a) is necessary on a permissible ground, and
- (b) is proportionate to what is sought to be achieved.

*Telephone calls*

**Entitlement to telephone calls.**

37. (1) A prisoner is entitled at any reasonable time to make as many telephone calls as the prisoner wishes.

(2) A prisoner is entitled to have the Governor pay the reasonable costs of making telephone calls –

- (a) to a legal adviser, for legal advice or representation, or
- (b) to a court, in connection with any legal proceedings.

**Governor may authorise special telephone calls.**

38. (1) In addition to any entitlement or privilege, in circumstances where the Governor is of the opinion that it is likely to be in the best interests of the prisoner or the prisoner's family (either during the term of the prisoner's custody in the prison or after discharge from the prison), the Governor may arrange for and pay the cost of the prisoner making additional telephone calls.

(2) In this regulation, "**telephone call**" includes a call from a mobile telephone approved by the Governor for this purpose.

**Prison Orders on telephone calls.**

39. The Governor may issue Prison Orders prescribing –

- (a) restrictions and conditions on prisoners making telephone calls,
- (b) restrictions and conditions applicable to telephone calls made to specified persons,
- (c) the nature and description of telephone calls which the prisoner is prohibited from making,
- (d) the circumstances in which an authorised person may intercept or terminate telephone calls made by or to a prisoner,
- (e) the procedures to be followed by any authorised person intercepting or terminating a telephone call made by or to a prisoner, and
- (f) any other restriction or condition relating to telephone calls.

*Interception, termination and logs*

**Governor may order interceptions and terminations.**

40. (1) The Governor may by issuing Prison Orders or written directions arrange for an authorised person to intercept in the prison, or terminate during the course of its transmission in the prison, any communication by or to –

- (a) a specified prisoner,
- (b) a category or description of prisoners, or
- (c) a specified person or specified class or description of persons.

(2) Nothing in this regulation limits or affects the Governor's power to issue Prison Orders under regulation 35 or 39.

**Permanent log.**

41. (1) The Governor may order authorised persons to keep a permanent log of all communications by or to –

- (a) a specified prisoner,
- (b) a category or description of prisoners, or
- (c) a specified person or specified class or description of persons.

(2) Without limiting the generality of paragraph (1), the permanent log may include –

- (a) in relation to telephone calls, a record of the destination, duration and cost of the call, and
- (b) in relation to any correspondence, a record of the sender and the addressee of the communication.

*Visits*

**Entitlement to general visits.**

42. (1) A prisoner is entitled to receive –
- (a) one visit upon admission into custody in the prison, and
  - (b) one further visit every fortnight at reasonable times.
- (2) At least 30 minutes must be permitted for each visit.
- (3) Nothing in this regulation limits a prisoner's entitlements under regulations 43 to 46.

**Entitlement to legal visits.**

43. (1) A prisoner is entitled at any reasonable time to receive a visit for legal advice or representation from –
- (a) a legal adviser, and
  - (b) any other person accompanying the legal adviser if that legal adviser certifies in writing that the presence of that person is necessary for the provision of legal advice or representation to the prisoner.
- (2) An unconvicted prisoner or a prisoner awaiting appeal is entitled at any reasonable time to receive a visit by any person for the purpose of the taking of a recognisance or surety as a condition of the prisoner's bail.
- (3) A person proposing to visit a prisoner under this regulation must inform the Governor in advance of the date and time of the proposed visit.

(4) In this regulation, "prisoner awaiting appeal" means any convicted prisoner planning to appeal, or awaiting the outcome of an appeal, against conviction, sentence or both.

**Entitlement to medical visits for proceedings.**

44. A prisoner is entitled at any reasonable time to receive a visit and be examined by a recognised medical practitioner of the prisoner's choice for the purposes of preparing for any criminal, civil or disciplinary proceedings involving the prisoner.

**Special entitlement of prisoners in default.**

45. A prisoner in default is entitled to have an interview (by way of a visit or otherwise) with any person at any reasonable time for the purposes of securing payment of any sum required to be paid in order to obtain the prisoner's discharge from the prison.

**Entitlement to visits by diplomatic representatives.**

46. A prisoner without right of abode in the Bailiwick is entitled at any reasonable time to receive a visit from –

- (a) a diplomatic representative of the prisoner's choice (which the prisoner considers might look after the prisoner's interests), or
- (b) in the case of a refugee or stateless person, a representative of any body or authority, whether national or international, whose principal purpose is to serve the interests or protect the civil rights of refugees or stateless persons.

**Governor may authorise special visits.**

47. In addition to any entitlement or privilege, in circumstances where the Governor is of the opinion that it is likely to be in the best interests of a prisoner or the prisoner's family (either during the term of the prisoner's custody in the prison or after discharge from the prison), the Governor may authorise the prisoner to receive additional visits.

**Visits by police or customs or immigration officers.**

48. (1) Subject to paragraph (2), a police officer or customs or immigration officer may at any reasonable time visit a prisoner with the prisoner's consent for any of the following purposes –

- (a) interviewing the prisoner,
- (b) establishing the identity of the prisoner, or
- (c) charging the prisoner with an offence.

(2) Paragraph (1) applies only if the officer concerned shows to an authorised person a written authorisation for the visit issued –

- (a) in the case of a police officer, by the Chief Officer of the salaried police force of the Island, and
- (b) in the case of a customs or immigration officer, the Chief Officer of Customs and Excise.

(3) At the request of a prisoner, the Governor may allow the prisoner to receive a visit by any police officer or customs or immigration officer.

(4) In this regulation, "**Chief Officer of Customs and Excise**" has the meaning given by section 1(1) of the Customs and Excise (General Provisions)

(Bailiwick of Guernsey) Law, 1972<sup>d</sup>.

**Visits to take place within sight and out of hearing.**

49. (1) Except as provided by paragraphs (2) and (3), all visits to prisoners must take place –

- (a) within sight of an authorised person, and
- (b) so far as is reasonably practicable, out of hearing of authorised persons.

(2) A visit by any of the following persons must take place out of sight and out of hearing of authorised persons unless the prisoner or the visitor requests otherwise –

- (a) the coordinating chaplain or a faith leader,
- (b) a recognised medical practitioner of the prisoner's choice, for the purposes of a medical consultation or preparing for any criminal, civil or disciplinary proceedings involving the prisoner.

(3) Despite paragraphs (1) and (2), the Governor may by written direction require any visit to take place within the sight of an authorised person, within the hearing of an authorised person, or both.

**Directions limiting number of visitors.**

50. Notwithstanding any limit prescribed by Prison Order to the number of

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<sup>d</sup> Ordres en Conseil Vol. XXIII, p. 573; to which there are amendments not relevant to this Ordinance.

persons permitted to visit a prisoner on any one occasion, the Governor may by written direction prescribe a lower limit to the number of persons permitted to visit a prisoner in a specific case.

**Termination of visits.**

51. (1) An authorised officer may terminate any visit to a prisoner and remove the visitor where, in the officer's opinion, the prisoner or the visitor has breached –

- (a) any regulations,
- (b) any Prison Order, or
- (c) any order or direction issued or made by the Governor,

(2) On request by the prisoner, the authorised officer must inform the prisoner of the reason why the visit was terminated under paragraph (1), unless the Governor directs otherwise.

(3) Nothing in this regulation limits or affects the power of an authorised officer to terminate a visit under regulation 122(1).

**General restrictions on visits.**

52. (1) This regulation applies to any visit to a prisoner.

(2) A visit must not take place on Christmas Day or Good Friday, unless the Governor consents to the visit in a particular case.

(3) A prisoner must not receive a visit by a prisoner held in another part of the prison, or by a prisoner held in any other prison (whether located in or outside the Island), unless the Governor consents to the visit.

(4) A visit is subject to any other restriction or condition imposed by or under regulations or Prison Orders.

**Prison Orders on visits.**

53. (1) The Governor may issue Prison Orders for any of the following purposes –

- (a) prescribing rules applying to the accumulation of visits to which a prisoner is entitled,
- (b) prescribing the time and conditions for visits,
- (c) prescribing the number of persons permitted to visit on any one occasion,
- (d) prescribing the circumstances in which a request for a visit may be refused or in which a visit may be stopped,
- (e) authorising the use of surveillance and CCTV to monitor any visiting area during visits to prisoners,
- (f) prohibiting or restricting the possession or use of photographic equipment, sound recording material or writing materials by prisoners and visitors during visits,
- (g) prohibiting or restricting the possession or consumption of food and drink by prisoners and visitors during visits,
- (h) preventing or minimising the likelihood of prohibited communication taking place during visits,

- (i) requiring written undertakings from prisoners and visitors in relation to visits and specifying the terms of such undertakings,
- (j) requiring the deferment of any visit whilst a prisoner is undergoing temporary confinement or cellular confinement,
- (k) prescribing the procedure for issuing an order to permit a visit, or
- (l) prescribing any other restriction or condition relating to visits.

(2) In paragraph (1)(h), "**prohibited communication**" means communication that, if sent, made or received is likely to –

- (a) pose a security risk in relation to any prisoner,
- (b) pose a risk to the safety or security of any prisoner or the prison,
- (c) constitute a criminal offence,
- (d) breach any provision of the Law, or
- (e) in the case of a visit authorised for a specific purpose by or under these Regulations, constitute a discussion between the prisoner and the visitor which would fall outside the purpose for which the visit was permitted.

*Prohibitions, restrictions and conditions*

**Governor may prohibit contact with specified persons.**

54. Despite any entitlement or privilege, the Governor may issue Prison Orders or written directions to prohibit prisoners from having contact with a specified person or a specified class or description of persons –

- (a) by correspondence,
- (b) by telephone calls,
- (c) by receiving a visit from any of those persons, or
- (d) by any other specified means.

**General limitation on power to impose restrictions and conditions.**

55. (1) The Governor must not impose any restriction or condition in relation to a prisoner's communications in the exercise of any of the Governor's powers under this Part, unless, in the Governor's opinion, the restriction or condition meets Condition A or Condition B.

(2) Condition A is that the restriction or condition does not interfere with the Convention rights of any person.

(3) Condition B is that the restriction or condition –

- (a) is necessary on a permissible ground, and
- (b) is proportionate to what is sought to be achieved.

PART V  
MEDICAL FACILITIES AND TREATMENT

**First aid.**

56. The Governor must ensure that suitable provision is made and suitable facilities are available to provide first aid treatment to prisoners in the prison.

**Facilities for primary medical care.**

57. The Governor must ensure that a suitable part of the prison is equipped and furnished in a manner suitable to provide primary medical care to sick prisoners.

**Duty to report sick prisoners.**

58. (1) This regulation applies where –

- (a) a prisoner makes a request to any authorised person to see a member of the healthcare team, or
- (b) an authorised person becomes aware that –
  - (i) a prisoner appears to be ill or unwell,
  - (ii) a prisoner's state of mind appears to be deserving of special attention and care, or
  - (iii) a prisoner's physical or mental condition otherwise appears to require the attention of a member of the healthcare team.

(2) Where this regulation applies, the authorised person concerned must promptly –

- (a) notify a member of the healthcare team and make a written record of the notification, and
  - (b) in the case of a request to see a member of the healthcare team, make a written record of the request.
- (3) For the avoidance of doubt, in any case where paragraph (1)(b) applies, the duty in paragraph (2) subsists even if the prisoner concerned does not complain of ill-health.

**Attendance and treatment.**

59. Upon being made aware of any matter referred to in regulation 58(1), a member of the healthcare team must promptly –

- (a) visit and, if appropriate, examine the prisoner as soon as practicable, and in any event within 24 hours of the complaint being made,
- (b) if appropriate, treat the prisoner, and
- (c) further examine and treat the prisoner at such additional times and with such frequency as the member considers necessary to address that prisoner's condition.

**Immediate attention for suicidal intentions and serious conditions.**

60. (1) A member of the healthcare team must immediately notify the Governor if the member has reason to believe that a prisoner –

- (a) has suicidal intentions,

- (b) has a mental or other condition requiring special observation,
  - (c) is suffering from mental disorder of a nature or degree that warrants the prisoner's admission to and detention in an approved establishment within the meaning of section 74(2) of the Mental Health (Bailiwick of Guernsey) Law, 2010, or
  - (d) is seriously ill.
- (2) Upon being notified, the Governor must immediately –
- (a) direct authorised persons to observe the prisoner at frequent intervals,
  - (b) take any other steps considered necessary by the member of the healthcare team, which may include segregating the prisoner, and
  - (c) in any case where paragraph (1)(c) applies, notify Her Majesty's Procureur.

**Healthcare team to report other matters.**

61. (1) This regulation applies where a member of the healthcare team becomes aware of any matter which requires attention by the Governor on medical grounds, other than a matter required to be notified under regulation 60(1).

(2) Without limiting the generality of paragraph (1), the matters referred to in that paragraph include –

- (a) any matter regarding a prisoner, the treatment of prisoners, conditions within the prison or the management of the prison, which needs attention on medical grounds, and
- (b) any situation arising where the member of the healthcare team has formed the opinion on medical grounds that a prisoner –
  - (i) should be separated from other prisoners and kept in specified conditions,
  - (ii) should not participate in, or should have restricted participation in, specified activities,
  - (iii) should not be confined to a cell,
  - (iv) should not be placed under restraint,
  - (v) should be given an alternative diet or treatment, or
  - (vi) should be supplied additional or alternative clothing, bedding or other things.
- (3) Where this regulation applies –
  - (a) the member of the healthcare team must promptly notify the Governor of the matter concerned and that member's recommendations in respect of that matter, and

- (b) the Governor must, as soon as practicable, take any necessary steps to address that matter, including carrying out those recommendations so far as is reasonably practicable.

(4) If, in the opinion of the member of the healthcare team, any matter notified to the Governor under paragraph (3)(a) has not been sufficiently addressed within a reasonable period of time, that member must notify the Department in writing as soon as practicable.

**Procedure where duties are performed by non-medical officer.**

62. (1) This regulation applies where –

- (a) any regulation imposes a duty on a member of the healthcare team to visit or examine a prisoner, and
- (b) the duty is performed by a member of the healthcare team who is not a medical officer.

