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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 331**

**The Prisons and Young Offenders  
Institutions (Scotland) Rules 2011**

**PART 8**

**COMMUNICATIONS**

**PRISONERS' CORRESPONDENCE AND OTHER COMMUNICATIONS**

**Current affairs**

**53.**—(1) Subject to paragraph (2), every prisoner may keep informed of current affairs by means of—

- (a) books, newspapers, periodicals or a radio; and
- (b) any other medium the Governor may allow.

(2) The Governor may restrict, or impose conditions as to, the exercise of the entitlement referred to in paragraph (1) where the Governor considers it is necessary in order to—

- (a) protect the prisoner from self-injury; or
- (b) prevent the prisoner from injuring others.

**Prisoners' correspondence**

**54.**—(1) Subject to rules 55 to 60, a prisoner may send and receive letters and packages by means of the postal service, or otherwise.

(2) Nothing in these Rules gives a prisoner any right to send or receive electronic communications.

**Restrictions on other correspondence to and from the prisoner**

**55.**—(1) This rule applies to any letter or package, other than one to which rules 56, 57, 58 or 59 apply, which a prisoner wishes to send or which is addressed to the prisoner.

(2) A letter or package to which this rule applies may only be opened by an officer or employee and, once opened, may only be read by an officer or employee—

- (a) in the circumstances specified in a direction by the Scottish Ministers made under paragraph (5); and
- (b) in accordance with any conditions specified in a direction by the Scottish Ministers made under paragraph (5).

(3) Where a letter or package to which this rule applies is, or is found to contain anything, in contravention of the restrictions specified in a direction by the Scottish Ministers made under paragraph (5), an officer or employee may—

- (a) prevent the letter or package, or anything contained in it, from being sent or from being received by the prisoner; and
  - (b) deal with the letter or package, or anything contained in it, in accordance with such arrangements as may be specified in a direction by the Scottish Ministers made under paragraph (5).
- (4) Where a letter or package to which this rule applies is found to contain a prohibited article or any unauthorised property, the Governor must deal with the item in terms of rule 104.
- (5) The Scottish Ministers may specify in a direction any of the following matters in relation to letters and packages to which this rule applies—
- (a) the circumstances in, and the conditions under, which such a letter or package may be opened;
  - (b) the officers or employees who may be authorised to open such a letter or package;
  - (c) the circumstances in, and the conditions under, which such a letter or package may be read;
  - (d) the officers or employees who may be authorised to read such a letter or package;
  - (e) any restrictions as to the number of such letters and packages which a prisoner may send;
  - (f) any restrictions as to the amount of money (whether in the form of cash, cheques, bankers' drafts or otherwise) which a prisoner may send or receive;
  - (g) the times and frequency at which prisoners may send or receive money (whether in the form of cash, cheques, bankers' drafts or otherwise);
  - (h) the persons, authorities and organisations to whom a prisoner is prohibited from sending any such letters and packages;
  - (i) any restrictions or conditions which will apply where a prisoner wishes to send such letters and packages to specified persons, authorities and organisations whom the prisoner is not otherwise prohibited from corresponding with;
  - (j) any restrictions as to the nature and description of such letters and packages in general which a prisoner may not send or receive; and
  - (k) the arrangements by which a letter or package referred to in paragraph (3) may be disposed of.

### **Opening and reading of correspondence from and to courts**

**56.—**(1) This rule applies only to letters and packages which—

- (a) are addressed to a court and which a prisoner gives to an officer or employee for the purpose of sending to that court; or
- (b) are sent to a prisoner at the prison by a court.

(2) A prisoner who wishes to send a letter or package to a court must mark prominently on the outer face of the envelope or packaging the words “Court Correspondence” as well as the prisoner’s own name.

(3) A letter or package to which this rule applies must not be opened by an officer or employee unless—

- (a) the officer or employee has cause to believe that it contains a prohibited article or unauthorised property;
- (b) the officer or employee has explained to the prisoner concerned the reason for that belief; and
- (c) the prisoner concerned is present.

