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STATUTORY INSTRUMENTS

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**2024 No. 212**

**PRISONS, ENGLAND AND WALES  
YOUNG OFFENDER INSTITUTIONS,  
ENGLAND AND WALES**

**The Prison and Young Offender Institution  
(Adjudication) (Amendment) Rules 2024**

<i>Made</i>	- - - -	<i>21st February 2024</i>
<i>Laid before Parliament</i>		<i>29th February 2024</i>
<i>Coming into force</i>	- -	<i>31st May 2024</i>

The Secretary of State makes the following Rules in exercise of the powers conferred by section 47(1) and (2) of the Prison Act 1952<sup>(1)</sup>.

**Citation, commencement and extent**

1.—(1) These Rules may be cited as the Prison and Young Offender Institution (Adjudication) (Amendment) Rules 2024 and come into force on the 31st May 2024.

(2) These Rules extend to England and Wales.

**Amendments to the Prison Rules 1999**

2.—(1) The Prison Rules 1999<sup>(2)</sup> are amended as follows.

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

““payback punishment” means a requirement to complete unpaid work that is rehabilitative or reparative in nature;”.

(3) In rule 51 (offences against discipline)—

(a) for paragraph (1A) substitute—

“(1A) commits any assault aggravated by a protected characteristic;”;

(b) after paragraph (1A) insert—

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(1) 1952 c. 52. Section 47(1) was amended by section 6(2) of the Criminal Justice and Public Order Act 1994 (c. 33).  
(2) S.I. 1999/728. Rule 51(1A), (17A), (20A) and (24A) and Rule 51A were inserted by S.I. 2000/1794. Rule 55 was amended by S.I. 2002/2116. Rule 55A was inserted by S.I. 2002/2116. Rule 55AB was inserted by S.I. 2013/2462. Rule 60 was amended by S.I. 2002/2116. There are other amending instruments, but none is relevant.

- “(1B) commits any sexual assault;
- (1C) exposes himself, or commits any other indecent or obscene act;
- (1D) sexually harasses any person;”;
- (c) for paragraph (17A) substitute—
  - “(17A) causes damage to, or destruction of, any part of a prison or any other property, other than his own, aggravated by a protected characteristic;”;
- (d) for paragraph (20A) substitute—
  - “(20A) uses threatening, abusive or insulting words or behaviour, which demonstrate, or are motivated (wholly or partly) by, hostility to persons based on them sharing a protected characteristic;”;
- (e) after paragraph (23) insert—
  - “(23A) fails to comply with any payback punishment;”;
- (f) for paragraph (24A) substitute—
  - “(24A) displays, attaches or draws on any part of a prison, or on any other property, threatening, abusive or insulting words, drawings, symbols or other material, which demonstrate, or are motivated (wholly or partly) by, hostility to persons based on them sharing a protected characteristic;”.
- (4) In rule 51A (interpretation of rule 51), for paragraph (2) substitute—
  - “(2) For the purposes of rule 51—
    - (a) reference to a protected characteristic means a characteristic listed in section 4 of the Equality Act 2010;
    - (b) a prisoner commits a sexual assault if the criteria in section 3(1) of the Sexual Offences Act 2003 are fulfilled;
    - (c) Sections 3(2), 75 and 76 of the Sexual Offences Act 2003 apply to an offence under rule 51(1B);
    - (d) a prisoner commits exposure if the criteria in section 66(1) of the Sexual Offences Act 2003 are fulfilled;
    - (e) a prisoner sexually harasses a person if the criteria in section 26(2) of the Equality Act 2010 are fulfilled;
    - (f) an offence is aggravated by a protected characteristic if—
      - (i) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim having that protected characteristic, or
      - (ii) the offence is motivated (wholly or partly) by hostility to persons based on them sharing that protected characteristic;
    - (g) references to particular protected characteristics, to a person who has a particular protected characteristic, and to persons sharing a particular protected characteristic, are to be interpreted in accordance with sections 5 to 12 of the Equality Act 2010(3);
    - (h) reference to a person having a protected characteristic includes a person being presumed to have, or associating with those who have, a protected characteristic;

- (i) reference to persons sharing a protected characteristic includes persons being presumed to share, or associating with those who share, a protected characteristic.”
- (5) In rule 55 (governor’s punishments)—
  - (a) in paragraph (1), after sub-paragraph (h) insert—
    - “(i) payback punishment, unless the prisoner is an unconvicted prisoner;”.
- (6) In rule 55A(1)(a) (adjudicator’s punishments), for “any of the punishments mentioned in rule 55(1)” substitute “the punishments mentioned in rule 55(1)(a) to 55(1)(h)”.
- (7) In Rule 55AB(2) (requirement to pay for damage to prison property)—
  - (a) for “must” substitute “may”;
  - (b) for “for” substitute “towards”.
- (8) For rule 60 (suspended punishments) substitute—

**“Suspended punishments**

**60.**—(1) Subject to any directions given by the Secretary of State, the power to impose a disciplinary punishment (other than a caution or payback punishment) includes the power to give a suspended punishment direction.