(2) Where this regulation applies –

- (a) the member of the healthcare team who performs the duty must as soon as practicable report on the condition of the prisoner to a medical officer and pass on to the medical officer any observation or record that member has made concerning the prisoner,
- (b) if the member performing the duty so requests, or if the medical officer considers it necessary, a medical officer must promptly examine that prisoner, and

- (c) unless a medical officer has already examined the prisoner under paragraph (b), a medical officer must examine the prisoner concerned at the next scheduled attendance of a medical officer at the prison.

**Medical authorisation for controlled drugs or medicinal products.**

63. (1) Subject to paragraph (2), a member of the healthcare team who considers it necessary on medical grounds may issue a written authorisation (in the form of a prescription or otherwise), subject to any conditions the member considers appropriate, for a named prisoner to –

- (a) receive and possess a specified quantity and description of any controlled drug or medicinal product, and
- (b) use or be administered with the controlled drug or medicinal product concerned.

(2) The receipt, possession, consumption or use by a prisoner of a controlled drug or medicinal product must not be authorised under paragraph (1) in circumstances where the supply, reception, possession, use or administration of the controlled drug or medicinal product in the circumstances would, despite the authorisation, be an offence under –

- (a) the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974<sup>e</sup>,

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<sup>e</sup> Ordres en Conseil Vol. XXIV, p. 273, as amended by Vol. XXVIII, p. 307; Vol. XXXI, pp. 47 and 278; Vol. XXXIII, p. 217; Vol. XXXIV, p. 172; Vol. XXXVI, p. 396; Vol. XL, pp. 34 and 131; Order in Council No. IV of 2006; No. XIII of 2006; Recueil d'Ordonnances Tome XX, p. 271; Tome XXII, p. 483; Tome XXIV, p. 477; Tome XXV, pp. 38 and 325; Tome XXIX, p. 406; Ordinance No. XLIII of 2010 and

- (b) the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008<sup>f</sup>, or
- (c) any other enactment.

**Serious operations.**

64. (1) Before performing a serious operation on any prisoner, a medical officer must consult another recognised medical practitioner (who may also be a medical officer).

(2) Paragraph (1) does not apply if the medical officer forms the opinion that it is essential for the operation to be performed immediately.

(3) The medical officer must keep a record of each occasion on which the officer –

- (a) consults another recognised medical practitioner for the purposes of paragraph (1), or
- (b) performs a serious operation on a prisoner without consulting another recognised medical practitioner.

(4) In this regulation, "**serious operation**" –

Ordinance No. XXV of 2011; G.S.I. No. 19 of 1997; G.S.I. No. 5 of 2004; G.S.I. No. 42 of 2006; G.S.I. No. 20 of 2008; G.S.I. No. 22 of 2010; G.S.I. No. 33 of 2010; G.S.I. No. 82 of 2010; G.S.I. No. 44 of 2012; see also Recueil d'Ordonnances Tome XXVII, p. 247; Ordres en Conseil Vol. XXIX, p. 207.

<sup>f</sup> Order in Council No. V of 2009; as amended by Recueil d'Ordonnances Tome XXXIII, p. 541.

- (a) means any operation involving a risk to the life of the prisoner, and
- (b) includes any operation upon an organ within the cranium, chest, abdomen or pelvic cavity.

**Further consultation or treatment.**

65. (1) If a medical officer forms the opinion that a prisoner needs consultation or treatment by another recognised medical practitioner (for example, for the purposes of regulation 64(1)), the medical officer must notify the Governor and make arrangements for it.

(2) If a medical officer forms the opinion that a prisoner requires admission to a hospital or any other medical facility –

- (a) the medical officer must notify the Governor, and
- (b) the Governor must make arrangements for the prisoner to be transferred to and admitted to the hospital or other medical facility.

**Prisoners' medical records.**

66. (1) The Healthcare Manager must ensure that –

- (a) a record is maintained of each prisoner's medical history and treatment whilst in custody in the prison,
- (b) if the prisoner is transferred to any hospital or other medical facility, a copy of the record of treatment of the prisoner at the hospital or other facility is obtained and entered into the prisoner's medical record,

- (c) a copy of the prisoner's medical record is sent with the prisoner if that prisoner is transferred to –
  - (i) a place of detention out of the Island, or
  - (ii) a hospital or any other medical facility, and
- (d) when the prisoner is discharged from the prison, a copy of that prisoner's medical record is sent to a medical practitioner or any other person nominated in writing by that prisoner, or if no such person is nominated, to that prisoner.

(2) The Healthcare Manager may give a member of the healthcare team access to a prisoner's medical record for the purpose of treating the prisoner or managing the prisoner's health whilst that prisoner is in custody.

(3) A member of the healthcare team must not disclose a prisoner's medical record to any person except –

- (a) for the purposes of paragraph (1) or (2),
- (b) where required by the Governor for the purposes of regulation 31(2),
- (c) where required by Her Majesty's Procureur under regulation 145, or
- (d) where otherwise required or authorised by the Law or any other enactment.

(4) In this regulation, "**medical record**" in relation to a prisoner means the record of the prisoner's medical history and treatment maintained under paragraph (1)(a).

**Annual report on general health conditions.**

67. The Healthcare Manager's annual report under section 13 of the Ordinance --

- (a) must be submitted to the Governor as soon as practicable after the end of the calendar year to which the report relates, and in any event in time for inclusion in the Governor's annual report relating to that calendar year, and
- (b) must include the observations and comments of the Healthcare Manager, in consultation with other members of the healthcare team, on --
  - (i) the general state of health and healthcare of the prisoners, and
  - (ii) any other matter considered appropriate.

PART VI

REHABILITATION, WORK AND EDUCATION

**Governor to determine appropriate custody or sentence plan.**

68. (1) The Governor must make a plan for each prisoner's custody, sentence and discharge from the prison (including any post-custodial supervision and

any assistance to be given to the prisoner on and after discharge from the prison), as the Governor considers best meets the objectives of reducing the likelihood of reoffending and improving the prospects for the prisoner's successful rehabilitation.

(2) The plan –

(a) must be made upon the prisoner's admission into custody in the prison or as soon as practicable afterwards, and

(b) must be reviewed as often as necessary.

(3) In making or reviewing the plan, the Governor must obtain reports from the appropriate authorised persons (including in respect of security risks, other risks relating to that prisoner, and the needs of that prisoner)

(4) Where appropriate, the plan must include –

(a) courses for rehabilitation, offending behaviour or any other matter,

(b) treatment and counselling for substance misuse or any other matter, and

(c) work, education and vocational training.

**Governor to provide courses, treatment, counselling and education.**

69. (1) So far as is reasonably practicable, the Governor must provide each prisoner with the opportunity to attend, either individually or in a group –

(a) rehabilitation and offending behaviour courses,

- (b) treatment and counselling for substance misuse, and
- (c) educational classes and activities.

(2) So far as is reasonably practicable, the Governor must provide the opportunities referred to in paragraph (1) –

- (a) in accordance with the prisoner's custody or sentence plan,
- (b) at the prisoner's request, over and above the requirements of that plan if the Governor considers that this would further the objectives in regulation 68(1), and
- (c) during normal working hours.

(3) In carrying out the duty under paragraph (1), the Governor must have regard to –

- (a) the need to ensure that prisoners under 21 years of age are offered a range of educational classes and activities appropriate to their age and needs,
- (b) the need to ensure that both male and female prisoners, including those who are under 21 years of age, are offered a range of educational classes and activities that are equivalent to those offered to prisoners of the other sex,
- (c) the need for special attention to the education and

training of prisoners with special educational needs, and

(d) the requirements of the prison regime.

(4) The Governor must –

(a) encourage every prisoner who is able to benefit from the opportunities required to be provided under paragraph (1) to do so, and

(b) provide reasonable facilities for prisoners to improve their education by distance learning and private study in their spare time.

**Governor to provide range of work.**

70. (1) So far as is reasonably practicable, the Governor must offer a range of work opportunities to each prisoner –

(a) in accordance with the prisoner's custody or sentence plan, and

(b) at the prisoner's request, over and above the requirements of that plan if the Governor considers that this would further the objectives in regulation 68(1).

(2) In carrying out the duty under paragraph (1), the Governor must have regard to –

(a) the need to ensure that prisoners under 21 years of age are, where appropriate, offered a range of work opportunities appropriate to their age and needs,

- (b) the need to ensure that both male and female prisoners, including those who are under 21 years of age, are offered a range of work opportunities that are equivalent to those offered to prisoners of the other sex, and
  - (c) the requirements of the prison regime.
- (3) The Governor may issue Prison Orders prescribing –
- (a) the category or description of prisoners authorised to take up work opportunities outside the prison,
  - (b) the circumstances in which and the conditions under which such work opportunities may be arranged, and
  - (c) the conditions applicable to a prisoner taking up such work opportunities.
- (4) In this regulation, "**work opportunities**" includes vocational training or work placements.

**Convicted prisoners required to work.**

71. (1) Subject to regulations 72 and 73, a convicted prisoner must work within the prison unless exempt or excused under any of paragraphs (2) to (4).

- (2) The Governor must exempt a prisoner from work –
- (a) if the prisoner is of compulsory school age or pensionable age,

- (b) if there is no suitable work available for the prisoner, or
  - (c) during any period in which the prisoner is taking part in a course, in treatment or counselling, or in educational or training activities.
- (3) The Governor may excuse a prisoner from work within the prison—
- (a) if the Governor considers it appropriate to authorise the prisoner to work outside the prison instead, or
  - (b) in any other exceptional circumstances.
- (4) A member of the healthcare team may on medical grounds (including pregnancy) excuse a prisoner from any work or work of a particular kind.
- (5) In this regulation –

**"compulsory school age"** means the age at which a person is deemed to be of compulsory school age, under section 16(1) of the Education (Guernsey) Law, 1970<sup>g</sup>, and

**"pensionable age"** has the meaning given to it by regulations

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<sup>g</sup> Ordres en Conseil Vol. XXII, p. 318; see Recueil d'Ordonnances Tome XXXIII, p. 129; also various amendments not relevant to the compulsory school age.

made under the Social Insurance (Guernsey) Law, 1978<sup>h</sup>.

**General working conditions.**

72. (1) A prisoner is entitled to work in association with other prisoners unless the prisoner has been –

- (a) removed from association, or
- (b) placed under temporary confinement or cellular confinement.

(2) A prisoner must not be required to work more than 40 hours a week, excluding time taken for meal breaks.

(3) A prisoner must not work in the service of an authorised person or any other prisoner except with the written consent of the Governor.

(4) The Governor may at any time by written direction remove a prisoner from any work if the Governor considers that this –

- (a) is necessary on a permissible ground, and
- (b) is proportionate to what is sought to be achieved.

(5) Subject to the provisions of Schedule 5, a prisoner must be paid for work at a rate approved by the Governor.

**Entitlement to day of rest.**

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<sup>h</sup> Ordres en Conseil Vol. XXVI, p. 292; to which there are amendments not relevant to this Ordinance.

73. (1) A prisoner is entitled to one day of rest each week, during which the prisoner must not be required to –

- (a) work,
- (b) undertake a course or treatment or counselling, or
- (c) participate in any educational or training activity.

(2) Subject to paragraph (3), a prisoner is entitled –

- (a) to take the prisoner's day of rest on the generally recognised day of weekly or other periodic observance of the prisoner's faith, and
- (b) to take an additional day of rest on any other day of the year that is a generally recognised day of observance of that faith.

(3) Paragraph (2) does not apply where it is not reasonably practicable to accommodate the prisoner's entitlement within the prison regime.

**Unconvicted prisoners may work.**

74. (1) An unconvicted prisoner is not obliged to work but may (unless the prisoner is of compulsory school age) work within the prison if suitable work is available.

(2) For the avoidance of doubt, regulations 72 and 73 apply in relation to any unconvicted prisoner who chooses to work under paragraph (1).

**Prisoners attending course, treatment, etc. instead of work.**

75. A prisoner who attends a course, treatment, counselling, or an educational class or activity at the prison instead of work must be paid an amount equivalent to any pay the prisoner would have received had that prisoner worked instead.

PART VII  
EXERCISE, RECREATION AND GENERAL MANAGEMENT

**Entitlement to time in open air and recreational activities.**

76. (1) Subject to weather permitting and the need to maintain good order and discipline, a prisoner is entitled to spend time in the open air once a day for half an hour.

(2) Unless declared unfit by a medical officer, a prisoner is entitled to take part on a regular basis in physical recreation, activities and pursuits which are consistent with good health and wellbeing.

(3) A prisoner may exercise an entitlement under this regulation in association with other prisoners unless the prisoner has been –

(a) removed from association, or

(b) placed under temporary confinement or cellular confinement.

**Library and recreational facilities.**

77. (1) The Governor must provide a library and other recreational facilities in the prison.

(2) Subject to paragraph (3), and so far as is reasonably

practicable, the Governor must allow prisoners –

- (a) to borrow and exchange library books as often as possible, and
- (b) to take part in recreational activities (excluding use of the library) outside normal working hours.

(3) The Governor must determine when and how often a prisoner is allowed do the things mentioned in paragraph (2) as part of the prison regime, having regard to practicability, safety and security.

**Pregnancy and confinement.**

78. (1) A member of the healthcare team who is of the opinion that a prisoner is pregnant must promptly notify the pregnancy to the Governor.

(2) On becoming aware of a pregnancy, the Governor must ensure that the prisoner concerned –

- (a) is not required to undertake any strenuous work or activity 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) if removed from association, is –
  - (i) kept under supervision so far as is reasonably practicable, and
  - (ii) required to share accommodation in a cell with

another suitable prisoner, if a member of the healthcare team considers it necessary.

(3) A member of the healthcare team must arrange for the prisoner's transfer to hospital when required for the purpose of giving birth.

**Supervision by either sex.**

79. (1) Subject to paragraph (2) and any other regulation or any Prison Order to the contrary, a prisoner may be supervised by an authorised person of either sex.

(2) In circumstances where privacy would reasonably be expected, a prisoner must be supervised by an authorised person of the same sex.

