

**EXPLANATORY MEMORANDUM TO**  
**THE SECURE TRAINING CENTRE (AMENDMENT) RULES 2007**

**2007 No. 1709**

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 These Rules (“the 2007 Rules”) amend Rule 36 of the Secure Training Centre Rules 1998 (“the 1998 Rules”), which provides for a trainee to be removed from association with other trainees in the interests of preventing him from causing significant harm to himself or to any other person or significant damage to property. They also amend Rule 38, which prescribes the purposes for which a custody officer at a secure training centre may physically restrain a trainee, where no alternative method of achieving those purposes is available. The 2007 Rules enable a trainee to be removed from association in the interests of good order and discipline; and permit physical restraint to be used to ensure good order and discipline.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Background**

4.1 Section 47 of the Prison Act 1952 permits the Secretary of State to make rules relating to the operation of secure training centres. Section 7 of the Criminal Justice and Public Order Act 1994 states that while a contract for the running of a secure training centre or part of a centre is in force, the centre or part shall be run in accordance with secure training centre rules subject to such adaptations and modifications as the Secretary of State may specify in relation to contracted out secure training centres.

4.2 Section 9(3) of the Act prescribes the duties of a custody officer performing custodial duties at a contracted-out secure training centre as respects offenders detained in the centre. These are: to prevent their escape from lawful custody; to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;

to ensure good order and discipline on their part; and to attend to their well-being. Section 9(4) states that the powers arising by virtue of subsection (3) shall include power to use reasonable force where necessary.

- 4.3 The 1998 Rules provide, among other things, for a trainee to be removed from association with other trainees (Rule 36) and specify the circumstances in which a trainee may be subject to physical restraint (Rule 38).
- 4.4 Where it appears to be necessary to prevent a trainee from causing significant harm to himself or to any other person or significant damage to property, the governor may arrange for the his removal from association with other trainees, either generally or for particular purposes. A trainee is not to be removed under this rule unless all other appropriate methods of control have been applied without success.
- 4.5 Physical restraint is permissible only to prevent a trainee from: escaping from custody; injuring himself or others; damaging property; or inciting another trainee to injure himself or others or to damage property; and then only where no alternative method of prevention is available. Restraint must be in accordance with methods approved by the Secretary of State and by an officer who has undergone a course of training the Secretary of State has approved.

## **5. Extent**

- 5.1 This instrument applies to England and Wales.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- 7.1 The Act provides for the establishment and running of secure training centres. It also provides for the provision and running of a centre, and the performance of functions at a directly-managed centre, to be contracted out. The Act places duties on custody officers at contracted out centres, including the duty to ensure good order and discipline and stipulates that the powers arising out of that duty shall include power to use reasonable force where necessary.
- 7.2 Secure training centres were originally for the detention of offenders between the ages of 12 and 14 (inclusive) who had received a Secure Training Order (which also was provided for in the 1994 Act). Following the abolition of the Secure Training Order in 2000, the centres now accommodate young offenders aged 12 to 17 (inclusive) who are serving a custodial sentence under section 90, 91 or 100 of the

Powers of Criminal Courts (Sentencing) Act 2000; as well as some young people who have been remanded to the care of a local authority with a requirement that they be kept in secure conditions. Placement of a remandee in a secure training centre requires the consent of the Secretary of State. Four centres are now in operation, all of which are contracted out.

- 7.2 The 1998 Rules establish the framework of rules under which centres must operate. They provide powers to restrain a trainee who is attempting to escape, to injure himself or others, to damage property; or who is inciting another trainee to injure himself or others or to damage property. These powers are essentially complementary to the duties in section 9(3) of the Criminal Justice and Public Order Act 1994 to prevent escapes and to prevent the commission or attempted commission of other unlawful acts. The duty to ensure good order and discipline, however, has no complementary power in the 1998 Rules. While the Act makes it clear that reasonable force may be used to ensure good order and discipline, the absence of an explicit power in the 1998 Rules to use physical restraint for this purpose has caused uncertainty. The purpose of the amendment to Rule 38 is to bring the Rules into conformity with the Act.
- 7.3. It may on occasion be necessary to remove a trainee from association with other trainees in order to ensure good order and discipline at a secure training centre. The amendment to Rule 36 provides for this.
- 7.4 Good order and discipline are essential if any custodial establishment is to be run safely. Physical restraint of young people in custody should be used only as the last resort, but there can be occasions where lack of a clear power to secure compliance with instructions may put the safety of the establishment as a whole at risk or at least make its running extremely difficult. Without the powers the 2007 Rules prescribe, it would not be possible to ensure that centres continue to operate in the orderly way that is necessary if safety is to be maintained. The Secretary of State has consulted the Youth Justice Board (which in turn has consulted the operators of the four secure training centres) on the proposed amendment. The Youth Justice Board and the operators are of the view that these powers need to be added to the 1998 Rules. It is also important that the Rules should clearly reflect the intention of the primary legislation.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

## **9. Contact**

Richard Hughes at the Ministry of Justice Tel: 0207 035 1320 or e-mail: [Richard.Hughes@justice.gsi.gov.uk](mailto:Richard.Hughes@justice.gsi.gov.uk) can answer any queries regarding the instrument.