(4) The contents of a letter or package to which this rule applies must not be read by an officer or employee.

(5) Where a letter or package to which this rule applies is found to contain a prohibited article or any unauthorised property, the Governor must deal with the item in terms of rule 104.

(6) For the purposes of this rule, “court” includes, but is not limited to: the European Court of Justice, the European Court of Human Rights, the International Criminal Court, the Supreme Court, the First-tier Tribunal (Immigration and Asylum Chamber), the Upper Tribunal (Immigration and Asylum Chamber), the Scottish Criminal Cases Review Commission and the Parole Board for Scotland.

### **Opening and reading of correspondence from and to legal advisers**

**57.—**(1) This rule applies only to letters and packages which—

- (a) are addressed to a legal adviser and which a prisoner gives to an officer or employee for the purpose of sending to that legal adviser; or
- (b) are sent to a prisoner at the prison by a legal adviser.

(2) A prisoner who wishes to send a letter or package to a legal adviser must mark prominently on the outer face of the envelope or packaging the words “Legal Correspondence” as well as the prisoner’s own name.

(3) Subject to paragraph (5), a letter or package to which this rule applies must not be opened by an officer or employee unless—

- (a) the officer or employee has cause to believe that it contains a prohibited article or unauthorised property;
- (b) the officer or employee has explained to the prisoner concerned the reason for that belief; and
- (c) the prisoner concerned is present.

(4) The contents of a letter or package to which this rule applies must not be read by an officer or employee except where paragraph (5) applies.

(5) A letter or package to which this rule applies may be opened and, once opened, the contents of the letter or package may be read by the Governor, or by an officer or employee authorised by the Governor, where the Governor has reasonable cause to believe that the contents of the letter or package may—

- (a) endanger the security of the prison;
- (b) endanger the safety of any person; or
- (c) relate to a criminal activity.

(6) Where the Governor decides that the contents of a letter or package to which this rule applies may be read in terms of paragraph (5), the Governor must, prior to the contents of the letter or package being read, inform the prisoner of that decision and the reasons for that decision.

(7) Where a letter or package to which this rule applies is found to contain a prohibited article or any unauthorised property, the Governor must deal with the item in terms of rule 104.

### **Opening and reading of correspondence from and to medical practitioners**

**58.—**(1) This rule applies only to letters and packages which contain personal health information about a prisoner to whom paragraph (2) applies, and—

- (a) are addressed to a registered medical practitioner and are given to an officer or employee by the prisoner for the purpose of sending to that registered medical practitioner; or

- (b) are sent to the prisoner at the prison by a registered medical practitioner.
- (2) This paragraph applies to prisoners who—
  - (a) are certified as having a life-threatening illness by the registered medical practitioner from whom they are receiving treatment for that illness; and
  - (b) who have obtained the Governor's prior consent to communicate with that registered medical practitioner in confidence.
- (3) Subject to paragraph (5), a letter or package to which this rule applies must not be opened by an officer or employee unless—
  - (a) the officer or employee has cause to believe that it contains a prohibited article or unauthorised property;
  - (b) the officer or employee has explained to the prisoner concerned the reason for that belief; and
  - (c) the prisoner concerned is present.
- (4) The contents of a letter or package to which this rule applies must not be read by an officer or employee except where paragraph (5) applies.
- (5) A letter or package to which this rule applies may be opened and, once opened, the contents of the letter or package may be read by the Governor, or by an officer or employee authorised by the Governor, where the Governor has reasonable cause to believe that the contents of the letter or package may—
  - (a) endanger the security of the prison;
  - (b) endanger the safety of any person; or
  - (c) relate to a criminal activity.
- (6) Where the Governor decides that the contents of a letter or package to which this rule applies may be read in terms of paragraph (5), the Governor must, prior to the contents of the letter or package being read, inform the prisoner of that decision and the reasons for that decision.
- (7) Where a letter or package to which this rule applies is found to contain a prohibited article or any unauthorised property, the Governor must deal with the item in terms of rule 104.