**General strategies required.**

80. (1) The Governor must ensure that strategies are developed and implemented to –

- (a) minimise bullying,
- (b) combat any issues or differences between racial groups in prison, and
- (c) adopt a pro-active approach towards the assessment and care of vulnerable prisoners, including those at risk of self-harm and suicide.

(2) The Governor must ensure that –

- (a) awareness and skills training is provided to all authorised persons involved in the implementation of

these strategies, and

- (b) there is ongoing monitoring and review of these strategies, to ensure their effectiveness.

(3) In this regulation, "**racial group**" means a group of persons that may be defined by reference to race, colour, nationality (including citizenship) or ethnic, national or territorial origins.

**Prison regime to be established.**

81. The Governor must by written direction, establish and update (from time to time as appropriate) prison routines that allocate specific times for routine cleaning, work, visits, outdoor and physical exercise, educational and vocational activities and any other appropriate activities, taking into account –

- (a) the classification, privilege level and age of the prisoners, and
- (b) the safe, fair and orderly management of the prison.

PART VIII  
PROPERTY AND MONEY

**Restrictions on possessions.**

82. (1) Subject to paragraphs (2) to (4), a prisoner may have in the prisoner's possession or keep in the prisoner's cell or any other part of the prison, any thing approved by or under Prison Orders for that purpose.

(2) A prisoner must not have in the prisoner's possession or keep in the prisoner's cell or any other part of the prison –

- (a) any controlled drug or medicinal product, except where authorised in writing by a member of the healthcare team under regulation 63(1), or
- (b) any intoxicating liquor or tobacco product, or
- (c) any thing that appears to be made or adapted for smoking or for the production of intoxicating liquor.

(3) The Governor may by written direction prohibit a prisoner from keeping in a cell any thing of a specified kind or description if, in the opinion of the Governor, the thing is incompatible with the size of the cell.

(4) The Governor may by written direction prohibit a prisoner from having in the prisoner's possession or keeping in a cell or any other part of the prison any thing if the Governor is of the opinion that the prohibition –

- (a) is necessary on a permissible ground, and
- (b) is proportionate to what is sought to be achieved.

**Reception of things.**

83. (1) This regulation applies to any thing –

- (a) taken from a prisoner under regulation 4(1)(b) upon admission into custody in the prison, or
- (b) delivered to the prison and addressed to a prisoner.

(2) The Governor may –

- (a) refuse to receive the thing into the prison,
- (b) receive the thing into the prison, but refuse to allow the prisoner to keep that thing in a cell or in any other part of the prison, or
- (c) receive the thing into the prison and allow the prisoner to keep that thing in the prisoner's cell or any other specified part of the prison.

(3) In making a decision under paragraph (2), the Governor must take into account the following matters –

- (a) regulation 82 and any directions made under it,
- (b) whether the thing is a prohibited thing,
- (c) where the thing is a controlled drug or medicinal product, whether the prisoner is authorised to receive, possess, use or be administered with that thing under regulation 63(1), and
- (d) any prescribed volumetric restrictions.

**Storage and disposal of things received.**

**84.** (1) Where the Governor refuses to receive a thing into the prison under regulation 83(2)(a), an authorised person –

- (a) may return the thing to the person who delivered the prisoner or the thing to the prison, or

- (b) seize the thing and dispose of it in accordance with Schedule 3.

(2) Where the Governor receives a thing into the prison but refuses to allow the prisoner to keep the thing in the prisoner's cell or any other part of the prison under regulation 83(2)(b), an authorised person must –

- (a) subject to paragraph (5), record that thing as the personal property of the prisoner, and
- (b) store that thing in accordance with Schedule 4.

(3) Where the Governor receives a thing into the prison and allows the prisoner to keep the thing in the prisoner's cell or any other specified part of the prison under regulation 83(2)(c), an authorised person must –

- (a) subject to paragraph (5), record that thing as the personal property of the prisoner, and
- (b) release that thing to the prisoner or to the relevant part of the prison.

(4) Where any thing is recorded as the personal property of the prisoner under paragraph (2) or (3), the prisoner concerned –

- (a) must be given an opportunity to check the accuracy of the record, and
- (b) if the record is accurate, must sign the record to verify its accuracy.

(5) Neither paragraph (2)(a) nor paragraph (3)(a) applies to any thing that –

- (a) is edible or perishable, or
- (b) is purchased by the prisoner from a prison purchasing facility.

**Prisoners' money.**

85. (1) Subject to paragraphs (2) to (5), the Governor must hold on account of each prisoner a private cash account consisting of –

- (a) all money earned by the prisoner whilst in custody, and
- (b) all money received into the prison for the prisoner.

(2) In the case of a prisoner in default –

- (a) any money held in the prisoner's private cash account must be applied in or towards payment of that outstanding amount as a matter of priority, unless the prisoner objects, and
- (b) the prisoner may also at any time during normal working hours pay to the Governor (whether from the prisoner's private cash account or elsewhere) any amount of money outstanding under any court order for the purpose of securing the prisoner's discharge from prison.

(3) Subject to paragraph (5), a prisoner may authorise the Governor to withdraw from the prisoner's private cash account an amount of money required by the prisoner to be spent for the purchase of any thing or service –

- (a) from a prison purchasing facility, or
- (b) from any person outside the prison approved by the Governor.

(4) The Governor must ensure that a record is kept of each deposit into or withdrawal from a prisoner's private cash account.

(5) Prison Orders may prescribe –

- (a) the maximum amount of money that a prisoner may have in the prisoner's private cash account at any one time,
- (b) the maximum number of withdrawals from a prisoner's private cash account that may be made within a specified period of time, or
- (c) the maximum amount of money that can be withdrawn from a prisoner's private cash account on any one occasion or within a specified period of time.

(6) Nothing in this regulation prevents a prisoner from opening, maintaining or operating an account with a financial institution, subject to any prescribed restrictions.

(7) In this regulation, "**financial institution**" means any person

carrying on a financial services business, for the purposes of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999<sup>1</sup>.

**Unauthorised property to be seized, etc.**

86. (1) An authorised officer may seize anything that the authorised officer believes on reasonable grounds –

- (a) to have been brought, thrown or otherwise conveyed into the prison, or supplied to a prisoner, in breach of a prohibition in section 34 or 35 of the Ordinance, or
- (b) to be in the possession of a prisoner, or to have been received, kept or concealed by a prisoner, in breach of any provision of the Law.

(2) Anything seized under paragraph (1) must be disposed of in accordance with Schedule 3.

PART IX  
PRIVILEGES SCHEME

**Interpretation.**

87. In this Part, unless the context requires otherwise –

"key privileges" means –

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<sup>1</sup> Ordres en Conseil Vol. XXXIX, p. 137; amended by Order in Council No. II of 2005 and No. XV of 2007; Recueil d'Ordonnances Tome XXVIII, p. 266; Tome XXIX, pp. 112 and 406; Tome XXXII, p. 666; Tome XXXIII, pp. 157 and 535; G.S.I. No. 27 of 2002; G.S.I. No. 33 of 2007, G.S.I. No. 48 of 2008 and G.S.I. No. 12 of 2010; and certain sections of the Law are modified in their application to external confiscation orders by Recueil d'Ordonnances Tome XXVIII, p. 274.

- (a) additional visits,
- (b) eligibility to earn higher rates of pay for work done,
- (c) access to an in-cell television,
- (d) higher maximum amounts of money which may be spent by the prisoner from the prisoner's private cash account,
- (e) time outside cell for the purposes of associating with other prisoners, and
- (f) any other prescribed facilities, amenities or activities, and

**"privileges decision"** means a decision under the privileges scheme to upgrade or downgrade the level of privilege held by a prisoner, or to withdraw from, or grant to, a prisoner any privilege.

**Governor to prescribe scheme of privileges.**

**88.** (1) The Governor must by Prison Order prescribe a scheme of privileges for prisoners with the following objectives –

- (a) encouraging responsible behaviour by prisoners,
- (b) encouraging effort and achievements in work and other activities by prisoners,
- (c) encouraging convicted prisoners to engage in custody

and sentence planning and activities designed to reduce re-offending, and

- (d) promoting a more disciplined and safer environment for prisoners and authorised persons.

(2) Subject to paragraphs (3) and (4), the scheme must specify –

- (a) at least three levels of privileges in ascending order, the lowest level being "Basic",
- (b) the key privileges to be given to each holder of a specified level of privilege,
- (c) the criteria for being upgraded to a higher level of privilege, together with examples of behaviour or performance which might lead to such an upgrade,
- (d) the criteria for being downgraded to a lower level of privilege, together with examples of behaviour or performance which might lead to such a downgrade,
- (e) the criteria for granting additional privileges to a prisoner, together with examples of behaviour or performance which might lead to such grants,
- (f) the criteria for withdrawing any privileges from a prisoner (including key privileges prescribed for the level of privilege held by the prisoner), together with examples of behaviour or performance which might lead to such withdrawals,

- (g) a timeframe for conducting regular periodic reviews of the level of privilege held by each prisoner,
  - (h) any restrictions on the review of a prisoner's level of privilege, including any period which must be allowed to lapse following the last review, before another review may be conducted, and
  - (i) procedures for a prisoner to appeal against a privileges decision.
- (3) The "Basic" level of privileges consists of –
- (a) all the entitlements of a prisoner, and
  - (b) the facilities, amenities and activities normally provided to all prisoners other than those removed from association or placed in temporary confinement or cellular confinement.
- (4) The scheme –
- (a) must be fair and consistent,
  - (b) must not unduly disadvantage any particular prisoner or category of prisoners,
  - (c) must take into account the different provisions in the Law pertaining to, and the different requirements of, particular categories or types of prisoners, such as

prisoners 18 years or above but under 21 years of age,  
prisoners 14 years or above but under 18 years of age,  
prisoners under 14 years of age, and vulnerable  
prisoners, and

- (d) cannot withdraw or restrict, or prejudice in any way, any entitlement of a prisoner or any right conferred on the prisoner by these Regulations.

**Operation of privileges scheme.**

89. (1) A prisoner who holds the "Basic" level of privilege is entitled to the entitlements, facilities, amenities and activities comprising that level of privilege under regulation 88(3).

(2) A prisoner who holds any other level of privilege must be granted—

- (a) the key privileges prescribed for that level of privilege, and
- (b) any additional privilege prescribed for that level, if the prisoner meets the criteria prescribed for the privilege.

**Decisions to be made by review board.**

90. (1) A privileges decision must be made in accordance with this regulation by order of a review board appointed by the Governor.

(2) The review board –

- (a) must consist of a minimum of two persons, at least one of whom must be an authorised officer, and

- (b) may be appointed to make a privileges decision in a single case only or on an ongoing basis to determine a particular type or description of cases.
- (3) A privileges decision must be based on –
  - (a) reports on the prisoner obtained from authorised persons, in relation to the criteria prescribed in the scheme for the decision, and
  - (b) general patterns of behaviour or performance by the prisoner, although in exceptional cases it may be based on a single incident of serious wrongdoing.
- (3) The review board –
  - (a) must give the prisoner concerned the opportunity to reply to any adverse report made concerning that prisoner, before making an order setting out the privileges decision,
  - (b) must record its proceedings and findings, and
  - (c) must include the reasons for the privileges decision in the order setting out that decision.
- (4) An order of the review board setting out a privileges decision—
  - (a) applies only to those privileges specified in the order,

- (b) cannot withdraw, restrict or prejudice in any way any entitlement, facility, amenity or activity that comprises the "Basic" level of privileges under regulation 88(3), and
- (c) does not have any effect until the order is signed by an authorised officer.

**Prisoners must be informed of scheme.**

91. Upon admission into custody in the prison, a prisoner –

- (a) must be informed of the existence of the privileges scheme, and
- (b) must be allocated the level of privileges which is one level higher than the "Basic" level.

**Administration and monitoring.**

92. The Governor must –

- (a) ensure that authorised persons who work with the prisoners are competent and knowledgeable in the operation of the privileges scheme so that they can contribute to the assessment of prisoners against the criteria prescribed in the scheme,
- (b) implement a monitoring system to ensure fairness and consistency in the privileges decisions made under the scheme.

PART X  
TRANSFERS AND DISCHARGES

**Governor may request transfer order.**

93. (1) The Governor may request the Secretary of State to make an order under paragraph 1 of Schedule 1 to the Crime (Sentences) Act, 1997<sup>j</sup> for the transfer of a prisoner to any part of the United Kingdom, either at the Governor's own initiative, or on the application of the prisoner concerned.

(2) If the Governor proposes to make a request at the Governor's own initiative, or to refuse to make a request on the application of a prisoner, the Governor must –

- (a) give the prisoner at least 14 days' written notice of the Governor's proposed request or, as the case may be, proposed refusal, including the reasons for it,
- (b) give the prisoner an opportunity to make written and oral representations concerning the proposed request or refusal within the period of notice given under paragraph (a), and
- (c) take into account the prisoner's representations.

(3) Despite paragraph (2), in exceptional circumstances, the Governor may issue a written direction to exempt a proposed decision from the requirements of paragraph (2), if in the Governor's opinion, this –

- (a) is necessary on a permissible ground, and

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<sup>j</sup> An Act of Parliament (Chapter 43 of 1997).

(b) is proportionate to what is sought to be achieved.

(4) In this regulation, "request" means a request under paragraph (1).

**Preparations for transfer.**

94. (1) At least one week before the transfer of any prisoner to a place of detention outside the Island, a member of the healthcare team must conduct a full examination of the prisoner to determine the prisoner's wellbeing and fitness for the transfer.

(2) So far as is practicable –

(a) at least one week before the transfer, an authorised person must visit the prisoner to discuss any needs that the prisoner may have in relation to that transfer,

(b) the prisoner –

(i) is entitled to inform the prisoner's family, friends and legal adviser in advance of the transfer, and

(ii) is entitled to receive a visit from one person of the prisoner's choice before the prisoner is transferred, for the purpose of assisting that prisoner to prepare for the transfer.

**Preparations for discharge.**

95. A prisoner is entitled to inform the prisoner's family and friends in advance of the prisoner's discharge from the prison.

**Provision of clothing and return of property.**

96. (1) A prisoner's clothing and any other stored property of the prisoner must be returned to the prisoner on –

- (a) the prisoner's transfer to another place of detention outside the Island, or
- (b) the prisoner's discharge from the prison.