(2) A suspended punishment direction is a direction that the punishment is not to take effect, unless the prisoner breaches a condition.

(3) A condition may be either that the prisoner—

- (a) does not commit another offence against discipline during a specified period (a “non-offending condition”), or
- (b) complies with or completes a specified rehabilitative activity during a specified period (a “rehabilitative condition”).

(4) For the purposes of paragraph (3), a condition’s specified period may not be any longer than six months from the date of the direction.

(5) An adjudicator may only give a suspended punishment direction containing a non-offending condition.

(6) A governor may give a suspended punishment direction containing either a non-offending condition or one or more rehabilitative conditions.

(7) Subject to paragraph (11), where a prisoner breaches a non-offending condition, the governor or adjudicator (as the case may be) must take one of the steps set out in paragraph (10).

(8) Where it appears to a governor that a prisoner may have breached a rehabilitative condition without good reason, the governor must inquire into, and come to a finding as to, whether they had done so.

(9) If a governor finds that a prisoner has without good reason breached a rehabilitative condition, the governor must take one of the steps set out in paragraph (10).

(10) The steps referred to in paragraphs (7) and (9) are—

- (a) direct that the suspended punishment will be activated;
- (b) reduce the period or amount of the suspended punishment and direct that it will be activated as so reduced;
- (c) vary the original suspended punishment direction by substituting for the period specified a period expiring not later than six months from the date of variation;

(d) direct that the suspended punishment will not be activated and the suspended punishment direction will remain in force.

(11) A governor may not direct that a suspended punishment be activated where the suspended punishment is in respect of an award of additional days.”.

### **Amendments to the Young Offender Institution Rules 2000**

3.—(1) The Young Offender Institution Rules 2000(4) are amended as follows.

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

““payback punishment” means a requirement to complete unpaid work that is rehabilitative or reparative in nature;”.

(3) In rule 55 (offences against discipline)—

(a) for paragraph (2) substitute—

“(2) commits any assault aggravated by a protected characteristic;”;

(b) after paragraph (2) insert—

“(2A) commits any sexual assault;

(2B) commits exposure, or any other indecent or obscene act;

(2C) sexually harasses any person;”;

(c) for paragraph (19) substitute—

“(19) causes damage to, or destruction of, any part of a prison or any other property, other than his own, aggravated by a protected characteristic;”;

(d) for paragraph (23) substitute—

“(23) uses threatening, abusive or insulting words or behaviour, which demonstrate, or are motivated (wholly or partly) by, hostility to persons based on them sharing a protected characteristic;”;

(e) after paragraph (26) insert—

“(26A) fails to comply with any payback punishment;”;

(f) for paragraph (28) substitute—

“(28) displays, attaches or draws on any part of a prison, or on any other property, threatening, abusive or insulting words, drawings, symbols or other material, which demonstrate, or are motivated (wholly or partly) by, hostility to persons based on them sharing a protected characteristic;”.

(4) For rule 57 (interpretation of rule 55) substitute—

#### **“Interpretation of rule 55**

57. For the purposes of rule 55—

- (a) reference to a protected characteristic means a characteristic listed in section 4 of the Equality Act 2010;
- (b) a prisoner commits a sexual assault if the criteria in section 3(1) of the Sexual Offences Act 2003 are fulfilled;
- (c) Sections 3(2), 75 and 76 of the Sexual Offences Act 2003 apply to an offence under rule 55(2A);

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(4) [S.I. 2000/3371](#). Rule 60 was amended by [S.I. 2002/2117](#) and the Sentencing Act 2020 c. 17. Rule 60A was inserted by [S.I. 2002/2117](#) Rule 63 was amended by [S.I. 2002/2117](#). There are other amending instruments, but none is relevant.