### **Privileged correspondence**

- 59.**—(1) This rule applies only to letters and packages which—
- (a) are sent to a prisoner from a person, authority or organisation specified in a direction made by the Scottish Ministers in terms of paragraph (2);
  - (b) are sent by a prisoner to a person, authority or organisation specified in a direction made by the Scottish Ministers in terms of paragraph (2).
- (2) The Scottish Ministers may specify in a direction the persons, authorities and organisations with whom a prisoner may correspond subject to the conditions specified in paragraphs (3) and (4).
- (3) Subject to paragraph (5), a letter or package to which this rule applies must not be opened by an officer or employee unless—
- (a) the officer or employee has cause to believe that it contains a prohibited article;
  - (b) the officer or employee has explained to the prisoner concerned the reason for that belief; and
  - (c) the prisoner concerned is present.
- (4) The contents of a letter or package to which this rule applies must not be read by an officer or employee except where paragraph (5) applies.

(5) A letter or package to which this rule applies may be opened and, once opened, the contents of the letter or package may be read by the Governor, or by an officer or employee specially authorised by the Governor, where the Governor has reasonable cause to believe that the contents of the letter or package may—

- (a) endanger the security of the prison;
- (b) endanger the safety of any person; or
- (c) relate to a criminal activity.

(6) Where the Governor decides that the contents of a letter or package to which this rule applies may be read in terms of paragraph (5), the Governor must, prior to the contents of the letter or package being read, inform the prisoner of that decision and the reasons for that decision

(7) Where a letter or package to which this rule applies is found to contain a prohibited article or any unauthorised property, the Governor must deal with the item in terms of rule 104.

### **Requests to prevent communication from a prisoner**

**60.**—(1) Any person who does not want to receive any communication from a prisoner may make a request to the Governor to prevent that prisoner from communicating with that person.

(2) Where the Governor receives a request under paragraph (1), the Governor must take all reasonable steps to prevent any communication from that prisoner to that person.

(3) For the purposes of this rule “communication” includes written correspondence and telephone calls.

### **Provision of writing materials and payment of postage**

**61.**—(1) Subject to paragraphs (2) and (3) every prisoner must be allowed to send one letter every week, the postage for which must be paid for by the Scottish Ministers, and the Governor must provide the prisoner with the necessary writing materials for this purpose.

(2) The writing materials which must be provided by the Governor under paragraph (1) are as follows—

- (a) a ballpoint pen;
- (b) one sheet of writing paper and a reasonable number of further sheets if the prisoner so requires; and
- (c) an envelope.

(3) The Governor may allow the prisoner to send more than one letter every week at the expense of the Scottish Ministers if it appears to the Governor that this is justified in the prisoner’s circumstances.

### **Communication by telephone**

**62.**—(1) A prisoner is entitled to the use of a telephone, subject to the provisions of paragraphs (2) and (3).

(2) A prisoner’s use of a telephone is subject to the provisions of any direction which the Scottish Ministers may make in relation to—

- (a) the groups or categories of prisoners who may have the use of a telephone;
- (b) the times of day and circumstances in which a telephone may be available for use;
- (c) the conditions applicable to the use of such a telephone;
- (d) the logging, monitoring and recording by any means by any person authorised by the Governor of telephone calls made by a prisoner.

(3) An officer may refuse to allow a prisoner to have the use of a telephone or restrict a prisoner's use of a telephone—

- (a) by virtue of the provisions of any direction as mentioned in paragraph (2); or
- (b) in accordance with rule 60.

(4) Where an officer refuses or restricts a prisoner's use of a telephone in terms of paragraph (3), the officer must inform the prisoner of the reasons for that decision and, where a request is made by the prisoner, such reasons must be given in writing.