(2) The Governor must ensure that a prisoner who does not have sufficient clothing at the time of a transfer or discharge is provided with clothing suitable for that purpose.

PART XI  
REQUESTS, COMPLAINTS AND REVIEWS

**Prisoner's entitlement to make a request or complaint.**

97. (1) A prisoner is entitled to make a request or complaint in accordance with any of regulations 98, 99, 101 or 102.

(2) For the purpose of facilitating such requests and complaints, an authorised person must –

- (a) make pen, paper, forms and envelopes readily available to all prisoners,
- (b) make available to all prisoners a locked box for the purpose of lodging a request or complaint,
- (c) on request by a prisoner, provide the prisoner with

reasonable assistance to make or write a request or complaint, and

- (d) ensure that any written request or complaint is promptly sent to the person to whom it is addressed (or any other person duly authorised by the addressee to deal with the complaint or request).

**Prisoner's right to request contact with Panel member.**

98. (1) A prisoner may at any time make a request to any authorised person –

- (a) to be visited by a Panel member authorised by the Panel, or
- (b) to write to the Panel.

(2) The authorised person to whom a request is made must promptly record the request in writing, and –

- (a) in the case of a request under paragraph (1)(a), arrange for the request to be brought to the attention of the Panel, and
- (b) in the case of a request under paragraph (1)(b), ensure that any letter written by the prisoner is promptly posted or otherwise conveyed to the Panel.

**Complaints to the Governor.**

99. (1) A prisoner may make a complaint to the Governor concerning any matter affecting the prisoner, excluding –

- (a) the conduct of the Governor or a Governor grade, or
  - (b) a matter in relation to which a review may be requested or an appeal may be brought under any provision of the Law.
- (2) A complaint under this regulation –
- (a) may be made in writing in a sealed envelope addressed to the Governor, and
  - (b) except where otherwise permitted by the Governor in exceptional circumstances, must be made within 3 months of the incident or circumstances giving rise to the complaint coming to the prisoner's attention.
- (3) Subject to regulation 100, the Governor must determine a complaint and give the complainant written notice of the Governor's decision within 10 working days of receiving the complaint, unless it is not reasonably practicable to do so, and –
- (a) to the extent that the complaint is upheld, the Governor must –
    - (i) issue any directions and orders necessary to give effect to the decision, and
    - (ii) give the complainant written notice as to what action is being taken to provide appropriate redress, and

- (b) to the extent that the complaint is dismissed, the Governor must give the complainant written notice of the reasons for the dismissal.

(4) Despite paragraph (3), the Governor may, by giving written notice to the prisoner, refuse to determine a complaint which appears to the Governor

–

- (a) to be excluded under paragraph (1)(a) or (b),
- (b) to have been made after the expiry of the 3 month period specified in paragraph (2)(b), or
- (c) to be frivolous or vexatious.

(5) For the avoidance of doubt, complaints which may be made under this regulation include complaints concerning –

- (a) any aspect of medical care provided to the prisoner,
- (b) the conduct of an authorised person other than the Governor or a Governor grade,
- (c) the food or drink provided to the prisoner,
- (d) failure to provide the prisoner with an entitlement, facility, amenity or activity comprised in the "Basic" level of privilege or any other level of privilege held by the prisoner, or

- (e) any matter relating to the operation of the privileges scheme in respect of a prisoner.

**Procedure for dealing with complaints about conduct of authorised persons.**

100. (1) This regulation applies where –

- (a) a complaint under regulation 99 concerns the conduct of an authorised person other than the Governor or a Governor grade, and
- (b) the Governor has not exercised the power under regulation 99(4) to refuse to determine the complaint.

(2) Where this regulation applies, the Governor must –

- (a) deal with the complaint, taking into account any standard of conduct or guidance issued under section 6(1) of the Ordinance that appears to the Governor to be relevant, and
- (b) where the matter is for the Governor to determine, make the determination within 28 days of receiving the complaint, unless it is not reasonably practicable to do so, and
- (c) as soon as practicable, give written notice to the complainant of the outcome of the complaint, any determination made by the Governor and any disciplinary action taken by the Governor or any other person as a result of the complaint.

(3) Paragraph (2)(c) does not apply if the Governor is of the opinion that such notice is likely to prejudice criminal proceedings.

**Complaints about conduct of Governor or Governor grade.**

101. (1) A prisoner may make a complaint to the Department concerning the conduct of the Governor or a Governor grade, excluding any matter in relation to which a review may be requested or an appeal may be brought under any provision of the Law.

(2) A complaint under this regulation –

- (a) may be made in writing in a sealed envelope addressed to the Department, and
- (b) except where otherwise permitted by the Department in exceptional circumstances, must be made within 3 months of the conduct giving rise to the complaint coming to the prisoner's attention.

(3) Subject to paragraphs (4) and (5), on receiving a complaint, the Department must –

- (a) deal with the complaint, taking into account any standard of conduct or guidance issued under section 6(1) of the Ordinance that appears to the Department to be relevant,
- (b) where the matter is for the Department to determine, make the determination within 28 days of receiving the complaint, unless it is not reasonably practicable to do so, and

- (c) as soon as practicable, give written notice to the complainant of the outcome of the complaint, any determination made by the Department, and any disciplinary action taken by the Department or any other person as a result of the complaint.

(4) The Department may, by giving written notice to the prisoner, refuse to determine a complaint which appears to the Department –

- (a) to be excluded under paragraph (1),
- (b) to have been made after the expiry of the 3 month period specified in paragraph (2)(b), or
- (c) to be frivolous or vexatious.

(5) Paragraph (3)(c) does not apply if the Department is of the opinion that such notice is likely to prejudice criminal proceedings.

**Review of Governor's decisions.**

102. (1) A prisoner directly affected by any of the following decisions of the Governor may request the Department to review the decision –

- (a) a decision under section 24 of the Ordinance concerning a female prisoner and her baby,
- (b) a decision under section 30 of the Ordinance –
  - (i) to refuse to grant a prisoner a temporary release

licence, or

- (ii) to grant a prisoner a temporary release licence on specified conditions,
  - (c) a decision under regulation 93 –
    - (i) to request the transfer of a prisoner, or
    - (ii) to refuse an application by a prisoner for the Governor to make such a request, or
  - (d) a decision under paragraph 1(2) or 2 of Schedule 5 concerning deductions from a prisoner's earnings or the allocation of such deductions.
- (2) A request under this regulation –
- (a) may be made in writing in a sealed envelope addressed to the Department, and
  - (b) except where otherwise permitted by the Department in exceptional circumstances, must be made within 28 days of the decision concerned coming to the prisoner's attention.
- (3) The only grounds for review under this regulation are –
- (a) the decision was made in bad faith,
  - (b) the decision was unjust or oppressive,

- (c) the decision lacked proportionality,
- (d) there was a material error as to the facts or the procedure, or
- (e) the decision could not have been made by a reasonable Governor after proper consideration of all the facts.

(4) Upon receiving a request, the Department may, if it considers appropriate in exceptional circumstances, stay the decision of the Governor by notice in writing to the Governor pending review by the Department.

- (5) Within 28 days of receiving a request, the Department must –
  - (a) hear any written or oral representations by the prisoner,
  - (b) determine the request by –
    - (i) confirming the Governor's decision, in whole or in part, or
    - (ii) setting aside the Governor's decision, in whole or in part, and remitting the matter to the Governor for reconsideration with such directions as the Department thinks fit, and
  - (c) give the prisoner written notice of the Department's decision and its reasons.
- (6) Despite paragraph (5), the Department may, by giving written

notice to the prisoner, refuse to determine a request which appears to the Department

–

- (a) to have been made after the expiry of the 28-day period specified in paragraph (2)(b), or
- (b) to be frivolous or vexatious.

## PART XII DISCIPLINE OF PRISONERS

### *Preliminary*

#### **Interpretation and application.**

**103.** (1) In this Part, unless the context requires otherwise –

**"Adjudication Liaison Officer"** means a person appointed by the Governor to discharge the functions of the Adjudication Liaison Officer under these Regulations,

**"independent adjudicator"**, in relation to any charge against a prisoner, means a Lieutenant Bailiff, or a Judge or Deputy Judge of the Magistrate's Court, appointed by the Bailiff to inquire into the charge,

**"inquirer"**, means any person inquiring into a charge under any provision of this Part,

**"ordinary offence"** means any disciplinary offence of a kind or nature which, in the opinion of the person to whom the charge is referred, if proven, would be sufficiently punished by an award for an

ordinary offence,

**"removal from association"**, in relation to an award against a prisoner, means removal of the prisoner from associating with other prisoners, either generally or in relation to any activity specified in the award,

**"responsible medical officer"** has the meaning given by section 99(1) of the Mental Health (Bailiwick of Guernsey) Law, 2010,

**"senior manager" –**

- (a) means any Governor grade, and
- (b) where no Governor grade is available, includes the authorised person holding the next-highest rank or position, and

**"special offence"** means any disciplinary offence of a kind or nature which, in the opinion of the person to whom the charge is referred, if proven, would be insufficiently punished by an award for an ordinary offence.

*Charging and inquiry into offences*

**Procedure for bringing charge.**

104. (1) Where an authorised person suspects any prisoner of a disciplinary offence, the authorised person –

- (a) must submit a report to the Adjudication Liaison

Officer, and

- (b) may bring a charge drafted by the Adjudication Liaison Officer against the prisoner.

(2) The authorised person may bring a charge against the prisoner

by-

- (a) referring the charge drafted by the Adjudication Liaison Officer to a senior manager, who the authorised person believes is not an interested party to the charge, within 48 hours of submitting the report under paragraph (1)(a), and

- (b) giving written notice of that charge to that prisoner.

(3) The prisoner must be given written notice of a charge at least 2 hours before the commencement of any inquiry into the charge.

**Person to inquire into charge.**

105. (1) A senior manager to whom a charge is referred under regulation 104(3) must decide whether the charge relates to an ordinary offence or a special offence.

(2) If the charge relates to a special offence –

- (a) the charge must be referred to an independent adjudicator,
- (b) the prisoner concerned must be given written notice of the referral, and

- (c) the independent adjudicator must inquire into and determine that charge in accordance with this Part.

(3) If the charge relates to an ordinary offence, a senior manager must inquire into and determine that charge in accordance with this Part.

*Special provisions for certain offences*

**Referral of suspected criminal offences.**

106. Despite regulation 105, if at any time it appears to a person to whom a charge is referred that any alleged conduct or other matter constituting a suspected disciplinary offence, if proven, would constitute a criminal offence, the person –

- (a) may refer the conduct or other matter to a police officer or a customs officer, and
- (b) if the conduct or other matter is further referred to Her Majesty's Procureur, must not commence or (as the case may be) continue an inquiry into the charge without the consent of Her Majesty's Procureur.

**Suspected disciplinary offence by outgoing prisoners.**

107. (1) This regulation applies to a prisoner –

- (a) who is to be transferred to a place of detention outside the Island before an inquiry into a charge against the prisoner can be conducted, or
- (b) who is alleged to have committed a disciplinary offence whilst being transferred to a place of detention outside

the Island.

(2) Where this regulation applies to a prisoner, despite any other regulation –

- (a) no further action in respect of the suspected disciplinary offence needs to be taken against the prisoner under these Regulations, and
- (b) the Governor may, in place of such action, make a report of the matter to the governor or manager of the place of detention outside the Island to which the prisoner is transferred.

**Suspected disciplinary offence by incoming prisoners.**

108. (1) This regulation applies where a prisoner is transferred to the prison from any place of detention outside the Island, and –

- (a) the prisoner is suspected of any conduct or other matter occurring before or during the transfer,
- (b) the conduct or other matter, if proven, would have constituted a disciplinary offence in the place of detention outside the Island,
- (c) the conduct or other matter, if it had occurred in similar circumstances in the Island, would constitute a disciplinary offence in the Island,
- (d) the conduct or other matter has not been inquired into at the place of detention outside the Island, and

- (e) the governor or manager of that place of detention has reported that conduct or other matter as a suspected disciplinary offence to an authorised person.
- (2) Where this regulation applies –
- (a) the conduct or other matter may be dealt with under the Ordinance and these Regulations as if that conduct or other matter had occurred in similar circumstances in the Island, and
  - (b) if that conduct or other matter occurring in similar circumstances in the Island would constitute a disciplinary offence, that conduct or other matter is deemed to be a disciplinary offence for the purposes of the Law.

**Disciplinary offence involving controlled drugs.**

109.(1) This regulation applies where a prisoner transferred to the prison from a place of detention outside the Island is charged with a disciplinary offence involving a controlled drug under paragraph 1(10)(a) of Schedule 4 to the Ordinance, and

- (a) the controlled drug in question may have been administered to the prisoner before the prisoner's admission to the prison in the Island, and
- (b) the prisoner was detained in a place of detention outside the Island throughout the period during which the drug might have been administered to the prisoner.

- (2) Where this regulation applies –
  - (a) the matter may be dealt with under the Ordinance and these Regulations as if the controlled drug in question had been administered whilst the prisoner was in the prison in the Island, and
  - (b) if proven, the matter is deemed to be a disciplinary offence for the purposes of the Law.
- (3) Nothing in this regulation limits the application of regulation

108.

*Procedures for inquiries*

**Legal advice and representation.**

110. (1) If a prisoner is charged with a special offence, the inquirer must allow the prisoner to be represented at the inquiry by a legal adviser.

(2) If the prisoner is charged with an ordinary offence and the inquirer considers that the interests of justice so require, having regard to the matters specified in paragraph (3), the inquirer may allow the prisoner to obtain –

- (a) legal advice before commencement of the inquiry, or
  - (b) in exceptional cases, legal representation at the inquiry.
- (3) Paragraph (2) refers to the following matters –
- (a) the seriousness of the charge,

- (b) the seriousness of any potential award,
- (c) whether any points of law are likely to arise,
- (d) procedural difficulties,
- (e) the capacity of the prisoner to present the prisoner's own case effectively,
- (f) the need for reasonable speed in conducting and determining the inquiry,
- (g) the need for fairness as between prisoners, and as between prisoners and the authorised person bringing the charge, and
- (h) any other relevant matters raised by the prisoner.

