
STATUTORY INSTRUMENTS

2018 No. 549

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

The Prison and Young Offender
Institution (Amendment) Rules 2018

<i>Made</i>	- - - -	<i>27th April 2018</i>
<i>Laid before Parliament</i>		<i>1st May 2018</i>
<i>Coming into force</i>	- -	<i>22nd May 2018</i>

The Secretary of State, in exercise of the powers conferred by sections 40A(6) and 47(1) of the Prison Act 1952(1), makes the following Rules.

Citation and commencement

1. These Rules may be cited as the Prison and Young Offender Institution (Amendment) Rules 2018 and come into force on 22nd May 2018.

Amendment of the Prison Rules 1999

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

(2) In rule 2(1) (interpretation), after the definition of “convicted prisoner”, insert—

““electronic cigarette” means a product that can be used for the consumption of nicotine-containing vapour via a mouth piece, or any component of that product, including a cartridge, a tank, and the device without cartridge or tank (regardless of whether the product is disposable or refillable by means of a refill cartridge and a tank, or rechargeable with single use cartridges).””.

(3) In rule 8 (privileges)—

(a) in paragraph (1), omit “approved by the Secretary of State and”, and

(1) 1952 c. 52. Section 40A(6) was inserted by section 22(1) of the Offender Management Act 2007 (c. 21). Section 47(1) was amended by section 6(2) of the Criminal Justice and Public Order Act 1994 (c. 33) and paragraph 3(2) of Schedule 9 to the Criminal Justice and Courts Act 2015 (c. 2).

(2) S.I. 1999/728, amended by S.I. 2008/597; there are other amending instruments but none is relevant.

- (b) in paragraphs (2) and (3), for “approved” substitute “established”.
- (4) For rule 25(2) (alcohol and tobacco), substitute the following—
- (5) “(2) No prisoner shall be allowed to smoke or to have any tobacco, except in accordance with any directions of the Secretary of State.”.
- (6) In rule 70A (List C Articles), after paragraph (j) insert—
 - “(k) electronic cigarettes;
 - (l) matches;
 - (m) lighters.”.

Amendment of the Young Offender Institution Rules 2000

- 3.—**(1) The Young Offender Institution Rules 2000(3) are amended as follows.
- (2) In rule 2(1) (interpretation), after the definition of “controlled drug”, insert—
 - ““electronic cigarette” means a product that can be used for the consumption of nicotine-containing vapour via a mouth piece, or any component of that product, including a cartridge, a tank and the device without cartridge or tank (regardless of whether the product is disposable or refillable by means of a refill container and a tank, or rechargeable with single use cartridges).”.
- (3) In rule 6 (privileges)—
 - (a) in paragraph (1), omit “approved by the Secretary of State and”, and
 - (b) in paragraphs (2) and (3), for “approved” substitute “established”.
- (4) In rule 74A (List C Articles), after paragraph (j) insert—
 - “(k) electronic cigarettes;
 - (l) matches;
 - (m) lighters.”.

27th April 2018

David Gauke
Secretary of State for Justice
Department

EXPLANATORY NOTE

(This note is not part of the Rules)

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

In summary, the main changes made are: to remove the requirement for the Secretary of State to approve local systems of privilege, to prohibit prisoners from smoking other than in accordance with the directions of the Secretary of State, to add some additional articles associated with smoking onto List C, and to insert a new definition of electronic cigarettes.

Rule 2(2) inserts a definition of “electronic cigarette” in rule 2 (interpretation) of the 1999 Rules. Rule 2(3) removes the requirement for systems of privilege established at every prison to be approved by the Secretary of State.

Rule 2(4) amends rule 25(2) (alcohol and tobacco) of the 1999 Rules to remove the possibility of prisoners being allowed to smoke as a privilege or in accordance with any governor orders. The effect of the change is to prohibit prisoners from smoking or having tobacco, except in accordance with directions from the Secretary of State. Rule 2(5) amends rule 70A (List C Articles) of the 1999 Rules to add electronic cigarettes, matches and lighters onto List C.

Items on List C are subject to the offences in section 40C(2) (conveyance etc. of List B or C articles into or out of prison) of the Prison Act 1952 (c. 52). The effect of adding these items onto List C is that it will be a criminal offence to convey them into or out of prison, with an applicable maximum penalty of a fine not exceeding level 3 on the standard scale.

Rule 3 makes the equivalent changes in relation to systems of privilege and List C for the 2000 Rules. A full impact assessment has not been produced for this instrument as no impact on the private, voluntary or public sectors is foreseen.