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STATUTORY INSTRUMENTS

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**2009 No. 3082**

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

The Prison and Young Offender  
Institution (Amendment) Rules 2009

*Made* - - - - - *23rd November 2009*  
*Laid before Parliament* *25th November 2009*  
*Coming into force* - - - *1st January 2010*

The Secretary of State, in exercise of the powers conferred by section 47 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 2009 and shall come into force on 1st January 2010.
2. The Prison Rules 1999(2) shall have effect subject to the amendments set out in Schedule 1 to these Rules.
3. The Young Offender Institution Rules 2000(3) shall have effect subject to the amendments set out in Schedule 2 to these Rules.

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(1) 1952 c.52: section 47 was affected by an amendment to section 52(2) of that Act by section 66(4) of the [Criminal Justice Act 1967 \(c.80\)](#) and was extended by section 85(2) and (4) of the [Criminal Justice Act 1991 \(c.53\)](#).  
(2) [SI 1999/728](#), as amended by [SI 2000/2641](#), [2005/3437](#) and [2008/597](#). There are other amending instruments but none are relevant.  
(3) [SI 2000/3371](#), as amended by [SI 2005/3438](#) and [2008/599](#). There are other amending instruments but none are relevant.

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Signed by the authority of the Secretary of State

23rd November 2009

*Claire M Ward*  
Parliamentary Under Secretary of State  
Ministry of Justice

## SCHEDULE 1

Rule 2

### Amendment of the Prison Rules 1999

#### Health care

1. In rule 2(4)—
  - (a) in the interpretation of “health care professional” omit “pursuant to rule 20(3)”;
  - (b) after the interpretation of “health care professional” insert—

““health care provider” includes any provider of health services, whether or not commissioned by an NHS body (within the meaning given by section 28(6) of the National Health Service 2006(5))”;
  - (c) omit the interpretation of “registered medical practitioner” and “registered nurse”.
2. For rule 20 (Medical attendance)(6) substitute the following—

#### “Health services

20.—(1) The governor must work in partnership with local health care providers to secure the provision to prisoners of access to the same quality and range of services as the general public receives from the National Health Service.

(2) Every request by a prisoner to see a health care professional shall be recorded by the officer to whom it was made and promptly communicated to a health care professional.

(3) If an unconvicted prisoner desires the attendance of a named registered medical practitioner or dentist other than one already working in the prison, and will pay any expense incurred, the governor must, if satisfied that there are reasonable grounds for the request and unless the Secretary of State otherwise directs, allow the prisoner to be visited and treated by that practitioner or dentist, in consultation with a registered medical practitioner who works in the prison.

(4) Subject to any directions given in the particular case by the Secretary of State, a registered medical practitioner selected by or on behalf of a prisoner who is a party to any legal proceedings must be afforded reasonable facilities for examining the prisoner in connection with the proceedings, and may do so out of hearing but in the sight of an officer

(5) A prisoner may correspond, in accordance with arrangements made by the Secretary of State for the confidential handling of correspondence, with a registered medical practitioner who has treated the prisoner for a life threatening condition, and such correspondence may not be opened, read or stopped unless the governor has reasonable cause to believe its contents do not relate to the treatment of that condition.”

3. For rule 31(2)(7) substitute—

“(2) A registered medical practitioner or registered nurse working within the prison may excuse a prisoner from work on medical grounds.”
4. The following rules are amended(8)—
  - (a) in rules 21(1), 45(3), 49(2) and (6) and 58, for the words “such as is mentioned in rule 20(3) substitute “working within the prison”; and

(4) Rule 2 has been amended by [S.I. 2005/3437](#). There have been other amendments to rule 2 which are not relevant.

(5) [2006 c.41](#)

(6) Rule 20 was substituted by [S.I. 2005/3437](#).

(7) Rule 31(2) was substituted by [S.I. 2005/3437](#).

(8) Rules 21(1), 24(1), 45(3), 49(2) and (6) and 58 were amended by [S.I. 2005/3437](#).

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- (b) in rule 24(1), omit the words “such as is mentioned in rule 20(3)”.