(4) Where a prisoner is represented by a legal adviser, the case against the prisoner may be presented by another legal adviser.

**Procedure for inquiry into charge.**

111. (1) An inquiry into a charge must be conducted and determined in accordance with this regulation and regulations 112 to 116.

(2) Unless adjourned under paragraph (3), an inquiry into a charge must be commenced –

- (a) where conducted by an independent adjudicator, no later than 28 days after the charge is brought, and

- (b) where conducted by a senior manager, no later than 48 hours after the charge is brought.
- (3) An inquirer may at any time adjourn an inquiry –
  - (a) to allow the prisoner sufficient time to prepare the prisoner's case, or
  - (b) if the inquirer considers that there are other reasonable grounds for adjournment.
- (4) Following an adjournment under paragraph (3), the inquirer may refer the charge to another person (in accordance with regulation 105(2) and (3)) if the inquirer considers it necessary or appropriate to do so; and –
  - (a) if evidence has not been adduced before the adjournment, the new inquirer must continue the inquiry into the charge, but
  - (b) if evidence has been adduced before the adjournment, the new inquirer must inquire into the charge afresh.
- (5) At an inquiry, the prisoner charged must be given the opportunity–
  - (a) to hear the allegations against the prisoner,
  - (b) to present the prisoner's own case,
  - (c) subject to paragraph (6), to call witnesses, and

(d) to cross-examine any other witnesses.

(6) An inquirer may refuse to allow a prisoner to call a witness if, having discussed the matter with the prisoner, the inquirer concludes that the evidence likely to be given by the witness would be of no relevance or no value in determining whether or not the charge is proven.

(7) A prisoner may stand or be seated during the inquiry as the prisoner prefers.

*Determination of charge and awards*

**Determination of charge.**

112. (1) Subject to paragraph (2), an inquirer may take into account any evidence in any form.

(2) An inquirer may take into account the evidence of a person who has not given oral evidence only if the prisoner agrees to it.

(3) At the conclusion of the inquiry, the inquirer –

(a) must determine whether the charge has been proven beyond reasonable doubt (and thus, whether the prisoner is guilty of the disciplinary offence that that prisoner is charged with),

(b) if the inquirer determines that the prisoner is guilty of a disciplinary offence, must determine which, if any, punishment to award the prisoner under regulation 113, and

(c) inform the prisoner orally of those determinations.

(4) The inquirer must give a prisoner an opportunity to make a plea in mitigation before making an award against the prisoner; and, in determining the award, the inquirer must have regard to the following –

(a) any plea in mitigation,

(b) whether the award is proportionate to the disciplinary offence committed,

(c) the level of punishment normally imposed in the Island for the relevant disciplinary offence,

(d) whether any other award available would be more appropriate, given the circumstances of the case, and

(e) any other relevant matters.

(5) The inquirer must, as soon as practicable –

(a) give the prisoner written notice of determinations made under paragraph (3)(a) and (b), and

(b) make a written record of those determinations.

**Disciplinary awards.**

113. (1) An inquirer who determines that a prisoner is guilty of an ordinary offence may award one or more of the following punishments against the prisoner –

- (a) a caution,
- (b) forfeiture or postponement of any privilege granted to the prisoner for a period not exceeding –
  - (i) in the case of a prisoner of 21 years of age or above, 42 days, and
  - (ii) in any other case, 21 days,
- (c) removal from association for a period not exceeding 21 days,
- (d) stoppage of earnings for a period not exceeding 42 days, or
- (e) cellular confinement for a period not exceeding 14 days.

(2) An independent adjudicator who determines that a prisoner is guilty of a special offence may award one or more of the following punishments against the prisoner –

- (a) a caution,
- (b) forfeiture or postponement of any privilege granted to a prisoner for any specified period of time,
- (c) removal from association for a period not exceeding –
  - (i) in the case of a prisoner 21 years of age or

above, 56 days, and

(ii) in any other case, 28 days,

(d) stoppage of earnings for a period not exceeding 56 days,

(e) cellular confinement for a period not exceeding 28 days,  
or

(f) forfeiture of remission of sentence for a period not  
exceeding 6 months.

(3) This regulation is subject to regulations 114 to 116.

**Suspension of awards.**

114. (1) The power to make an award under regulation 113 includes power to direct that the award, or a specified part of it, is not to take effect unless –

(a) during a specified period, not exceeding 6 months from the date of the direction, the prisoner is found guilty of another disciplinary offence, and

(b) a direction is made under paragraph (2)(a) or (b).

(2) Where a prisoner subject to a direction suspending an award under paragraph (1) is found guilty of a disciplinary offence committed during the period specified for the purposes of paragraph (1)(a), the inquirer may, in addition to or as an alternative to making an award for the disciplinary offence –

(a) direct the suspended award to take effect,

- (b) reduce any period or amount specified in the suspended award and direct the suspended award to take effect as so reduced, or
- (c) vary the original direction which imposed the suspended award by substituting for the period specified in that direction a period expiring not later than 6 months after the date of the variation.

**Restrictions and conditions for cellular confinement.**

115. (1) An award of cellular confinement –

- (a) must not be made against any prisoner under 18 years of age,
- (b) must not be carried out, unless before its commencement a member of the healthcare team certifies that the prisoner is in a fit condition of health to sustain the cellular confinement, and
- (c) does not affect any entitlement of the prisoner, except as expressly provided by these Regulations or a written order issued by the Department.

(2) Before an award of cellular confinement is carried out, or as soon as practicable and in any case within 24 hours of the commencement of cellular confinement, the Governor must notify –

- (a) a member of the healthcare team,
- (b) the Panel, and

(c) the Department.

(3) At least once each day –

(a) a member of the healthcare team must visit, and if appropriate, examine any prisoner serving an award of cellular confinement, and

(a) the Governor must visit the prisoner.

(4) An authorised person must visit any prisoner serving an award of cellular confinement at least once every 3 hours.

(5) If a member of the healthcare team recommends on medical grounds the revocation or amendment of an award of cellular confinement against a prisoner, the Governor must promptly revoke or amend the award accordingly.

(6) For the avoidance of doubt, a visit by a member of the healthcare team or the Governor under paragraph (3) counts as a visit for the purposes of paragraph (4).

**Consecutive or combined awards.**

116. (1) A caution must not be combined with any other award for the same charge.

(2) Subject to paragraph (3), where a prisoner is found guilty of more than one disciplinary offence arising out of a single incident, the inquirer may order any awards (other than awards of cellular confinement) made in respect of those offences to run consecutively.

(3) The total period of remission of sentence that may be forfeited

in respect of disciplinary offences arising out of a single incident must not exceed 6 months.

*Reviews, appeals, etc.*

**Review of award in case of mental health order.**

117. (1) Where an award is made against a prisoner who subsequently becomes liable to be detained under an order made under the Mental Health (Bailiwick of Guernsey) Law, 2010, the award must be reviewed in accordance with this regulation.

- (2) The following person must conduct the review –
  - (a) the Governor, or
  - (b) if the Governor (otherwise than in the Governor's capacity as Governor) is an interested party to the charge leading to the award, a senior manager who was not an interested party to the charge, to whom the Adjudication Liaison Officer refers the review.
  
- (3) The person reviewing the award –
  - (a) must consult the responsible medical officer in order to assess whether the disciplinary offence in respect of which the award was made may have been committed whilst that prisoner was suffering from mental disorder, and
  - (b) having regard to that assessment, may order that the award be mitigated or that it has no effect.

(4) Where the person reviewing the award makes an order under paragraph (3)(b), that person must immediately notify –

- (a) the prisoner,
- (b) the Governor (unless the Governor is the person reviewing the award), and
- (c) the manager of the approved establishment in which the prisoner is liable to be detained, and the person in charge of any place where the prisoner is required to reside, under the Mental Health (Bailiwick of Guernsey) Law, 2010.

(5) An order under paragraph (3)(b) has effect under the Law as if it were a direction issued by the Governor.

**Appeal against determination of charge.**

118. (1) Any prisoner found guilty of a disciplinary offence may appeal

- (a) in the case of a determination made by a senior manager, against the determination of the prisoner's guilt, the determination of the award against the prisoner, or both, and
- (b) in the case of a determination made by an independent adjudicator, only against the determination of the award against the prisoner.

(2) The provisions of Schedule 6 have effect in relation to any

appeal made under paragraph (1).

**Request to restore forfeited remission.**

119. (1) A prisoner may make a written request to the Governor to restore any remission time forfeited from a prisoner under regulation 113(2).

(2) Subject to paragraph (3), the Governor may grant the request, either in whole or in part, if the Governor is of the opinion that –

- (a) the prisoner's conduct has been exemplary throughout the prescribed period, or
- (b) the prisoner has at any time during the prescribed period demonstrated meritorious conduct which justifies the grant of the request.

(3) The Governor –

- (a) must not consider a request before the prescribed period has elapsed, and
- (b) must not restore (in aggregate, if more than one request is made) more than half of the remission time forfeited from a prisoner.

(4) The Governor must inform the prisoner in writing of the Governor's decision within 14 days of the later of –

- (a) the day on which the prescribed period elapses, or
- (b) the day on which the prisoner makes the request.

(5) Where the Governor refuses a request, or grants a request only in part –

- (a) the prisoner may make a further request at any time, and
- (b) whether or not the prisoner has made a further request, the Governor may further consider the case and make a further decision at any time.

### PART XIII SECURITY AND SUPERVISION

#### *Governor's responsibilities*

#### **Governor to supervise and control.**

120. (1) The Governor is responsible for –

- (a) the supervision of all authorised persons, and
- (b) the supervision and control of the prisoners.

(2) So far as is reasonably practicable, the Governor must inspect the whole of the prison regularly to ensure that authorised persons and prisoners are carrying out or complying with –

- (a) the Governor's directions and orders, and
- (b) any relevant duties and obligations under the Law.

(3) For the avoidance of doubt, the Governor may exercise the

Governor's functions in any manner the Governor considers appropriate, including by the use of CCTVs placed in any part of the prison.

(4) The Governor may issue Prison Orders concerning the retention, destruction, use and disclosure of any CCTV material.

*Admissions, searches, etc.*

**Admission and search of visitors.**

121. (1) An authorised officer may request a person seeking to enter the prison as a visitor –

- (a) to state the person's name, address and age, and the purpose of the visit,
- (b) to produce satisfactory photographic identification documents, and
- (c) to surrender, for the duration of the visit –
  - (i) any prohibited thing, and
  - (ii) any other thing in that person's possession which the authorised officer considers may be prejudicial to safety, security or good order and discipline.

(2) An authorised officer may request a visitor to consent to a search and, if consent is given, may search the visitor in accordance with the rules in Schedule 7.

(3) The Governor must ensure that a notice explaining the effect of this regulation and regulation 122 is displayed prominently for the benefit of visitors to the prison.

**Refusal of admission and removal of visitors.**

122. (1) Without limiting regulation 51(1), an authorised officer may refuse to admit a visitor, or terminate a visit and remove the visitor, where –

- (a) the visitor fails to verify any information requested under regulation 121(1) to the satisfaction of the officer,
- (b) the visitor refuses to consent to a search, despite a request under regulation 121(2),
- (c) having consented to a search, the visitor is obstructive in the course of that search,
- (d) the authorised officer has reasonable grounds to suspect that the visitor has in that visitor's possession or is bringing in or taking out, or attempting to bring in or take out –
  - (i) any prohibited thing,
  - (ii) any other thing which may prejudice safety, security or good order and discipline, or
- (e) the authorised officer considers –
  - (i) that the conduct of the visitor is prejudicial to safety, security or good order and discipline, or

- (ii) that terminating the visit is necessary on a permissible ground and proportionate to what is sought to be achieved.

(2) As soon as practicable after refusing to admit a visitor or terminating a visit, the authorised officer must record the reasons for doing so.

**Mandatory searches of authorised persons.**

123. (1) The Governor may at any time order an authorised person to be subjected to a search in accordance with the rules in Schedule 7.

(2) The Governor must ensure that a notice explaining the effect of this regulation is displayed prominently for the benefit of authorised persons.

**General powers to stop and detain.**

124. (1) This regulation applies to any person or vehicle entering or leaving, or present in, the green area or the prison.

(2) An authorised officer may at any time stop any person or vehicle to whom or to which this regulation applies, and may detain any person suspected of –

- (a) committing or attempting to commit an offence under the Ordinance or any regulations, or
- (b) being in improper possession of any property belonging to the prison or the Department.

(3) Upon detaining a person under paragraph (2) –

- (a) the authorised officer must immediately notify the Governor, and
- (b) the Governor may direct the authorised officer to request the person to consent to a search under this regulation.

(4) If a person consents to a search following a request under paragraph (3)(b), an authorised officer may search the person in accordance with the rules in Schedule 7.

(5) Nothing in this regulation limits or affects any of regulations 121 to 123.

**Refusal of admission and powers of removal.**

125. (1) This regulation applies to any person entering or leaving, or present in, the green area or the prison –

- (a) who the Governor has reasonable grounds to suspect of any matter in regulation 124(2),
- (b) who refuses to consent to a search when requested under regulation 124(3)(b), or
- (c) whose conduct in the prison or (as the case may be) the green area is, in the opinion of the Governor, prejudicial to safety, security or good order and discipline.

(2) The Governor may do all or any of the following in relation to a person to whom this regulation applies –

- (a) refuse the person admission to the prison,
- (b) if the person is visiting a prisoner, terminate the visit,
- (c) require the person to cease any specified conduct,
- (d) require the person to leave the prison or (as the case may be) the green area, or
- (e) require the person to remove anything brought, thrown or otherwise conveyed by that person into the prison or (as the case may be) the green area.

(3) The Governor may direct the removal from the prison or the green area, by reasonable force if necessary, of –

- (a) any person who does not leave the prison or the green area when required to leave under paragraph (2)(d), or
- (b) anything that is not removed when required to be removed under paragraph (2)(e).

**Viewing of the prison.**

126. (1) Except as otherwise lawfully required or authorised, an authorised person must not permit any person to view the prison without the permission of the Governor.