- (d) a prisoner commits exposure if the criteria in section 66(1) of the Sexual Offences Act 2003 are fulfilled;
  - (e) a prisoner sexually harasses a person if the criteria in section 26(2) of the Equality Act 2010 are fulfilled;
  - (f) an offence is aggravated by a protected characteristic if—
    - (i) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim having that protected characteristic, or
    - (ii) the offence is motivated (wholly or partly) by hostility to persons based on them sharing that protected characteristic;
  - (g) references to particular protected characteristics, to a person who has a particular protected characteristic, and to persons sharing a particular protected characteristic, are to be interpreted in line with sections 5 to 12 of the Equality Act 2010;
  - (h) reference to a person having a protected characteristic includes a person being presumed to have, or associating with those who have, a protected characteristic;
  - (i) reference to persons sharing a protected characteristic includes persons being presumed to share, or associating with those who share, a protected characteristic.”.
- (5) In rule 60 (governor’s punishments)—
- (a) in paragraph (1), after sub-paragraph (h) insert—
    - “(i) payback punishment, unless the inmate is an unconvicted inmate;”.
- (6) In rule 60A(1)(a) (adjudicator’s punishments), for “any of the punishments mentioned in rule 60(1)” substitute “the punishments mentioned in rule 60(1)(a) to 60(1)(h)”.
- (7) In rule 60AB(2) (requirement to pay for damage to young offender institution property)—
- (a) for “must” substitute “may”;
  - (b) for “for” substitute “towards”.
- (8) For rule 63 (suspended punishments) substitute—

### **“Suspended punishments**

**63.**—(1) Subject to any directions given by the Secretary of State, the power to impose a disciplinary punishment (other than a caution or payback punishment) includes the power to give a suspended punishment direction.

(2) A suspended punishment direction is a direction that the punishment is not to take effect, unless the inmate breaches a condition.

(3) A condition may be either that the inmate—

- (a) does not commit another offence against discipline during a specified period (a “non-offending condition”), or
- (b) complies with or completes a specified rehabilitative activity during a specified period (a “rehabilitative condition”).

(4) For the purposes of paragraph (3), a condition’s specified period may not be any longer than six months from the date of the direction.

(5) An adjudicator may only give a suspended punishment direction containing a non-offending condition.

(6) A governor may give a suspended punishment direction containing either a non-offending condition or one or more rehabilitative conditions.

(7) Subject to paragraph (11), where an inmate breaches a non-offending condition, the governor or adjudicator (as the case may be) must take one of the steps set out in paragraph (10).

(8) Where it appears to a governor that an inmate may have breached a rehabilitative condition without good reason, the governor must inquire into, and come to a finding as to, whether they had done so.

(9) If a governor finds that an inmate has without good reason breached a rehabilitative condition, the governor must take one of the steps set out in paragraph (10).

(10) The steps referred to in paragraphs (7) and (9) are—

- (a) direct that the suspended punishment will be activated;
- (b) reduce the period or amount of the suspended punishment and direct that it will be activated as so reduced;
- (c) vary the original suspended punishment direction by substituting for the period specified a period expiring not later than six months from the date of variation;
- (d) direct that the suspended punishment will not be activated and the suspended punishment direction will remain in force.

(11) A governor may not direct that a suspended punishment be activated where the suspended punishment is in respect of an award of additional days.”.

21st February 2024

*Edward Argar*  
Minister of State  
Ministry of Justice

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## EXPLANATORY NOTE

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

These Rules amend the Prison Rules 1999 (S.I. 1999/728) and the Young Offender Institution Rules 2000 (S.I. 2000/3371).

The amendments remove offences in Prison Rule 51 and Young Offender Institution Rule 55 concerning “racially aggravated” or “racist” behaviour. In their place, the amendments substitute new offences concerning behaviour demonstrating or motivated by hostility towards persons sharing, any of the protected characteristics in the Equality Act 2010, including race.

The amendments also insert three new sexual offences against discipline into Prison Rule 51 and Young Offender Institution Rule 55.

The amendments remove definitions of terms no longer in Prison Rule 51 and Young Offender Institution Rule 55 from Prison Rule 51A and Young Offender Institution Rule 57. In their place, the amendments substitute definitions of various terms relating to the new offences, and provisions on how references to particular terms relating to the new offences are to be interpreted.

The amendments insert a new punishment of payback punishment into Prison Rule 55 and Young Offender Institution Rule 60, and insert a definition of that term into Prison Rule 2 and Young Offender Institution Rule 2. They also insert conditions on who can impose the punishment and on whom it can be imposed into Prison Rules 55 and 55A, and Young Offender Institution Rules 60 and 60A, and they insert a corresponding new offence against discipline where an offender fails to comply with any requirement to complete payback punishment into Prison Rule 51 and Young Offender Institution Rule 55.

The amendments amend Prison Rule 55AB and Young Offender Institution Rule 60AB, in order to give the governor or adjudicator discretion over whether to impose a requirement to pay for damage to property, and what proportion of the cost to set the requirement at, where an offender has committed a relevant offence.

The amendments substitute new provisions on suspended punishments for Prison Rule 60 and Young Offender Institution Rule 63. These new provisions enable punishments to be suspended subject to a condition of complying with or completing a specified rehabilitative activity during a specified period, in addition to the existing possibility of suspending a punishment subject to a condition of not committing another offence against discipline during a specified period.

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