### Communications

5. In rule 35A (interception of communications)(9), after paragraph (2) insert—
- “(2A) The governor may not make arrangements for interception of any communication between a prisoner and
- (a) the prisoner’s legal adviser; or
  - (b) any body or organisation with which the Secretary of State has made arrangements for the confidential handling of correspondence,
- unless the governor has reasonable cause to believe that the communication is being made with the intention of furthering a criminal purpose and unless authorised by the chief operating officer of the prison service.”
6. Rule 38 (legal advisers) is amended as follows—
- (a) at the beginning of the heading to the rule, insert “visits from”;
  - (b) at the beginning of paragraph (1) insert “Where”, and after the words “to which the prisoner is a party” insert “visits the prisoner, the legal adviser”;
  - (c) at the beginning of paragraph (2) insert “On such a visit,”.
7. In rule 39 (Correspondence with legal advisers and courts)—
- (a) for the heading to the rule substitute “Delivery and receipt of legally privileged material”;
  - (b) for paragraph (1) substitute—
- “(1) A prisoner may deliver to, or receive from, the prisoner’s legal adviser and any court, either by post or during a legal visit under rule 38, any legally privileged material and such material may only be opened, read or stopped by the governor in accordance with the provisions of this rule.”;
- (c) for “correspondence” where that word appears in paragraphs (2), (3), (4) and (6) substitute “material”.

### Miscellaneous

8. In rule 43(4) (prisoners’ property) for “3 years” substitute “one year”.
9. In rule 49(4) (restraints) omit “a member of the independent monitoring board or by”.

## SCHEDULE 2

Rule 3

### Amendment of the Young Offender Institution Rules 2000

#### Health care

1. In rule 2(10)—
- (a) in the interpretation of “health care professional” omit “pursuant to rule 27(3)”;
  - (b) after the interpretation of “health care professional” insert—

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(9) Rule 35A was inserted by [SI 2000/2641](#).

(10) Rule 2 has been amended by [S.I. 2005/3438](#). There have been other amendments to rule 2 which are not relevant.

“health care provider” includes any provider of health services, whether or not commissioned by an NHS body (within the meaning given by section 28(6) of the National Health Service 2006<sup>(11)</sup>);

(c) omit the interpretation of “registered medical practitioner” and “registered nurse”.

2. For rule 27 (Medical attendance)<sup>(12)</sup> substitute the following—

**“Health services**

27.—(1) The governor must work in partnership with local health care providers to secure the provision to inmates in the young offender institution of access to the same quality and range of services as the general public receives from the National Health Service.

(2) Every request by an inmate to see a health care professional shall be recorded by the officer to whom it was made and promptly communicated to a health care professional.

(3) If an unconvicted inmate desires the attendance of a named registered medical practitioner or dentist other than one already working in the young offender institution, and will pay any expense incurred, the governor must, if satisfied that there are reasonable grounds for the request and unless the Secretary of State otherwise directs, allow the inmate to be visited and treated by that practitioner or dentist, in consultation with a registered medical practitioner who works in that institution.

(4) Subject to any directions given in the particular case by the Secretary of State, a registered medical practitioner selected by or on behalf of an inmate who is a party to any legal proceedings must be afforded reasonable facilities for examining the inmate in connection with the proceedings, and may do so out of hearing but in the sight of an officer.

(5) An inmate may correspond, in accordance with arrangements made by the Secretary of State for the confidential handling of correspondence, with a registered medical practitioner who has treated the inmate for a life threatening condition, and such correspondence may not be opened, read or stopped unless the governor has reasonable cause to believe its contents do not relate to the treatment of that condition. ”

3. For rule 37(3) substitute—

“(3) A registered medical practitioner working within the young offender institution may excuse an inmate from work or any other activity on medical grounds.”