(2) An authorised person accompanying any person permitted to view the prison must ensure that that person does not make a sketch, take a photograph or talk to any prisoner, unless the Governor has given that person written authorisation to do so.

*Control of prisoners and use of force*

**Control of prisoners.**

127. (1) Authorised persons who are required to control prisoners must seek –

- (a) to influence them by example and leadership, and
- (b) to enlist their willing co-operation.

(2) An authorised person must not act in a manner deliberately calculated to provoke a prisoner.

**Restrictions on use of force.**

128. (1) An authorised person must not use force on a prisoner except in these circumstances –

- (a) where expressly authorised, and using any equipment approved, by or under these Regulations or any Prison Orders, or
- (b) in exceptional cases of self-defence or the defence of another person.

(2) Where an authorised person uses force on a prisoner in accordance with paragraph (1)(a) or (b) –

- (a) no more force may be used than is strictly necessary in the circumstances, and

- (b) the authorised person must make a written report concerning the use of force to the Governor or (in the case of use of force by the Governor) to the Department.
- (3) The Governor must –
  - (a) record the details of each case where force is used on a prisoner, and
  - (b) ensure that each case where force is used on a prisoner is reviewed and monitored.

*Power to photograph and measure prisoners*

**Power to photograph and take measurements of prisoners.**

129. The Governor may order an authorised person to photograph any prisoner and measure and record the weight and height of the prisoner and the length and position of any scars or other distinctive marks on the prisoner's body –

- (a) upon admission of the prisoner into custody in the prison, and
- (b) at any other reasonable time.

*Power to require samples from prisoners*

**Governor may require bodily samples.**

130. (1) An authorised officer may require any prisoner to provide a sample of the prisoner's urine or a non-intimate sample for the purpose of ascertaining

–

- (a) whether the prisoner has any alcohol, controlled drug or medicinal product in the prisoner's body, or
  - (b) whether the prisoner has smoked a tobacco product or any other thing.
- (2) An authorised officer requiring a sample must inform the prisoner that –
  - (a) the prisoner is being required to provide a sample under this regulation, and
  - (b) failure or refusal to provide a sample might lead to disciplinary proceedings being brought against the prisoner.
- (3) An authorised officer requiring a sample –
  - (a) must make arrangements and give the prisoner instructions for the provision of the sample that are reasonably necessary to prevent or detect any adulteration or falsification of the sample, and
  - (b) must specify the time by which the prisoner must provide the sample.
- (4) Subject to regulation 131(3), an authorised officer may keep the prisoner concerned apart from other prisoners for a period not exceeding one hour to enable arrangements to be made for the provision of the sample.

(5) A prisoner required to provide a sample under this regulation must provide a sample that is true, fresh and unadulterated, within the time specified by the authorised officer for the provision of the sample.

(6) Nothing in this regulation applies to a prisoner who is certified by a medical officer to be medically incapable of providing the sample which the prisoner would, but for this paragraph, be required to provide.

(7) In this regulation, "**non-intimate sample**" means –

- (a) a sample of hair other than pubic hair,
- (b) a sample taken from a nail or from under a nail,
- (c) a swab taken from any part of a person's body including the mouth but not any other body orifice,
- (d) saliva,
- (e) a skin impression, or
- (f) a sample of breath.

**Arrangements for urine samples.**

131. (1) This regulation applies to a prisoner who is required to provide a sample of urine under regulation 130.

(2) A prisoner required to provide a sample of urine –

- (a) must be given a degree of privacy that is compatible

with the need to prevent or detect any adulteration or falsification of the sample, and

(b) must not be required to provide the sample in the sight of a person of the opposite sex.

(3) Despite regulation 130(4), an authorised officer may keep a prisoner unable to provide a sample of urine apart from other prisoners for a period of up to five hours until the prisoner has provided the required sample.

*Power to search prisoners, etc.*

**Mandatory search of prisoners, etc.**

132. (1) An authorised officer carrying out a direction or order of the Governor may search –

- (a) a prisoner,
- (b) the prisoner's cell, or
- (c) a thing kept in the prisoner's cell.

(2) An authorised officer may at any time (with or without a direction or order of the Governor) search and examine a thing –

- (a) in the possession of the prisoner or to which the prisoner has access, and
- (b) which is kept in the prison but not in the prisoner's cell.

(3) Subject to paragraph (4), a search under this regulation must be

conducted in accordance with the rules in Schedule 7.

(4) Despite paragraph 8 of Schedule 7, the Governor may direct or order a full search of any prisoner to be carried out by authorised officers if, in the Governor's opinion, the full search –

- (a) is necessary on a permissible ground, and
- (b) is proportionate to what is sought to be achieved.

(5) In this regulation, "**full search**" means –

- (a) the removal and examination of a prisoner's clothing, and
- (b) visual examination of the external parts of the prisoner's body following removal of the prisoner's clothing,

carried out by 2 authorised officers of the same sex as the prisoner, out of the sight of any other person.

(6) Nothing in this regulation authorises an authorised officer to open or read a prisoner's correspondence, except in accordance with Prison Orders relating to the opening or reading of such correspondence.

#### *Use of restraints*

#### **General provisions on use of restraints.**

133. (1) An authorised person must not place a prisoner under restraint except under regulation 134 or 135 and in accordance with regulation 136.

(2) The Governor must ensure that all authorised officers who may be directed under these Regulations to place a prisoner under restraint receive regular training in the procedures to be followed under these Regulations and the Prison Orders for placing prisoners under restraint.

(3) In this regulation and regulations 134 to 136, "**place a prisoner under restraint**" includes applying a mechanical restraint on or to a prisoner.

**Governor may direct restraint.**

134. (1) The Governor may direct an authorised officer to place a prisoner under restraint for up to 24 hours if it appears to the Governor to be necessary in order to prevent the prisoner from –

- (a) injuring the prisoner's self or others,
- (b) damaging property, or
- (c) escaping during transfer to any place outside the prison.

(2) Upon issuing a direction under paragraph (1), the Governor must promptly notify a member of the healthcare team.

- (3) The restraint must be removed immediately if –
- (a) the prisoner is brought before a court (unless the court decides otherwise), or
  - (b) a member of the healthcare team objects on medical grounds to the Governor to the restraint being placed on the prisoner.

**Healthcare team may direct restraint.**

135. (1) A member of the healthcare team who considers it necessary in order to prevent the prisoner from injuring the prisoner's self or others may direct an authorised officer to place a prisoner under restraint for up to 24 hours.

(2) Upon issuing a direction under paragraph (1), the member must promptly notify the Governor.

(3) A direction under paragraph (1) has effect under the Law as if it were a direction issued by the Governor.

**Restrictions and conditions concerning restraint.**

136. (1) No mechanical restraint may be applied on or to a prisoner other than –

(a) handcuffs, or

(b) where authorised by the Governor, a body-belt.

(2) A prisoner must not be placed under restraint as a punishment.

(3) A prisoner must not be placed under restraint longer than strictly necessary.

(4) A member of the healthcare team must visit and examine a prisoner placed under restraint immediately following the application of the restraint and immediately following the removal or termination of the restraint (other than a temporary removal or termination).

(5) An authorised person must visit a prisoner placed under restraint at least once every 15 minutes throughout the period the prisoner is under

restraint; and for the avoidance of doubt, a visit by a member of the healthcare team under paragraph (4) counts as a visit for the purposes of this paragraph.

(6) At each visit, the member of the healthcare team or other authorised person must record any observations made.

(7) The Governor –

- (a) must record the details of each case of a prisoner placed under restraint, and
- (b) must ensure that each case where a prisoner is placed under restraint is reviewed and monitored.

(8) Prison Orders may prescribe –

- (a) the manner in which a prisoner may be placed under restraint (whether by applying a mechanical restraint or otherwise),
- (b) the manner in which a restraint is to be applied on a prisoner, and
- (c) the circumstances in which the restraint of a prisoner must be temporarily removed or terminated.

*Further powers of the Governor*

**Governor may order removal from association.**

137. (1) The Governor may by written direction order a specified prisoner to be removed from associating with other prisoners either generally, or in

relation to any specified activity, for up to 48 hours.

(2) The Governor may by further written direction renew an order for a specified period of up to 48 hours at a time.

(3) Except with the written consent of the Chief Officer of the Department, the Governor must not make or renew an order which would result in the prisoner being removed from association –

(a) for a continuous period exceeding four days, or

(b) for a period exceeding four days in total in any one calendar month.

(4) The Governor must not make or renew an order unless, in the Governor's opinion, it –

(a) is necessary on a permissible ground, and

(b) is proportionate to what is sought to be achieved.

(5) The Governor must revoke or amend an order if so recommended by a member of the healthcare team on medical grounds.

**Governor may order temporary confinement.**

138. (1) The Governor may order a prisoner who is removed from association under regulation 137, or who is refractory or violent, to be –

(a) confined to a cell certified under regulation 12(2)(b) as suitable for this purpose, and

(b) if necessary, physically removed to that cell.

(2) An order for temporary confinement under paragraph (1) is valid for a period of up to 24 hours specified in the order, but may be extended for a specified period of up to 24 hours at a time by order of the Governor if a member of the healthcare team certifies that the prisoner is in a fit condition of health to sustain a longer term of temporary confinement.

(3) The Governor –

(a) must not make an order under paragraph (1) or (2) as punishment for the prisoner, and

(b) must not order the temporary confinement of a prisoner for longer than strictly necessary in each case.

(4) Before making an order under paragraph (1) or (2), the Governor must consult a member of the healthcare team unless it is not reasonably practicable to do so.

(5) As soon as practicable after making an order under paragraph (1) or (2), the Governor must promptly notify –

(a) a member of the healthcare team,

(b) the Panel, and

(c) the Department.

**Conditions of temporary confinement.**

139. (1) A member of the healthcare team must visit and, if appropriate,

examine the prisoner as soon as practicable after the prisoner is placed in temporary confinement and at least once every 24 hours throughout the period of the prisoner's temporary confinement.

(2) An authorised person (other than a member of the healthcare team) must visit any prisoner placed in temporary confinement –

(a) at least hourly, if the cell in which the prisoner is confined is constantly observed by CCTV, and

(b) in any other case, at least once every 15 minutes.

(3) In any case where a prisoner is temporarily confined for a period exceeding 24 hours, the Governor must visit the prisoner at least once in each 24-hour period.

(4) The person making a visit under paragraph (1), (2) or (3) must record any observations made at the visit.

(5) The Governor –

(a) must record the details of each case where a prisoner is placed in temporary confinement, and

(b) must ensure that each case where a prisoner is placed in temporary confinement is reviewed and monitored.

**Suspension of activities.**

140. (1) The Governor may by written direction suspend for a specified period of up to 48 hours –

- (a) any entitlements of prisoners, or
- (b) any activity in which one or more prisoners would normally participate.

(2) The Governor may by a further written direction renew a suspension for a specified period of up to 48 hours at a time.

(3) The Governor must not make or renew a suspension unless, in the Governor's opinion –

- (a) it –
  - (i) is necessary on a permissible ground, and
  - (ii) is proportionate to what is sought to be achieved, or
- (b) it is impracticable for any reason for prisoners to exercise the entitlement or take part in the activity being suspended.

(4) Except with the written consent of the Chief Officer of the Department, the Governor must not make or renew a suspension where it would result in a suspension effectively being in force –

- (a) for a continuous period exceeding four days, or
- (b) for a period exceeding four days in total in any one calendar month.

**Constant observation by CCTV.**

141. (1) Without limiting the powers under regulation 120(3), the Governor may order any prisoner to be placed under constant observation by means of CCTV in the prisoner's cell or in any other part of the prison (including during a visit).

(2) The Governor must not exercise the powers under paragraph (1) unless the Governor is of the opinion that the observation –

- (a) is necessary on a permissible ground, and
- (b) is proportionate to what is sought to be achieved.

PART XIV  
GENERAL PROVISIONS

*Written directions*

**Procedure for issuing written directions.**

142. (1) The Governor may issue a written direction for the purposes of any regulation –

- (a) by issuing the direction to all authorised persons or only those the Governor considers appropriate, and
  - (b) if the Governor considers it appropriate, by publishing the direction in any manner the Governor considers fit within the prison.
- (2) A written direction must specify the date and time of its issue.

(3) Where a written direction concerns a specific prisoner, the Governor must promptly give the prisoner –

- (a) a copy of the direction, and
- (b) a written explanation of the Governor's reasons for issuing the direction.

(4) In these Regulations, "**written direction**" includes an amendment or revocation of a written direction.

*Retention and disclosure of personal data, etc.*

**Retention of intercepted communication material or CCTV material.**

143. (1) The Governor must review the retention of any intercepted communication material or CCTV material –

- (a) at intervals of 28 days, beginning with the day after which the material was intercepted or (as the case may be) obtained, and
- (b) at any other time the Governor considers appropriate.

(2) At each review, unless the Governor considers that continued retention of that material is necessary on a permissible ground and proportionate to what is sought to be achieved, the Governor must arrange for that material to be –

- (a) erased, deleted or otherwise destroyed, or,
- (b) where destruction is impracticable, made inaccessible.

**Destruction of other personal data.**

144. (1) Without limiting regulation 143, subject to paragraph (2), at the end of six years following the lawful discharge of any prisoner from custody or detention in the prison, the Governor must ensure that personal data relating to that prisoner is –

- (a) erased, deleted or otherwise destroyed, or,
- (b) where destruction is impracticable, made inaccessible.

(2) The Governor may retain –

- (a) any medical records of the prisoner,
- (b) any personal data which the Governor considers is likely to be required in the future for the purposes of any criminal, civil or disciplinary proceedings involving that prisoner, and
- (c) any other personal data, where the Governor considers that retention of that personal data –
  - (i) is necessary on a permissible ground, and
  - (ii) is proportionate to what is sought to be achieved.

**Her Majesty's Procureur may require release of personal data.**

145. (1) Despite regulations 143 and 144, Her Majesty's Procureur may at any time require the Governor or an authorised person to release personal data relating to a prisoner for the purposes of a criminal investigation or criminal

proceedings.

(2) Where required under paragraph (1), the Governor or the authorised person concerned must release the personal data concerned to Her Majesty's Procureur or any other person nominated by Her Majesty's Procureur.

*Persons to be notified upon death or serious injury*

**Additional persons to be notified, etc.**

146. (1) For the purposes of paragraph 1(g) of Schedule 5 to the Ordinance, the persons specified in paragraph (3) are prescribed as persons to be given immediate notice where any prisoner in the legal custody of the Governor –

- (a) dies, or
- (b) appears to have attempted suicide, and suffers incapacitation or any other serious injury as a result.

(2) For the purposes of paragraph 2(3)(b) of Schedule 5 to the Ordinance, the persons specified in paragraph (3) are prescribed as persons to be given a copy of the report required to be made under paragraph 2(3)(a) of that schedule.

(3) Paragraphs (1) and (2) refer to the following persons –

- (a) members of the healthcare team, and
- (b) the Medical Officer of Health.

*Interpretation provisions*

**Meaning of "permissible ground".**

147. A reference in any regulation to "a permissible ground" is a reference to any of the following grounds –

- (a) the interests of national security,
- (b) the prevention, detection, investigation or prosecution of crime,
- (c) the interests of public safety, or the safety of the prisoner or any other person,
- (d) securing or maintaining security or good order and discipline in the prison,
- (e) the protection of health or morals, or
- (f) the protection of the rights and freedoms of any person.

**Interpretation.**

148. (1) In these Regulations, unless the context requires otherwise -

**"approved operator" means –**

- (a) a person supplying books, newspapers, periodicals, writing materials or any other things, and approved by the Governor for the purposes of these Regulations,
- (b) a person providing postal, courier or other delivery services, and approved by the Governor for the purposes

of these Regulations, or

- (c) an employee or agent acting on behalf of a person described in paragraph (a) or (b),

**"award"** means an award of punishment for a disciplinary offence under regulation 113,

**"CCTV"** means an overt closed circuit television system,

**"CCTV material"** means material obtained by means of a CCTV,

**"cellular confinement"** means cellular confinement under regulation 113,

**"charge"**, in relation to a prisoner, means a charge that the prisoner has committed a disciplinary offence,

**"custody or sentence plan"**, in relation to any prisoner, means the plan required to be made for each prisoner under regulation 68(1),

**"customs officer"** means an officer authorised under section 3 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972,

**"faith"** means religion, denomination or spiritual belief,

**"faith leader"** means any generally recognised leader of a faith,

**"General Purpose Fund"** means the fund maintained by the Governor for the general comfort and welfare of prisoners,

**"intercepted communication material"** means the contents of any communication intercepted under these Regulations or the Prison Orders,

**"legal adviser"** means –

- (a) an Advocate of the Royal Court of Guernsey,
- (b) a member of the Bar of England and Wales, the Bar of Northern Ireland or the Faculty of Advocates in Scotland, who holds a practising certificate or is otherwise authorised to provide legal services,
- (c) a solicitor of the Senior Courts of England and Wales, a solicitor in Scotland or a solicitor of the Court of Judicature of Northern Ireland,
- (d) an Advocate of the Royal Court of Jersey,
- (e) an Isle of Man advocate, or
- (f) any other person entitled to practise law as a member of the legal profession in any Commonwealth jurisdiction,

**"money"** includes –

- (a) cash, or
- (b) security for money, that has been or may be encashed,

**"the Ordinance"** means the Prison (Guernsey) Ordinance, 2013,

**"permissible ground"** has the meaning given by regulation 147,

**"personal data"** –

- (a) has the meaning given by section 1(1) of the Data Protection (Bailiwick of Guernsey) Law, 2001<sup>k</sup>, and
- (b) includes anything specified by any regulation to be personal data relating to a prisoner,

**"place of detention outside the Island"** means any prison or other place outside the Island where the prisoner is, or is to be, detained or otherwise held in custody,

**"prescribed"** means prescribed by Prison Orders,

**"prison purchasing facility"** means a facility provided within the prison for prisoners to purchase things,

**"prison regime"** means the prison regime established under regulation 81,

**"private cash account"**, in relation to any prisoner, means the account held by the Governor for the prisoner under regulation 85(1),

**"privilege"** –

- (a) means a privilege granted to a prisoner in accordance

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<sup>k</sup> Ordres en Conseil Vol. XLII(I), p. 51; to which there are amendments not relevant to this Ordinance.

with the privileges scheme, and

(b) includes any incentive under the scheme,

**"privileges scheme"** means the scheme of incentives and privileges for prisoners prescribed under Part IX,

**"regulation"** means any provision of these Regulations or any other regulations made under the Ordinance,

**"removal from association"** means removal from association under regulation 113 or 137, and cognate expressions are to be construed accordingly,

**"smoke"** has the meaning given in Schedule 4 to the Ordinance,

**"temporary confinement"** means temporary confinement under an order made under regulation 138, and cognate expressions are to be construed accordingly,

**"without right of abode in the Bailiwick"**, in relation to any person, means a person who, under the Immigration (Bailiwick Of Guernsey) Rules 2008<sup>1</sup> or any other enactment, requires leave to enter the Bailiwick of Guernsey,

**"written direction"** means a written direction issued in accordance with regulation 142, and

other expressions have the respective meanings given by section 55(1) or any other

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<sup>1</sup> G.S.I. No. 26 of 2008; as amended by G.S.I. No. 18 of 2011.

relevant provision of the Ordinance.

(2) The Interpretation (Guernsey) Law, 1948<sup>m</sup> applies to the interpretation of these Regulations.

(3) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

**Index of defined expressions.**

149. In these Regulations, the expressions listed below are defined by the provisions specified.

<b>Expression</b>	<b>Interpretation Provision</b>
Adjudication Liaison Officer	Reg. 103(1)
ammunition	Paragraph 2 of Schedule 1
approved operator	Reg. 148(1)
award	Reg. 148(1)
basic weekly earnings	Paragraph 1(3) of Schedule 5
CCTV	Reg. 148(1)
CCTV material	Reg. 148(1)
cellular confinement	Reg. 148(1)
charge	Reg. 148(1)
Chief Officer of Customs and Excise	Reg. 48(4)
communication	Reg. 29
compulsory school age	Reg. 71(5)
Convention right	Reg. 29
correspondence	Reg. 29
custody or sentence plan	Reg. 148(1)
customs officer	Reg. 148(1)
enhanced wages work	Paragraph 1(3) of Schedule 5
explosive	Paragraph 2 of Schedule 1
faith	Reg. 148(1)
faith leader	Reg. 148(1)
financial institution	Reg. 85(7)

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<sup>m</sup> Ordres en Conseil Vol. XIII, p. 355.

<b>Expression</b>	<b>Interpretation Provision</b>
firearm	Paragraph 2 of Schedule 1
for legal advice or representation	Reg. 29
full search	Reg. 132(5)
General Purpose Fund	Reg. 148(1)
Guernsey Border Agency	Reg. 48(5)
independent adjudicator	Reg. 103(1)
inquirer	Reg. 103(1)
intercept	Reg. 29
intercepted communication material	Reg. 148(1)
key privileges	Reg. 87
legal adviser	Reg. 148(1)
maximum percentage	Paragraph 1(3) of Schedule 5
medical record	Reg. 66(4)
medicinal product	Reg. 148(1)
money	Reg. 148(1)
nearest known relative	Reg. 31(3)
net weekly earnings	Paragraph 1(3) of Schedule 5
non-intimate sample	Reg. 130(7)
notifiable event	Reg. 31(3)
obscene material	Paragraph 2 of Schedule 1
offensive weapon	Paragraph 2 of Schedule 1
ordinary offence	Reg. 103(1)
the Ordinance	Reg. 148(1)
pensionable age	Reg. 71(5)
permissible ground	Regs. 147 and 148(1)
person	Paragraph 1 of Schedule 7
personal data	Reg. 148(1)
place a prisoner under restraint	Reg. 133(3)
place of detention outside the Island	Reg. 148(1)
prescribed	Reg. 148(1)
prison purchasing facility	Reg. 148(1)
prison regime	Reg. 148(1)
prisoner awaiting appeal	Reg. 43(4)
private cash account	Reg. 148(1)
privilege	Reg. 148(1)
privileges decision	Reg. 87
privileges scheme	Reg. 148(1)
prohibited communication	Reg. 53(2)
racial group	Reg. 80(3)
racially inflammatory material	Paragraph 2 of Schedule 1
regulation	Reg. 148(1)
removal from association	Regs. 103(1) and 148(1)
request	Reg. 93(4)

<b>Expression</b>	<b>Interpretation Provision</b>
responsible medical officer	Reg. 103(1)
restriction or condition	Reg. 29
senior manager	Reg. 103(1)
serious operation	Reg. 64(4)
smoke	Reg. 148(1)
special offence	Reg. 103(1)
telecommunications system	Paragraph 2 of Schedule 1
telephone call	Regs. 29 and 38(2)
temporary confinement	Reg. 148(1)
video recording	Paragraph 2 of Schedule 1
without right of abode in the Bailiwick	Reg. 148(1)
work opportunities	Reg. 70(4)
written direction	Regs. 142(4) and 148(1)

*Citation and commencement*

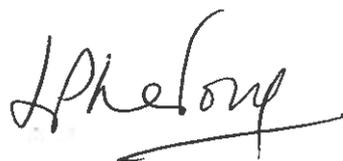
**Citation.**

150. These Regulations may be cited as the Prison (Guernsey) Regulations, 2013.

**Commencement.**

151. These Regulations come into force on the 4<sup>th</sup> November, 2013.

Dated this 28<sup>th</sup> day of October , 2013



DEPUTY JONATHAN LE TOCQ  
Minister of the States Home Department

For and on behalf of the Department

**SCHEDULE 1**  
**PROHIBITED THINGS**

Reg. 1

**Prohibited things.**

1. Each of the following is a prohibited thing—
  - (a) any tobacco product,
  - (b) any controlled drug,
  - (c) any intoxicating liquor,
  - (d) any firearm or ammunition,
  - (e) any explosive,
  - (f) any offensive weapon,
  - (g) any obscene material,
  - (h) any racially inflammatory material,
  - (i) any amphibian, bird, fish, mammal or reptile,
  - (j) any conveyance, whether or not mechanically propelled,
  - (k) anything made or adapted for use in the ingestion of controlled drugs or intoxicants,

- (l) any thing that appears to be made or adapted for smoking or for the production of intoxicating liquor,
- (m) any medicinal product, unless it is –
  - (i) approved by a member of the healthcare team for use in the prison or by prisoners generally, or
  - (ii) in the possession of a prisoner, where the medicinal product has been authorised for the prisoner's use by a member of the healthcare team,
- (n) anything made or adapted for use in the construction, deconstruction, maintenance or repair of things,
- (o) any telecommunications system, and
- (p) any other thing declared by Prison Order to be a prohibited thing.

**Interpretation.**

2. In this Schedule –

**"ammunition"** includes –

- (a) blank ammunition,
- (b) grenades, bombs, and other like missiles, and
- (c) any ammunition containing or designed or adapted to contain any noxious liquid, gas or other thing,

**"explosive"** includes –

- (a) gunpowder, nitroglycerine, guncotton, picric acid, dynamite, blasting gelatine, gelignite, or fulminate of mercury or of other metals,
- (b) fireworks, coloured fires, fuses, percussion caps, detonators, cartridges,
- (c) any other substance or other thing made or used to produce a practical effect or a sound by explosion or a pyrotechnic effect, and
- (d) every adaptation or preparation of an explosive as defined in any of items (a) to (c),

**"firearm"** includes –

- (a) any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged,
- (b) any other weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing (including, for the avoidance of doubt, electrons or an electric current), and

- (c) a firearm which has been de-activated within the meaning of section 8 of the Firearms (Guernsey) Law 1998<sup>n</sup>,

**"obscene material"** means any book, writing, drawing, engraving, painting, print, picture, poster, emblem, photograph, cinematograph film, sound recording, video recording or any other object whatsoever, any part of which contains obscene representations,

**"offensive weapon"** means any thing –

- (a) made or adapted for use for causing bodily injury, or
- (b) intended, by any person having the thing, for such use by that person or by some other person,

**"racially inflammatory material"** means any book, writing, drawing, engraving, painting, print, picture, poster, emblem, photograph, cinematograph film, sound recording, video recording or any other thing, image or information in any form whatsoever, any part of which is intended to, or likely to, stir up hatred against a group of persons defined by reference to colour, race, nationality (including citizenship) or ethnic or national origins,

**"telecommunications system"** means any system (including any apparatus comprised in it) which exists for the purpose of facilitating the transmission of communications by any means involving the use of electrical or electro-magnetic energy, and

**"video recording"** has the meaning given by section 1 of the Video

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<sup>n</sup> Ordres in Conseil, Vol. XXXVIII, p. 324, as amended by Vol. XL, p. 24 (functions transferred by Recueil d'Ordonnances Tome XXIX, p. 406).

Recordings (Guernsey) Law, 2000<sup>o</sup>.

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<sup>o</sup> Ordres in Conseil, Vol. XLI, p. 624; as amended by Recueil d'Ordonnances Tome XXIX, p.406.

## SCHEDULE 2

### MATTERS ABOUT WHICH PRISONERS MUST BE INFORMED

Reg. 2

1. The effect of any warrant, order, authorisation or provision referred to in regulation 3(1).
2. The prison regime, including arrangements for prisoners' correspondence, telephone calls and visits.
3. The following information in relation to the privileges scheme in force at any given time –
  - (a) the matters set out in regulation 88(2),
  - (b) the membership of the review board responsible for making privileges decisions concerning the prisoner, and
  - (c) the procedures in place for –
    - (i) making privileges decisions,
    - (ii) prisoners to comment on reports obtained for the purpose of making privileges decisions,
    - (iii) informing a prisoner of any privileges decision made in relation to the prisoner, and
    - (iv) making appeals against privileges decisions.

4. In the case of a prisoner in default, the procedure for paying any amount of money outstanding in order to secure the prisoner's discharge from prison.
5. In the case of a convicted prisoner (except a prisoner sentenced to life imprisonment), the prisoner's expected date of discharge from the prison.
6. Where a written direction concerns a prisoner named in it, a copy of the direction and a written explanation of the Governor's reasons for issuing the direction are prescribed matters in relation to the prisoner concerned.