4. The following rules<sup>(13)</sup> are amended—

- (a) in rule 20(1), for the words “as is mentioned in rule 27(3)”, substitute “working within the young offender institution”;
- (b) in rules 28(1), 49(3) and 61(1), for the words “such as is mentioned in rule 27(3)”, substitute “working within the young offender institution”;
- (c) in rule 52(3), for the words from “the registered medical practitioner” to the end of the paragraph, substitute “a registered medical practitioner or registered nurse working within the young offender institution.”;
- (d) in rule 52(7), for the words from “the registered medical practitioner” to the end of the first sentence, substitute “a registered medical practitioner or registered nurse working within the young offender institution”.

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<sup>(11)</sup> 2006 c.41

<sup>(12)</sup> Rule 27 was substituted by S.I. 2005/3438.

<sup>(13)</sup> Rules 20(1), 28(1), 49(3), 52(3) and (7) and 61 were amended by S.I. 2005/3438.

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## Communications

5. In rule 11 (interception of communications), after paragraph (2) insert—
  - “(2A) The governor may not make arrangements for interception of any communication between an inmate and
    - (a) the inmate’s legal adviser; or
    - (b) any body or organisation with which the Secretary of State has made arrangements for the confidential handling of correspondence,unless the governor has reasonable cause to believe that the communication is being made with the intention of furthering a criminal purpose and unless authorised by the chief operating officer of the prison service.”
6. Rule 16 (legal advisers) is amended as follows—
  - (a) at the beginning of the heading to the rule, insert “visits from”;
  - (b) at the beginning of paragraph (1) insert “Where”, and after the words “to which the inmate is a party” insert “visits the inmate, the legal adviser”;
  - (c) at the beginning of paragraph (2) insert “On such a visit,”.
7. In rule 17 (Correspondence with legal advisers and courts) —
  - (a) for the heading to the rule substitute “Delivery and receipt of legally privileged material”;
  - (b) for paragraph (1) substitute—
    - “(1) An inmate may deliver to, or receive from, the inmate’s legal adviser and any court, either by post or during a legal visit under rule 16, any legally privileged material and such material may only be opened, read or stopped by the governor in accordance with the provisions of this rule.”;
  - (c) for “correspondence” where that word appears in paragraphs (2), (3), (4) and (6) substitute “material”.

## Miscellaneous

8. In rule 48(3) (inmates’ property) for “three years” substitute “1 year”.
9. In rule 52(5) (restraints) omit “a member of the independent monitoring board or by”.

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## EXPLANATORY NOTE

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

These Rules amend the Prison Rules 1999 (“the Prison Rules”) and the Young Offender Institution Rules 2000 (“the Young Offender Rules”).

Paragraphs 1 to 4 of Schedule 1 amend the provisions regarding health care in a prison reflecting the removal by the Offender Management Act 2007 (c. 21) of the requirement to appoint a medical officer for each prison. They provide for confidential communications between a prisoner and their own registered medical practitioner in specific circumstances. Paragraphs 1 to 4 of Schedule 2 make a similar change in the arrangements for health care provision in a young offender institution.

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Paragraph 5 of Schedule 1 relates to communications between a prisoner and his legal adviser or a body or organisation with which the Secretary of State has made arrangements for confidential handling of correspondence. Such communications may only be intercepted where there is reasonable cause to believe that it is being made with the intention of furthering a criminal purpose, and then only if authorised by the chief operating officer of the prison service. Paragraph 5 of Schedule 2 achieves the same effect in young offender institutions.

Paragraphs 6 and 7 of Schedule 1 clarify the point that the protection for legally privileged material and correspondence with a court applies not only to material sent by post but also to material handed over by a legal adviser to a prisoner at a legal visit. Paragraphs 6 and 7 of Schedule 2 have the same effect for young offender institutions.

Paragraph 8 of Schedule 1 reduces the length of time that a prison will retain any unclaimed property of a prisoner who has left the prison or died. The period is reduced from 3 years to one year. Paragraph 8 of Schedule 2 achieves a similar result for a young offender's property.

Paragraph 9 of Schedule 1 removes the functions of the independent monitoring board in relation to the authorisation or continuation of a prisoner's restraint. Paragraph 9 of Schedule 2 has the same effect for young offender institutions.