## SCHEDULE 3

### DISPOSAL OF SEIZED THINGS

Regs. 36, 84 and 86 and Schedule 7

Any thing seized under these Regulations or the Prison Orders must be dealt with in accordance with paragraphs 1 to 6, in descending order of priority.

1. Any thing which appears to be evidence of a criminal offence must be given into the custody of a police officer or customs officer until it is no longer needed for any criminal proceedings.
2. Any thing which appears to be evidence of a disciplinary offence by a prisoner must be given into the custody of the Governor until it is no longer needed for any disciplinary proceedings.
3. Any thing which appears to be a controlled drug or medicinal product, the receipt, possession, consumption and use of which has not been authorised by a member of the healthcare team in relation to any prisoner from whom or from whose possession the thing was seized, must be given into the custody of a member of the healthcare team for disposal as the member considers appropriate.
4. Any prohibited thing –
  - (a) must be stored as the prisoner's property in accordance with Schedule 4 or (at the prisoner's request) returned to the person who delivered the prisoner to the prison, but
  - (b) if neither storage nor return is practicable for any reason, must, at the

discretion of an authorised officer, be destroyed, sold or otherwise disposed of, and any proceeds must be paid into the General Purpose Fund.

5. Any thing which appears to be the rightful property of a prisoner –
  - (a) if lawfully required or authorised to be kept in the possession of the prisoner, must be returned into the possession of the prisoner concerned, and
  - (b) in any other case, must be stored as the prisoner's property in accordance with Schedule 4.
  
6. Any thing given into the custody of a police officer, customs officer or the Governor under paragraph 1 or 2, when no longer needed for the respective proceedings, must (unless a court orders otherwise) be returned to the prison to be disposed of in accordance with the provisions of this Schedule.

## SCHEDULE 4

### STORAGE OF PRISONERS' PROPERTY

Reg. 84 and Schedule 3

1. A thing stored as a prisoner's property under any regulation or Prison Order must be stored in such a manner that it is safe, secure and identifiable as the property of the prisoner concerned, subject to paragraphs 2 and 3.
2. If at any time an authorised officer is of the opinion that any thing is of a kind specified in any of paragraphs 1 to 4 of Schedule 3, the thing may be disposed of in accordance with that schedule.
3. Subject to paragraph 4, if at any time an authorised officer is of the opinion that—
  - (a) storage of any thing exceeds any prescribed volumetric restrictions,
  - (b) any thing is perishable, or
  - (c) it is necessary, on a permissible ground, to remove any thing from the prison or to dispose of the thing,the authorised officer must request the prisoner to arrange for the removal or disposal of that thing.
4. If it is not practicable for a prisoner to arrange for the removal or disposal of any thing when requested under paragraph 3, an authorised officer must arrange for that thing to be destroyed, sold or otherwise disposed of, at the discretion of the officer, and any proceeds must be paid into the General Purpose Fund.



## SCHEDULE 5

### DEDUCTIONS FROM PRISONERS' EARNINGS

Regs. 72 and 102

**1. Power to make deductions.**

- (1) This paragraph applies where –
- (a) a prisoner is paid for work done by the prisoner whilst on a temporary release licence under section 30 of the Ordinance, and
  - (b) the prisoner's net weekly earnings in respect of that work exceed the basic weekly earnings.
- (2) Where this paragraph applies, the Governor may make a deduction, from the amount by which the prisoner's net weekly earnings exceeds the basic weekly earnings, of a percentage of that amount not exceeding the maximum percentage.
- (3) In this paragraph –

"**basic weekly earnings**" means £13 (or any other sum prescribed by Prison Order) per week,

"**maximum percentage**" means 33.33%,

"**net weekly earnings**" means weekly earnings after deduction of such of the following as are applicable –

- (a) income tax,
- (b) social insurance contributions,
- (c) payments required to be made by or under an order of any court (including a compensation order made under the Criminal Justice (Compensation) (Bailiwick of Guernsey) Law, 1990<sup>P</sup>), and
- (d) any payments required to be made under any enactment for child support or child maintenance.

**2. Application of amounts deducted**

The Governor must apply deductions made under paragraph 1(2) towards one or more of the following purposes, in percentages considered appropriate by the Governor in the case of each prisoner, taking into account all relevant circumstances –

- (a) payments to the States of Guernsey with a view to contributing towards the cost of the prisoner's upkeep,
- (b) direct or indirect payments to voluntary organisations concerned with victim support or crime prevention or both,
- (c) direct or indirect payments to bodies involved in the care or support of prisoners whilst in prison or after discharge,

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<sup>P</sup> Ordres en Conseil Vol. XXXII, p. 77; as amended by Order in Council No. VI and No. XVI of 2009. See also Order in Council No. XIV of 2009.

- (d) payments to or in respect of any person determined by the Governor to be a dependant of the prisoner in proportions determined by the Governor, and
- (e) payments into an investment account with a view to capital and interest being held for the benefit of the prisoner on terms determined by the Governor.

**3. Statements of account**

- (1) In relation to each week in which an amount is deducted from the earnings of a prisoner under paragraph 1(2), and each purpose towards which that amount or any part of it is applied under paragraph 2, the Governor must furnish the prisoner with a statement setting out –
  - (a) the amount deducted, and
  - (b) the specific sum of money or percentage of the deduction applied towards each such purpose.
- (2) If any amount so deducted has been applied towards the purpose specified in paragraph 2(e), the Governor must, on request by the prisoner, furnish the prisoner with a statement showing the amount for the time being standing to the credit of the investment account mentioned in paragraph 2(e).

**4. Review and other limitations**

A decision of the Governor under paragraph 1(2) or 2 –

- (a) subject to items (b) and (c), must be made in accordance with any Prison Orders issued for this purpose,

- (b) is subject to any restriction or limitation prescribed by regulations, and
- (c) is subject to review by the Department in accordance with regulation 102.

## SCHEDULE 6

### APPEALS AGAINST DETERMINATION OF CHARGES

Reg. 118

#### *Procedure for making an appeal*

1. An appeal against a determination of a charge may be made by the prisoner giving a written notice of appeal (including the grounds of appeal) in a prescribed form to the Governor within 14 days of the prisoner being given written notice of the determination under regulation 112(5).
2. In the case of an appeal against a determination made by an independent adjudicator, the Governor must promptly forward the notice of appeal to the Bailiff.

#### *Person to hear appeal*

3. An appeal against a determination made by an independent adjudicator must be determined by –
  - (a) the Deputy Bailiff, or
  - (b) a Lieutenant Bailiff, or a Judge or Deputy Judge of the Magistrate's Court, appointed by the Bailiff to hear the appeal.
4. An appeal against a determination made by a senior manager must be determined by the Governor.
5. If at any time, a person who is to determine an appeal is absent, incapacitated,

or becomes aware that the person is an interested party to the charge, the following person must hear the appeal –

- (a) where the determination being appealed was made by an independent adjudicator, another person qualified under paragraph 3 to determine the appeal, appointed by the Bailiff, and
- (b) where the determination being appealed was made by a senior manager, a person appointed by the Department.

*Time for hearing appeal*

- 6. The person determining an appeal must determine it within the later of –
  - (a) five working days of receiving the notice of appeal, or
  - (b) five working days of being appointed to hear that appeal under paragraph 3 or 5.

*Legal advice for appeals*

- 7. In the case of an appeal against an award of forfeiture of remission of sentence, or against a finding of guilt resulting in such an award, the person determining the appeal must allow that prisoner to obtain legal advice to draft or re-draft the written appeal (subject to paragraph 6).
- 8. In any other case, having regard to the matters specified in paragraph 9, the person determining the appeal may, if that person considers that the interests of justice so require, allow the prisoner to obtain legal advice to draft or re-draft the written appeal (subject to paragraph 6).

9. Paragraph 8 refers to the following matters –
- (a) the seriousness of the offence of which the prisoner has been found guilty,
  - (b) the seriousness of any award made against the prisoner,
  - (c) whether any points of law are likely to arise,
  - (d) procedural difficulties,
  - (e) the capacity of the prisoner to present the prisoner's written appeal effectively,
  - (f) the need for reasonable speed and for fairness in determining the appeal, and
  - (g) any other relevant matters raised by the prisoner.

*Procedure to determine appeal*

10. The person determining the appeal may request a response in writing or further information from the inquirer, the authorised person who brought the charge and any other person considered appropriate.
11. The appeal must be determined on the basis of the written appeal and written responses and information provided to the person determining the appeal.
12. On determination of the appeal, the person determining the appeal –
- (a) may affirm, remit or mitigate any punishment awarded against the

prisoner, unless the period for which the punishment was awarded has expired before the determination of the appeal,

- (b) where the appeal is against a finding of guilt made by a senior manager, may affirm or quash the finding of guilt, and
  - (c) must give the prisoner, the Chairman of the Panel, and (unless the person determining the appeal is the Governor) the Governor written notice of any determination under subparagraph (a) or (b).
13. The Governor must take any action necessary to give effect to a determination under paragraph 12(a) or (b).
  14. If the person determining the appeal quashes a finding of the prisoner's guilt, the Governor must destroy any written record relating to the prisoner which concerns the alleged disciplinary offence except to the extent that the record relates to any other determination of a charge which continues to form part of the prisoner's records.
  15. The Department may publish details of a determination under paragraph 12(a) or (b) in any manner it considers appropriate.

## SCHEDULE 7

### SEARCH RULES

Regs. 121, 123, 124 and 132

1. In this schedule, "**person**" means the person subjected to a search.
2. A search may be conducted on –
  - (a) the person,
  - (b) any thing on the person or in the person's possession, and
  - (c) any vehicle or equipment in the person's charge or which the person intends to take, or has taken, into the prison.
3. A search may be conducted at any time –
  - (a) before the person is admitted to the prison,
  - (b) whilst the person is in the prison, or
  - (c) whilst the person is in the lawful custody of an authorised officer.
4. A search of any person must be conducted –
  - (a) as expeditiously as possible, with decency and sensitivity and in a manner that affords to the person being searched the greatest degree of privacy and dignity consistent with the purpose of the search,
  - (b) if the person is under the age of 10 years, by a female authorised

officer accompanied by another authorised officer of either sex,

- (c) if the person is a male of the age of 10 years or above, by an authorised officer of either sex, accompanied by another authorised officer of either sex, and
  - (d) if the person is a female of the age of 10 years or above, by an authorised female officer, accompanied by another authorised officer of either sex.
5. A search of any person under the age of 18 years must be conducted in the presence of a person 21 years of age or above accompanying that person.
6. A mandatory search under regulation 123 or 132 may be conducted using reasonable force if necessary, subject to paragraphs 7 and 8.
7. A search of the open mouth of any person may be carried out –
- (a) only with the consent of the person, and
  - (b) only by visual examination and without the use of any instruments or force.
8. The person must not be asked to remove, and the search must not involve the removal of, any clothing other than the person's outer coat, jacket, headgear, belt, gloves and footwear (except in the case of a full search carried out under a direction or order made under regulation 132(4)).
9. A search of the person's personal possessions (including any item of clothing the person is asked to remove) or of any vehicle may, in addition to being carried out by hand, be carried out –

- (a) by equipment involving 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, followed by the analysis of such particles in order to ascertain the presence of explosives, controlled drugs or other prohibited things,
  - (b) by equipment designed to detect metal objects, or
  - (c) by any other measure specified by direction of the Governor.
10. Except as provided by paragraph 7, this power to search does not authorise the physical examination of a prisoner's body orifices.
11. An authorised officer must –
- (a) seize any prohibited thing found in the course of a search, and
  - (b) dispose of the prohibited thing in accordance with Schedule 3.

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#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under the Prison (Guernsey) Ordinance, 2013.

Part I sets out a list of things which are prohibited in the prison and prescribes matters which are required to be disclosed to prisoners.

Part II provides for admission of a person into custody in the prison and outlines

duties of authorised officers upon such admission.

Part III specifies minimum entitlements of prisoners, in relation to admission, classification, accommodation and bedding, clothing, food and drink, hygiene, faith, information and media.

Part IV deals with communications and visits of prisoners, including minimum entitlements to correspondence, telephone calls and visits. This Part also provides for Prison Orders to be made to restrict or impose conditions on correspondence, telephone calls and visits, as long as there is no interference with Convention rights under the Human Rights (Bailiwick of Guernsey) Law, 2000 or any interference is justifiable on certain grounds and proportionate.

Part V deals with medical facilities and medical care to be provided to prisoners, including provision for operations, the keeping of medical records and an annual report on general health conditions in the prison.

Part VI requires custody and sentence planning for prisoners, and the provision of courses, treatment, counselling and education to prisoners, as far as reasonably practicable. Convicted prisoners are required to work and unconvicted prisoners are allowed to work if suitable work is available.

Part VII deals with exercise, recreation and the general management of the prison.

Part VIII sets out restrictions and procedures concerning the property and money of prisoners.

Part IX requires the Governor to prescribe a system of privileges and incentives for prisoners, and provides for review of privileges decisions.

Part X deals with the transfer and discharge of prisoners.

Part XI sets out procedures for prisoners to make requests for visits by a Panel member, make formal complaints, or seek review of certain decisions made by the Governor. A prisoner may make a complaint about the conduct of the Governor, a Governor grade or any authorised person. The Governor (and in certain cases the Home Department) is required to deal with complaints and requests for reviews within a specified time.

Part XII deals with prisoner discipline, including awards and appeals.

Part XIII sets out measures for security and supervision of the prison. It deals with admission of visitors, searches (of visitors, authorised persons and prisoners), control and supervision of prisoners, power to measure and take photographs of prisoners, taking of mandatory urine samples and non-intimate samples from prisoners and the use of force and restraints on prisoners. It also gives the Governor special powers in relation to prisoners, such as the use of CCTV or removal from association or temporary confinement of prisoners, subject to a number of safeguards.

Part XIV contains general and administrative provisions, such as the procedure for the Governor to issue written directions and provisions concerning the destruction, retention or release of personal data. This Part also contains provisions for the interpretation, citation and commencement of these Regulations.

These Regulations will come into force on the 4<sup>th</sup> November, 2013.

